

ORDINANCE NO. 0-2006-14

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 50 OF THE CODE OF ORDINANCES RELATING TO SOLID WASTE AND RECYCLING MANAGEMENT; AMENDING § 50.07 BY REQUIRING CUSTOMERS OF THE CITY'S SANITATION SERVICE TO MAKE DEPOSITS; AMENDING § 50.01 AND § 50.05 TO ALTER THE METHOD OF CALCULATING THE FRANCHISE FEE, PARTICULARLY WITH RESPECT TO RECYCLED MATERIALS, EFFECTIVE JULY 1, 2006; AMENDING OTHER SECTIONS OF CHAPTER 50 TO UPDATE SAME AND TO IMPROVE CLARITY.

WHEREAS, the staff of the City of Hollywood, Florida recommends certain amendments to Chapter 50 of the Code of Ordinances relating to solid waste and recycling management, including the addition of a requirement that each customer make a deposit when opening an account with the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Chapter 50 of the Code of Ordinances is hereby amended to read as follows:

TITLE V: PUBLIC WORKS

CHAPTER 50: SOLID WASTE AND RECYCLING MANAGEMENT

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

* * *

GROSS RECEIPTS. All monies received from all **COMMERCIAL ACCOUNTS** for providing hauling and storage services, and includes monies received from container rentals, interest, penalties, late charges, advertising, and any other services provided by the private contractor.

(Coding: Words and figures underscored are additions to existing law; words and figures ~~stricken through~~ are deletions.)

PERSON. Any individual, firm, partnership, association, corporation, company or organization of any kind.

* * *

§ 50.07 DEPOSIT REQUIRED; FEE SCHEDULE.

(A) Every customer that is to be billed by the City for sanitation service shall be required to make a deposit with the utility customer service office for the purposes of guaranteeing payment prior to opening a utility account with the City.

The City shall apply any deposit collected from any customer for the provision of water, sewer, or sanitation services toward any and all charges that remain unpaid by the same customer related to any of these services.

(B) Deposits shall be refunded only at the time the customer account is closed except as provided herein. When an account is closed, the deposit, if any, shall be applied toward any remaining final charges. Any remaining portion of the deposit after such application shall be refunded to the customer. Any remaining unpaid charges after such application shall be due and owing by the customer within 20 days of the bill date. After the owner of an owner-occupied single-family, duplex or triplex residence has established a satisfactory payment record and has had continuous service for a period of 23 months, the deposit shall be refunded, provided the owner has not, in the preceding 12 months:

(1) Made more than one late payment of a bill (after the bill has become past due as provided in § 50.09);

(2) Paid with a check refused by a bank; or

(3) Used service in a fraudulent or unauthorized manner.

(C) Delinquent accounts wherein the deposit was previously refunded shall be required to re-establish their deposits in accordance with the established schedule under the following circumstances:

(1) Customer is in arrears 30 days or more twice within the past 12 months; or

(2) Customer paid with a check that is refused by a bank twice within the past 12 months.

(3) Customer used service in a fraudulent or unauthorized manner.

Deposits that are reestablished in accordance with this chapter shall be billed to the customer's account.

(D) Deposits will accrue simple interest at the average annual rate earned by the city on its pooled investments. The interest will be applied to the account for which the deposit is held, at the close of the fiscal year on those accounts having been held for at least one year.

(E) A utility deposit may be transferred from one account to another account of the same customer, provided the deposit is eligible for refund pursuant to (B) above, or provided the account from which the deposit is being transferred is closed and all final charges have been paid or transferred to the new account.

(F) All Environmental Services Division fees, including the rates for deposits, shall be set and amended by resolution of the City Commission.

§ 50.08 BILLING PROCEDURE.

(A) The fact that any place of abode or any place of business has water service and a certificate of occupancy shall be prima facie evidence that garbage is being produced and accumulated upon such premises. Fees for the collection and disposal of garbage shall be billed on the monthly water statement and shall be collected along with all other charges for service in accordance with section 51.142 indicated on the water statements, or in a manner as the City Manager may direct.

