

ORDINANCE NO. 2023-_____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 90, ENTITLED "SOLID WASTE," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 90-2 THEREOF, ENTITLED "DEFINITIONS," TO UPDATE THE DEFINITION OF A ROLLOFF AND DELETING DEFINITIONS RELATING TO GRAPPLE SERVICES; AND AMENDING SECTIONS 90-192 AND 90-278, TO DELETE REFERENCES TO GRAPPLE SERVICE CONTRACTORS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Code currently regulates the activities of "rolloff contractors," who are specialty contractors 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; and

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, 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, in Resolution No. 2023-32654, the Mayor and City Commission affirmed the City Commission's long-standing policy with regard to what qualifies as a rolloff or rolloff container within the meaning of Chapter 90 of the City Code; and

WHEREAS, as the means and methods that contractors use to remove debris have evolved over time, the City Commission desire to amend the City Code to update the definition of rolloffs, and remove definitions and references to grapple services, as the requirements of the City Code apply to rolloff containers whether or not grapple services are used to move the debris into the containers.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Section 90-2 of Article I, entitled "In General," of Chapter 90 entitled "Solid Waste," of the Code of the City Miami Beach are hereby amended as follows:

Chapter 90

SOLID WASTE

* * *

ARTICLE I. IN GENERAL

* * *

Sec. 90-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent or registered agent means a person registered with the city's code compliance department and designated by the property owner to administer and manage a property.

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two persons, or families, living separately with separate cooking facilities in each unit. For purposes of this chapter, this particular definition shall include a condominium or cooperative building, but not a duplex.

Apartment unit means a room or group of rooms occupied or intended to be occupied as separate living quarters by one or more persons, or a family, containing independent cooking facilities. For purposes of this chapter, this definition shall include a condominium unit or cooperative unit, but not a duplex.

Biohazardous waste means any solid waste that may present a threat of infection to humans. The term includes, without limitation, nonliquid human tissue and body parts; laboratory and veterinary waste containing human-disease-causing agents; used disposable sharps; human blood, human blood products, and any bodily fluids; and other materials representing a significant risk of infection to persons.

Biohazardous waste contractor means a private waste contractor who collects and disposes of biohazardous waste.

Building department director means the city's building official, appointed by the city manager to administer and enforce the Florida Building Code in the city. This definition also includes the building official's designee(s) working under his/her supervision.

Bulky waste means large item(s) of household refuse, including, without limitation, appliances, furniture, accumulations from major tree cutbacks (exceeding ten inches in diameter and four feet in length), large crates, and like articles.

Business tax shall have the same meaning ascribed in section 102-356.

Business tax receipt shall have the meaning ascribed to the word "receipt" in section 102-356.

Commercial establishment means an establishment dealing in an exchange of goods or services for money or barter. For purposes of this chapter, the term shall include churches, synagogues and schools.

Commercial refuse means all solid waste produced by commercial establishments.

Condominium unit means the same as "apartment unit."

Construction and demolition debris means discarded material generally considered not to be water-soluble or hazardous, including, without limitation, steel, concrete, glass, brick, asphalt roofing material, or lumber from a construction or demolition project. Commingling construction and demolition debris with any amount of other types of solid waste will cause it to be classified as other than construction and demolition debris.

Cooperative unit means the same as "apartment unit."

Dumpster means a container used in the waste industry, and approved for use in the city by the city manager, with a tight fitting top and a minimum capacity of one-half cubic yard or between 100 and 133.3 gallons. For purposes of this chapter, compact containers shall also be considered dumpsters.

Duplex means a detached building, divided horizontally or vertically, and designed as two separate units to be occupied by one or more persons, or families, each living separately, with separate kitchens in each housekeeping unit.

Dwelling means a building or portion thereof designed or used for residential occupancy.

Dwelling unit means a room or group of rooms occupied or intended to be occupied as separate living quarters by one or more persons, or a family.

