

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90, ENTITLED "SOLID WASTE," BY AMENDING ARTICLE IV, ENTITLED "PRIVATE WASTE CONTRACTORS," BY AMENDING DIVISION 4, ENTITLED "SPECIALTY CONTRACTORS," BY AMENDING SUBDIVISION II, ENTITLED "ROLLOFF/PORTABLE WASTE CONTAINER CONTRACTORS," BY AMENDING SECTIONS 90-276 THROUGH 90-278 THEREOF, TO ESTABLISH AN ANNUAL ROLLOFF PERMIT FEE FOR ROLLOFF CONTRACTORS, REQUIRED MONTHLY REPORTING TO THE CITY, AND PROVISIONS TO ENSURE NO ROLL-OFF PERMIT SHALL BE ISSUED TO A ROLL-OFF CONTRACTOR UNLESS THE CONTRACTOR HAS AN ACTIVE BUSINESS TAX RECEIPT AMENDING APPENDIX A, "FEE SCHEDULE," TO REFLECT THE ANNUAL ROLLOFF PERMIT FEE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on September 2, 2021, the Inspector General for the City of Miami Beach issued a Rolloff Permit Process Review, OIG No. 21-17, to analyze Rolloff permit process to identify possible improvements and increase compliance; and

WHEREAS, among his recommendations, the Inspector General recommended for the Rolloff contractors to be charged for obtaining Rolloff permits to cover the City's administrative and processing costs of implementing the regulations contained therein; and

WHEREAS, in addition, the Inspector General recommended amending the City Code to require Rolloff contractors to timely submit returns every month, even if they did not operate within the City of Miami Beach during that period, and require Rolloff permits are not be issued to companies or individuals without a valid "active" City Business Tax Receipt; and

WHEREAS, the City Administration determined that an annual Rolloff permit fee in the amount of \$1,000.00 will offset the City's administrative and processing costs; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

SECTION 1. That Sections 90-276 through 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

* * *

Division 4. Specialty Contractors.

* * *

Subdivision II. Rolloff/Portable Waste Container Contractors

Sec. 90-276. Permit required.

Except as provided elsewhere in this chapter, no person shall engage in the business of removing or disposing of construction and demolition debris or large quantities of trash from any premises within the city limits without first securing a permit for such activities from the city by:

- (1) Paying the business tax receipt amount as set forth in chapter 18, ~~and without showing proof of insurance, as required in section 90-191 et seq.~~ However, franchise waste contractors shall not be required to obtain a separate business tax receipt to service rollofs or portable containers within the city.
- (2) Paying an annual permit fee in the amount of \$1,000 to cover the City's annual administrative and processing costs. The rate in appendix A pertaining to this subsection will be administratively adjusted annually to reflect increase(s) or decrease(s) in the Consumer Price Index for all urban consumers, CPI-U; and
- (3) Showing proof of insurance, as required in section 90-196.

Sec. 90-277. Permits required.

No rolloff container, dumpster or portable container shall be placed or located within the city without a permit from the city. Failure to obtain a permit will result in a penalty of \$100.00 per location. No permit for rolloff containers, dumpsters, or portable containers shall be issued to a rolloff contractor unless the requirements in section 90-276 have been met.

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.
- (2) *Off-street permit fee.* When the rolloff container is to be located on private property, 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.
- (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, regardless of whether any work was performed within the city during that period. 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. Failure to timely submit the monthly report on or before the last day of each month will result in a penalty as set forth in Appendix A.
- (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 2.

Attached to this Ordinance is amended Appendix A, establishing an annual Rolloff permit fee.

SECTION 3. REPEALER

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith 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 relettered 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 ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2021.

ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

(Sponsored by Commissioner Mark Samuelian)

Underlines denote additions

Doublelines denote additions at the second reading

~~Strikethrough~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

10-5-21

Date

Exhibit "A"

APPENDIX A – FEE SCHEDULE

Pursuant to section 1-15 of this Code, this appendix includes all fees and charges established by the city commission that are referred to in the indicated sections of the Code of Ordinances. Certain specified fees and charges, as identified herein, shall be subject to annual adjustment by the city manager, pursuant to the provisions of section 1-15 and this Appendix "A". A schedule of all current city fees and charges as set forth in Appendix "A" shall be maintained on the city's website.

Section of this Code	Description	Amount (Sales tax or other taxes may apply)
	* * *	
	Chapter 90. Solid Waste	
	* * *	
	<i>Article IV. Private Waste Collectors/Contractors</i>	
	<i>Division 4. Specialty Contractors</i>	
	<i>Subdivision II. Rolloff Waste Container Contractors</i>	
<u>90-276(2)</u>	<u>Annual permit fee</u>	<u>1,000.00</u>
90-278(1)	When rolloff is located in parking meter spaces, per meter, per day	5.00
<u>90-278(4)</u>	<u>Failure to timely submit the monthly report</u>	<u>50.00</u>
90-278(6)	Failure to timely pay license fee	50.00
	* * *	