(B) The fees prescribed herein are payable, regardless of occupancy, subject to the provision that if water service is discontinued to the premises for any amount of time and for any reason other than for nonpayment the fees for sanitation services shall be reduced by 38% for the billing periods during which no usage is billed.

(C) ~~The procedure for a customer to challenge bills relating to sanitation service is as follows:~~

~~(1) Appeal requests for possible billing errors related to sanitation service shall not be considered beyond the three month period immediately preceding the appeal date, except that this limitation will not apply where the person requesting the appeal establishes to the satisfaction of the Director of Financial Services or his/her designee that the person requesting the appeal did not receive sanitation service as a customer of the City during the period in question either because (i) he/she hired a private contractor or (ii) sanitation service was provided to him/her indirectly through the lessor, condominium association, or cooperative association of the property to which the bill or bills in question apply but in no event shall credit be issued for billing periods in prior fiscal years.~~

~~(2) The City will only award a credit on future utility bills unless no further charges are to be billed for sanitation services. In that case, a rebate check will be sent.~~

~~* * *~~

~~(E) Proration of base charges. On initial and final bills, the sanitation service charge per unit shall be prorated by dividing the charge by 30 days and then multiplying the resulting daily amount by the number of days of service in the initial or final billing period. The base charge billed under § 50.07(A) shall be billed the full month charge without proration for any period beyond the 15th day of the billing cycle, the period from the eighth to the fifteenth shall be 50% of the full month base, and no base charge will be levied under eight days in a billing period. This will apply to newly created accounts, reactivated owners' accounts, and final bills.~~

§ 50.09 NONPAYMENT.

The amount of charges fee imposed by this chapter is hereby declared to be a debt due to the City, and any person required under the terms of this chapter shall be liable to the City for the amount of charges the fee due therefor, as well as interest at the annual rate of 12% on any unpaid balance; and such charges fee shall be recoverable in any court of competent jurisdiction. The amount of unpaid charges collection fee shall constitute a lien against the premises to the same extent and character as the lien for special assessments and with the same penalties and with the same rights of collection, foreclosure, sale or forfeiture as obtained by special assessment liens and may be handled in the same manner by the City.

~~* * *~~

Section 2: That Chapter 50 of the Code of Ordinances is hereby amended to read as follows:

TITLE V: PUBLIC WORKS

CHAPTER 50: SOLID WASTE AND RECYCLING MANAGEMENT

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~**ALLOWABLE EXEMPTIONS FROM GROSS RECEIPTS.** Includes monies received from **COMMERCIAL ACCOUNTS** for the hauling or storing of recyclable materials and for the renting of hydraulic or electrical containers or equipment.~~

~~* * *~~

COMMERCIAL ACCOUNTS. Any person receiving sanitation service other than one- or two-family residences, and includes accounts designated as industrial accounts and accounts for the collection, conveyance or disposal of construction and demolition material, rocks or soil.

* * *

GROSS RECEIPTS. All monies received from all **COMMERCIAL ACCOUNTS** for providing collection, conveyance hauling, and storage, or disposal services with respect to materials other than recycled materials, and includes monies received from container rentals, hydraulic equipment rentals, electrical equipment rentals, recoveries on bad debts, interest, penalties, late charges, advertising, and any other services provided by the private contractor. Gross receipts shall not include the amount of the city franchise fee when such is separately and accurately delineated on the billing statement to a customer.

* * *

RECYCLED MATERIALS. Metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal.

RECYCLABLES. ~~Any item which can be recycled, including but not limited to: newspaper; cardboard; glass food and beverage containers (clear, green, or brown colored); aluminum, tin and steel cans; plastic containers (types 1, 2, and 3 as indicated on the container); wood waste; and scrap metal, provided, however, that the recyclable material must have at least sixty (60%) percent recyclable content when separated post collection.~~

* * *

SOURCE SEPARATED. Recycled materials separated from solid waste where the recycled materials and solid waste are generated. The term does not require that various types of recycled materials be separated from each other and recognizes that de minimus solid waste, in accordance with industry standards and practices, may be included in the recycled materials. Materials are not considered source separated when two or more types of recycled materials are deposited in combination with each other in a commercial collection container located where the materials are generated and such materials contain more than 10 percent solid waste by volume or weight. For purposes of this definition, the term "various types of recycled materials" means metals, paper, glass, plastic, textiles, and rubber.