Franchise waste contractor means a private waste contractor, approved pursuant to section 90-221 et seq., who enters into a franchise agreement with the city for the collection and disposal of solid waste in the city, and who pays a percentage of its gross earnings to the city pursuant to this chapter.

Front yard means an open area extending the full width of the lot between the main building and the front lot line.

Garbage means every refuse accumulation of animal, fruit, vegetable or organic matter that attends the preparation, use, cooking and dealing in or storage of meats, fish, fowl, fruit or vegetables, and decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

Garbage can or container means a container which has been approved for use in the city by the city manager, made of galvanized metal, durable plastic or other suitable material of a capacity not less than ten gallons but not to exceed 30 gallons for collection of solid waste awaiting pickup and disposal. Such can or container shall have two handles

upon the sides thereof, or a bail, by which it may be lifted, and shall have a tightening solid top.

Garbage facility includes garbage can or container, dumpster and trash container.

Garbage storage facility means a structure enclosed on the bottom and all sides (except the top), which may be open or closed, constructed of solid material, and having sufficient capacity to hold all garbage facilities required for a particular establishment including, without limitation, an apartment building or other multifamily residence, duplex, hotel, and/or a commercial establishment.

Garden means a piece of ground used for the growing of fruits, flowers, or vegetables; a well-cultivated region (e.g. a lawn).

Garden trash means all accumulation of lawn, grass or shrubbery cuttings or clippings and leaf rakings, free of dirt, rock, large branches, and bulky or noncombustible materials, which can be containerized.

Gardener means a person whose business or occupation is the making or tending of gardens.

~~*Grapple service* means the use of a claw-like device such as, but not limited to, bobcats, self-loaders, loaders, and backhoes, to pick up construction and demolition debris; large quantities of trash (e.g. rubbish); and bulky waste; but not garbage or commercial refuse, and place it into a truck for disposal.~~

~~*Grapple service contractor* means a private waste contractor who performs grapple service.~~

Hazardous waste means any solid waste, which, because of its quality, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

Hazardous waste contractor means a private waste contractor who collects and disposes of hazardous waste.

Hotel means a building with ten or more dwelling units in which the majority of the dwelling units do not contain kitchens and which is licensed as a hotel.

Industrial waste means any solid waste generated by construction, land clearing, excavating of structures, roads, streets, sidewalks or parkways, and including, without limitation, waste collected for recycling, and oil, grease and petroleum.

Kitchen means a facility for preparing food containing, at a minimum, a sink with running water, a stove, and a refrigerator.

Landscape firm means a business entity engaged in planning to change or changing the natural scenery of a place for a desired purpose or effect. This definition includes state licensed and unlicensed landscape architects, landscape contractors, and landscape maintenance businesses.

Licensee means any person, which includes, without limitation, a corporation, partnership, sole partnership, limited liability corporation, or other business entity engaged in the business of removing, transporting or disposing of solid waste or recyclable materials in the city, and which is duly licensed by the city as provided for by this chapter.

Manager means the same as "operator."

Multifamily residence means a building occupied or intended to be occupied by two or more families living separately, with separate kitchens in each unit.

Occupant means any person using or having actual possession of any structure, building, lot, or premises, or part thereof.

Offense means a notice of violation that has not been appealed timely or a finding of a violation by a special magistrate following the appeal of a violation.

Operator or *manager* means any person who has control or use of or is in charge of, or has responsibility for, the care of any structure, building, lot, or premises, or part thereof.

Owner means any person who individually, or jointly or severally with others, holds the legal or beneficial title to any structure, building, lot, or premises (or part thereof), as well as to any facilities or equipment subject to the provisions of this chapter. For purposes of this chapter, the term shall also include an owner's duly authorized agent, a purchaser, devisee, fiduciary, property holder, or any other person having a vested or contingent interest; in the foretated, or, in the case of a lease, the legal holder of the lease, or his legal representative. It is further intended that for purposes of this chapter the term shall also be construed as applicable to the person responsible for the construction, maintenance and operation of a structure, building, lot, premises, facilities, or equipment involved.

