

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE AT ITS JULY 27, 2018 MEETING; AND AMENDING CHAPTER 90, OF THE CITY CODE, "SOLID WASTE," DIVISION 4, "SPECIALTY CONTRACTORS", AT SECTION 90-278, "FEES AND REQUIREMENTS; PENALTIES FOR NON-PAYMENT," TO INCREASE THE ROLLOFF FEE FROM 18 TO 20 PERCENT; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 90 of the City Code, titled "Solid Waste", at Section 90-278 provides the roll off container fee, from 18 to 20 percent, of the solid waste contractor's total of monthly gross receipts; and

WHEREAS, at the July 27, 2018 Finance and Citywide Projects Committee meeting, the committee recommended increasing the rolloff fee from 18 to 20 percent; and

WHEREAS, historically, the rolloff permit fees have been the same fee as the franchise fee charged to solid waste contractors, and the proposed fee increase will affect solid waste franchisees, that provide roll off service to commercial and residential accounts; and

WHEREAS, this fee has not been raised in over 10 years; and

WHEREAS, the additional revenue collected of approximately \$20,000, will assist the City in offsetting the sanitation division's operational deficits; and

WHEREAS, the administration recommends accepting the recommendation of the Finance and Citywide Committee meeting of July 27, 2018, and recommends that the below ordinance be approved at first reading, and scheduled for second reading, public hearing.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA,

SECTION 1. The Mayor and City Commission accept the recommendation of the Finance and Citywide Projects Committee at its July 27, 2018 meeting, and hereby amend Chapter 90, of the City Code, "Solid Waste" Division 4, "Specialty Contractors", at Section 90-278, "Fees and Requirements," to increase the roll off container fee, as follows:

SECTION 2. Amending Section 90-278, of the City Code as follows:

CHAPTER 90

SOLID WASTE

* * *

Division 4 - Specialty 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 ~~48 percent~~ 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.

(2) *Off-street permit fee.* When the rolloff container is to be located on private property, the permit fee shall be ~~48 percent~~ 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.

(3) *List of accounts.* Each contractor shall provide the city manager with a current list of the names and addresses of each account, upon initial application, and upon any application for renewal, of its permit, the frequency of service, and the permit number and capacity of each rolloff container or dumpster as per account and the address serviced by each rolloff container or dumpster. No property owner may share an account with another property owner.

(4) *Monthly report.* Each contractor shall deliver to the city's finance department a true and correct monthly report of gross receipts generated during the previous month (from accounts within the city) on or before the last day of each month. This monthly report shall include the customer names, service addresses, account numbers, and the actual amount collected from each customer. Payments of any fees required in this section shall be made monthly to the finance department, on or before the last day of each month, for gross receipts of the previous month. Contractors having annual gross receipts reported to the city over \$200,000.00 shall, on or before 60 days following the close of their fiscal year, deliver to the finance department a statement of annual gross receipts (generated from accounts within the city) certified by an independent certified public accountant, reflecting gross receipts within the city for the preceding fiscal year.

(5) *Audit or inspection of contractor's books and records.* Each contractor shall allow the city auditors, upon reasonable notice and during normal business hours, to audit, inspect and examine the contractor's books and records, and state and federal tax returns, insofar as they relate to city accounts, to confirm the contractor's compliance with this section. This information shall include, but not be limited to, the following: billing rates, billing amounts, sequentially pre-numbered invoices, signed receipts, trip tickets, computer records, general ledgers and accounts receivable sorted by service address. Additionally, the city auditors may communicate directly with customers of the contractor for the purpose of confirming compliance with this section. Failure to

provide requested and complete records in a timely manner shall be cause for revocation of the permit pursuant to ch. 18.

(6) Failure to pay permit fee; penalties for late payment. If the contractor fails to timely pay the full permit fee as set forth in subsections (1) and (2) of this section, the contractor shall pay any and all of the city's expenses for collection of such fees, including, but not limited to, court costs, audit costs and reasonable attorney fees. If the contractor fails to pay the full permit fee on or before the last day of each month, penalty fees for specialty contractors shall be as follows:

(a) *Original delinquency.* Any specialty contractor who fails to remit any permit fee imposed by this division within the time required shall pay a penalty of ten percent of the amount of the delinquent fee in addition to the amount of the fee.

(b) *Continued delinquency.* Any specialty contractor who fails to remit the permit fee on or before the 30th day following the date on which the fee first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the fee in addition to the amount of the fee and the ten percent penalty imposed pursuant to subsection (1). An additional penalty of ten percent of the amount of the delinquent fee shall be paid for each additional 30-day period, or part thereof, during which the permit fee is delinquent, provided that the total penalty imposed by subsection (a) and this subsection (b) shall not exceed 50 percent of the amount of the permit fee. This penalty shall be in addition to the permit fee and interest imposed by this division.

(c) *Interest.* In addition to the penalties imposed in subsections (a) and (b), any specialty contractor who fails to remit any permit fee imposed by this division shall pay interest at the, highest legal rate of interest permitted by law on the amount of fee, exclusive of penalties, from the date on which the permit fee first became delinquent until paid.

(d) *Penalties merged with permit fee.* Every penalty imposed and all interest accrued under the provisions of this section shall become a part of the permit fee required to be paid.

(7) *Evidence of payment.* In order to effectively provide for the collection of the permit fee by the contractor to the city, any person seeking to renew his/her annual business tax receipt pursuant to the provisions of chapter 102, article V, in addition to the requirements contained therein, shall provide to the finance director evidence of payment of all outstanding permit fees, fines and other charges as a condition to reissuance or renewal of the business license.

(8) *Identification of equipment.* All equipment utilized to collect and transport solid waste in the city must be conspicuously marked on both sides of the automotive unit with the name of the hauler, tare weight and cubic yard capacity. Identification information must also be marked on all trailer and container units. All markings must be in letters and numerals at least two inches in height.

SECTION 3. CODIFICATION.

It is the intention of the Mayor and city Commission of the city of Miami Beach, 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, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 4. REPEALER.

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

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 ten (10) days following adoption.

PASSED and ADOPTED this _____ day of _____, 2018.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

First Reading: September 12, 2018

Second Reading:

(Sponsor: Commissioner Ricky Arriola)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

9/4/18

Date

Underscore denotes new language
~~Strikethrough~~ denotes removed language