* * *

§ 50.02 GARBAGE RECEPTACLES.

* * *

(b) *Dumpsters and Dumpster enclosures.*

* * *

(4) *Enclosure requirements.* The following enclosure requirements shall be met by all properties as described below:

* * *

(j) Materials and construction methods. Enclosures shall be constructed of walls or fences of wood or plastic lumber, (finished) masonry units, (finished) concrete or any combination of these elements and shall be constructed in a manner described below in subdivisions (j)1. through 6. The materials used shall be compatible with those of adjacent or surrounding buildings or structures and may be used in any combination of the enclosure materials referenced above. Gates shall be constructed of opaque materials in the manner provided in subdivision (e) above.

* * *

7. Exemptions.

A. Wheeled bulk containers for the disposal of solid waste or the collection of recycled materials ~~recyclables~~ which are two cubic yards or less in size are exempt from the enclosure requirements of this section, provided that when not curbside for collection, they are positioned upon a hard surfaced pad located behind the building line(s) of the user location, and they are not visible from the public right-of-way, and a hard surface roll-way from the pad to the servicing area is provided to facilitate servicing. Wheeled bulk containers shall only be placed curbside for collection and shall remain curbside for a reasonable amount of time in order to facilitate collection. In no case shall wheeled bulk containers remain overnight at curbside or streetside.

* * *

§ 50.04 COLLECTION OF COMMINGLED WASTE AND RECYCLED MATERIALS RECYCLABLES.

* * *

(B) *Recycling.*

(1) *Single-family and duplex owners, renters, and occupants of these units.*

(a) *Recycled materials Recyclables.*

* * *

§ 50.05 COLLECTION OF GARBAGE, RECYCLED MATERIALS RECYCLING, AND RUBBISH, CONSTRUCTION AND DEMOLITION MATERIAL, ROCKS, AND SOIL BY PRIVATE CONTRACTOR; PERMIT REQUIREMENTS; RECYCLING.

(A) *Collection by private contractor.* All garbage, recycled materials recyclables, and rubbish, as defined in 50.01, shall be collected, conveyed and disposed of by the City except as herein provided. No person, partnership, association or corporation shall collect, convey or dispose of any garbage, recycled materials recyclables, or rubbish, construction and demolition material, rocks, or soil accumulated in the City without first having obtained a permit from the Environmental Services Manager. The issuance of a permit, as described above, gives each private contractor so permitted a franchise to collect garbage rubbish, construction and demolition materials, rocks, and soil within the City. A permit shall be issued only upon the criteria set forth in divisions (B) and (C) below.

(B) *Permit required.* Any person, partnership, association or corporation who wishes to collect, convey or dispose of any garbage, recycled materials recyclables, or rubbish, construction and demolition material, rocks or soil accumulated in the city must have been granted a permit from the Environmental Services Manager. The completed application for a one-year permit to collect, convey or dispose of any garbage, or rubbish, construction and demolition material, rocks or soil accumulated shall be on file no later than September 30 and shall include a fee, as applicable under division (C)(2) below. The completed application for a one-year permit for the collection of recycled materials recyclables, as defined in § 50.01, shall be on file no later than September 30th and shall include a fee, as applicable under division (C)(2) below, effective September 30, 1997. Each applicant shall meet the following requirements:

* * *

(2) Each applicant shall also agree that:

* * *

(g) A written release from the City is required in order to establish a new account. In the event that a contract is renewed, a new written release applicable to each renewal is required.

* * *

5. Once an account is released, the private contractor shall provide for the disposal, as directed by the City in division (B)(2) above, of the garbage (solid waste), rubbish (bulky waste), brush and recycled materials ~~recyclables~~. The City will no longer provide any sanitation services to private accounts unless the proper fee is paid.

* * *

(C) *Issuance of permit.*

* * *

(3) All persons who hold a permit for garbage, ~~or rubbish,~~ construction and demolition material, rocks or soil collection must file a current customer list with the Director of Public Works and must update such list with the Director on a semiannual basis. Included in this list must be the customer name, address, frequency of service, the type, quantity and size of containers for garbage, rubbish and recycling customers. The recycling customer list should also delineate the types of materials recycled.

