

RESOLUTION NO. 2023-32654

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AFFIRMING THE CITY COMMISSION'S LONG-STANDING POLICY, AS SET FORTH IN CHAPTER 90 OF THE CITY CODE, WITH RESPECT TO WHAT QUALIFIES AS A "ROLLOFF" AND AS A "ROLLOFF CONTAINER."

WHEREAS, the City Code currently regulates the activities of "rolloff contractors," which are specialty contractors within the meaning of Chapter 90 of the City Code who are involved in the removal of construction and demolition debris and/or large quantities of trash and/or bulky waste, but not garbage or commercial refuse;

WHEREAS, among other things, rolloff contractors are required to obtain a Business Tax Receipt ("BTR") pursuant to Section 90-276 of the City Code, obtain and pay for a rolloff permit, pursuant to Sections 90-276 to 90-277 of the City Code, and pay rolloff franchise fees in the amount of 20% of gross receipts ("Franchise Fees") for rolloff services provided within the City, pursuant to Sections 90-278 (a) & (b) of the City Code; and

WHEREAS, as part of routine audits verifying that the City has received amounts due from permittees, questions have arisen concerning the definition of a rolloff (and, relatedly, what is not a rolloff), as well as the definition of a rolloff container (and, relatedly, what is not a rolloff container), in view of the significant permit fees and Franchise Fees associated with the use of rolloffs, the costs of which are all ultimately borne by property owners engaged in demolition and construction activities; and

WHEREAS, Section 90-2 of the City Code defines a rolloff as a container with a minimum capacity of ten yards designed to be transported by motor vehicles; and

WHEREAS, Section 90-2 of the City Code defines a rolloff container as a metal container, compacted or open, approved by the City Manager, that is designed and used by rolloff contractors for the collection and disposal of construction and demolition debris; large quantities of trash; and/or bulky waste; but not garbage or commercial refuse; and

WHEREAS, there is no ambiguity in the City Code as to the core scope of a traditional or conventional rolloff in accordance with industry standards, examples of which are attached to this Resolution as Exhibit "1" ("conventional rolloffs"); and

WHEREAS, although the City Code requirements for rolloffs have not been amended in many years, the means and methods contractors use to remove construction and demolition debris have continued to evolve over time; and

WHEREAS, conventional rolloff containers are not the only method utilized by property owners and contractors to remove construction and demolition debris; and

WHEREAS, by way of example, the removal of construction and other debris with a use of a dump truck, wheeled trailer, or 1-800 You Got Junk, as depicted in Exhibit "2" attached hereto, are not rollofs within the meaning of the City Code; and

WHEREAS, the fundamental policy underpinning Chapter 90 of the City Code is the premise that not all contractors removing construction and demolition debris are rolloff contractors within the meaning of the City Code; and

WHEREAS, as part of routine audits, the Office of the Inspector General issued certain subpoenas for construction contractors not engaged in conventional rolloff services; and

WHEREAS, consistent with this Resolution, code violations issued to contractors who have not utilized a conventional rolloff have previously been dismissed by the presiding Special Magistrate; and

WHEREAS, in addition to the foregoing, the Administration and City Attorney's Office advise that they intend to "nolle prosequi" and dismiss all notices of violations that were issued to general contractors who have not engaged a rolloff contractor, as strictly defined in the City Code, and/or who are not using a conventional rolloff, as strictly defined in the City Code; and

WHEREAS, unless the current policy set forth in the City Code, as affirmed herein, is otherwise amended by the City Commission, no means, methods, or type of container other than the conventional rolloff should be considered a rolloff (i.e. use of a dump truck, wheeled trailer, 1-800 You Got Junk), for purposes of imposing the requirements of the City Code otherwise applicable to rolloff contractors; and

WHEREAS, this Resolution is limited to the very narrow factual issues concerning the definitions of a rolloff and rolloff container, and is not intended to impact the issuance or validity of any Notice of Violation where there is a factual basis to believe that a conventional rolloff is being utilized unlawfully in any manner which does not strictly comply with the City Code; and

WHEREAS, as the overall framework and existing City Code requirements have not been amended in many years, the various regulatory options or approaches for prospective amendments to the City Code with regard to the regulation of rolloff contractors remain under review by the Finance and Economic Resiliency Committee.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITYCOMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby affirm the City Commission's long-standing policy, as set forth in Chapter 90 of the City Code, with respect to what qualifies as a "rolloff" and as a "rolloff container."

PASSED AND ADOPTED this 28 day of June, 2023.

ATTEST:



Dan Gelber, Mayor



JUL - 5 2023

Rafael E. Granado, City Clerk

(sponsored by Commissioner David Richardson)



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *PAZ*

6-20-23
Date

EXHIBIT 1













EXHIBIT 2