Parkway means that area between the edge of the street and the adjacent property line, excluding that area occupied by the sidewalk.

Portable container means a dumpster, rollaway, or similar container designed for mechanized collection.

Premises means real property and includes any buildings or structures thereon.

Private waste contractor means any person engaged in the business of collection and disposal of solid waste within the city limits that has been approved and permitted by the city to perform such service including, without limitation, issued a current business tax receipt by the city to conduct such activity (or perform such service).

Recyclable materials means those materials capable of being recycled and which would otherwise be processed or disposed of as solid waste. Any recyclable material mixed with solid waste shall be considered to be solid waste.

Recycling means any process by which recyclable materials are collected, separated, or processed to be reused or returned to use in the form of raw materials or products.

Recycling container means a container approved by the city manager for collection of recyclable material by a recycling contractor.

Recycling contractor means a private contractor licensed by the city and state who collects recyclable materials and transports same to a state- or county-licensed recycling facility for processing. Recycling contractors must provide their customers with a separate recycling container for recyclable materials.

Regulated stash area means a disposal site which is either operated by the city or, if approved by the city commission, by a private waste contractor, where trash (e.g. rubbish) may be deposited.

Residential refuse means all garbage and trash (e.g. rubbish) originating in a dwelling or single-family residence.

Restaurant means a commercial establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises, or a commercial establishment where prepared food is called for, delivered to, or taken out by customers.

Rolloff means a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle, including a rolloff dump trailer and any other detachable container (with or without wheels) with a minimum capacity of ten cubic yards, but excluding motor vehicles where the container is not detachable from the motorized vehicle, such as dump trucks, flat bed trucks, or garbage trucks.

Rolloff compaction container means a rolloff designed to hold or receive compacted garbage or trash.

Rolloff container means 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.

Rolloff contractor means a private waste contractor licensed by the city who uses rolloff containers for the collection and disposal of construction and demolition debris and/or large quantities of trash and/or bulky waste, but not garbage or commercial refuse.

* * *

SECTION 2. That Sections 90-192 and 90-278 of Article IV, entitled "Private Waste Contractors," of Chapter 90 entitled "Solid Waste," of the Code of the City Miami Beach are hereby amended as follows:

Chapter 90

SOLID WASTE

* * *

ARTICLE IV. PRIVATE WASTE CONTRACTORS

* * *

Sec. 90-192. Business tax receipt required.

- (a) No person shall engage in the business of disposal and/or collection of any kind of solid waste, or recyclable material within the city without first having been approved by the city manager, and having secured a current business tax receipt for such activity. The business tax receipt will be issued once an applicant has met all requirements, as set forth in this division and in chapter 18, and has paid the applicable business tax receipt fee.
- (b) Business tax receipts for private waste contractors shall be classified as follows:
 - (1) Franchise waste contractors;
 - (2) Rolloff and ~~grapple service~~ contractors;
 - (3) Recycling contractors;
 - (4) Hazardous waste contractors; and
 - (5) Biohazardous waste contractors.

* * *

Sec. 90-278. Fees and requirements; penalties for non-payment.

The permit fees and requirements for rolloff container and ~~grapple service~~ contractors shall be as follows:

- (1) *On-street permit fee.* When the rolloff container is to be located on the street, the permit fee shall be 20 percent of the contractor's total monthly gross receipts for the month in which the permit was issued and every month thereafter that the permit is valid. Four barricades with flashing lights shall be posted. In addition, when the rolloff container is to be located in parking meter spaces, an additional fee shall be due, as set forth in appendix A, per meter, per day.

* * *

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect following the adoption.

PASSED and **ADOPTED** this ____ day of _____, 2023.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk
(sponsored by Commissioner David Richardson)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

PAZ 9-20-23
City Attorney Date