* * *

(D) *Appeal to City Commission upon denial of permit; retention of application fee.*

(1) Any person who applies for a permit for garbage, recycling, ~~or rubbish,~~ construction and demolition material, rocks or soil collection and is refused such a permit may appeal directly to the City Commission for a review of the decision of the City Manager or his/her designee. Any such appeal must be filed within two weeks of the denial.

* * *

(E) *Revocation of permit.* Should any person who holds a permit, as described above, ~~for garbage or rubbish collection~~ violate any of the provisions of this section or fail to do a required act of this section, he or she shall be subject to the following:

* * *

(F) *Franchise fee.* ~~The issuance of a permit, as described above, gives each private contractor so permitted a franchise to collect garbage and rubbish within the City. A~~ The commercial franchise fee on commercial accounts shall be established by resolution of the City Commission. Private contractors shall be solely responsible for remitting payment for the franchise fee to the City based upon the gross receipts of ~~by~~ the private contractor. The private contractor shall remit the franchise fee payment

along with the remittance form which shall be provided by the Director of Financial Services or his/her designee.

(1) The Contractor shall provide the City Manager or his/her designee, the following information, no later than the 15th of each month in order to determine the applicable franchise fee:

(a) The total amount of monies received ~~gross billings~~ in the preceding month and the year-to-date total for commercial collection service;

(b) Total amount of monies received for hauling, storing and disposal of recycled materials in ~~gross amount of monies collected or value received during the preceding month and the year-to-date total for commercial collection service.~~

(c) The gross receipts, determined by subtracting the amounts provided pursuant to subparagraph (b) above from the amounts provided pursuant to subparagraph (a) above. Such information shall be updated on a monthly basis and acknowledged as true and correct by the contractor and by notarized written certificate. The contractor agrees by accepting the permit to allow the City, or a representative of the City, during normal business hours with reasonable prior notice, to audit the review records of the contractor evidencing the total amount of monies received and the gross receipts at the office where these records are housed to verify that proper payment is being made, and the City agrees to utilize the least intrusive review to verify the payments made unless a dispute occurs as to the payment of the franchise fee. In the event that the audit reveals that the contractor made an underpayment in any month, the contractor shall pay interest at the rate of twelve percent (12%) per annum on the amount underpaid or not paid calculated from the date the amount was due to the date it is paid. The reasonable cost of the audit will be borne by the contractor if, as a result of the audit, the contractor and the City agree, or a court of competent jurisdiction determines, that the contractor has underpaid the franchise fees owed in an amount equal to or exceeding five percent (5%) of the franchise fees actually paid.

* * *

Section 3: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 4: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

ORDINANCE AMENDING CHAPTER 50 ("SOLID WASTE AND RECYCLING MANAGEMENT") RE: DEPOSITS, FRANCHISE FEE AND RECYCLED MATERIALS

Section 5: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That Section 1 of this ordinance shall be in full force and effect immediately upon its passage and adoption, and Section 2 of this ordinance shall be in full force and effect July 1, 2006.


ADVERTISED on April 21, 2006.

PASSED on first reading this 5 day of April, 2006.

PASSED AND ADOPTED on second reading this 3 day of May, 2006.


MARA GIULIANTI, MAYOR

ATTEST:


PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:


DANIEL L. ABBOTT, CITY ATTORNEY

5/4/06pac

PO-2006-14

Passed
on
1st Read.

4/5/06

PO-2006-14

Passed
on
2nd
Read

5/3/06

LEGAL AD CITY OF HOLLYWOOD

NOTICE IS HEREBY GIVEN in accordance with Section 166.041 Florida Statutes that the City Commission of the City of Hollywood, Florida, at a Regular City Commission Meeting, on WEDNESDAY, May 3, 2006, in the City Commission Chambers, Room 219, General Joseph W. Watson Circle, Hollywood, Florida, proposes to consider on second and final reading the following proposed ordinance(s):

Proposed Ordinance - PO-2006-12 beginning at: 1:15 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING ARTICLE 4 OF THE ZONING AND LAND DEVELOPMENT REGULATIONS ENTITLED "SCHEDULE OF DISTRICT, USE AND SETBACK REGULATIONS" BY AMENDING SECTION 4.3.C. GOVERNING THE MEDIUM INTENSITY COMMERCIAL DISTRICT (C-3) TO ADD THRIFT SHOPS AS A PERMITTED USE; AMENDING SECTION 4.3J. TO ADD PERFORMANCE STANDARDS FOR THRIFT SHOPS; AND AMENDING SECTION 4.3.K. TO ADD THRIFT SHOPS TO THE SUMMARY OF PERMITTED USES IN THE C-3 DISTRICT; PROVIDING FOR A REPEALER PROVISION; A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE. (06-T-01)

Proposed Ordinance - PO-2006-13 beginning at: 1:15 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, VACATING AND ABANDONING A PORTION OF THE AIR RIGHTS WITHIN THE EAST-WEST ALLEY LYING BETWEEN LOTS 1 THROUGH 6, 36 AND 37 IN BLOCK 42 AND WITHIN A PORTION OF NORTH 19TH AVENUE LYING ADJACENT TO LOT 1, BLOCK 42, TOWN OF HOLLYWOOD PB1, PG 21, OF THE PUBLIC RECORDS OF BROWARD COUNTY, MORE SPECIFICALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN, SUBJECT TO CERTAIN CONDITIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE. (VA-06-02)

Proposed Ordinance - PO-2006-14 beginning at: 1:30 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 50 OF THE CODE OF ORDINANCES RELATING TO SOLID WASTE AND RECYCLING MANAGEMENT; AMENDING § 50.07 BY REQUIRING CUSTOMERS OF THE CITY'S SANITATION SERVICE TO MAKE DEPOSITS; AMENDING § 50.01 AND § 50.05 TO ALTER THE METHOD OF CALCULATING THE FRANCHISE FEE, PARTICULARLY WITH RESPECT TO RECYCLED MATERIALS, EFFECTIVE JULY 1, 2006; AMENDING OTHER SECTIONS OF CHAPTER 50 TO UPDATE SAME AND TO IMPROVE CLARITY.

Proposed Ordinance - PO-2006-15 beginning at: 1:30 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 127 OF THE CODE OF ORDINANCES ENTITLED "OTHER BUSINESSES" BY CREATING SECTION 127.300 ENTITLED "RETAIL BUSINESSES" TO ESTABLISH GUIDELINES FOR THOSE RETAIL BUSINESSES SELLING OR LEASING GO-PEDS, MOTORIZED SCOOTERS, AND GO-KARTS, WITHIN THE CITY OF HOLLYWOOD; AND PROVIDING FOR AN EFFECTIVE DATE.

Proposed Ordinance - PO-2006-16 beginning at: 2:00 PM, or as soon thereafter as same can be heard:

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 72, "PARKING", OF THE CODE OF ORDINANCES INCREASING THE EXPIRED/OVERTIME PARKING METER CITATION FINE; AND AUTHORIZING ALL PARKING METER FEES AND MUNICIPAL PARKING LOT/GARAGE FEES TO BE ESTABLISHED BY RESOLUTION OF THE CITY COMMISSION.

The proposed ordinance(s) may be inspected by the public in the Office of the City Clerk, Room 221, General Joseph W. Watson Circle, Hollywood, Florida, between the hours of 8:00 AM and 4:45 PM on any regular working day. Interested parties may appear at the aforesaid time and place and be heard with respect to the proposed ordinance(s).

NOTE: Any person who decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting will need a record of the proceedings, and it will be their responsibility to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Please call 954-921-3211 for any questions regarding the above matter.

Persons with disabilities who require reasonable accommodation to participate in City programs and/or services may call the Office of the City Manager three business days in advance at 954-921-3201 (voice). If an individual is hearing or speech impaired, please call 800-955-8771 (V-TDD).

Dated this 21st day of April, 2006.

Patricia A. Cerny, MMC
City Clerk
Hollywood, FL

THE SUN SENTINEL/LEGAL AD
PUBLISH: APRIL 21, 2006
FURNISH PROOF OF PUBLICATION

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