

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 96, "HEALTH AND SAFETY," OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 96.12, "COLLECTION REGULATIONS," BY MODIFYING PROCEDURES AND SETTING SPECIAL SERVICE FEES FOR SPECIAL COLLECTIONS; AND BY AMENDING SECTION 96.22, "REQUIREMENTS FOR RECOVERED MATERIALS HAULERS," TO MODIFY REQUIREMENTS FOR RECOVERED MATERIALS HAULERS OPERATING IN THE CITY; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1 That Section 96.12, "Collection Regulations," of Chapter 96 of the Code of Ordinances of the City of Pompano Beach, Florida, is hereby amended to read as follows:

§ 96.12 COLLECTION REGULATIONS.

All solid waste generated within the geographic boundaries of Pompano Beach shall be collected by the franchise collector and disposed of as directed by the city disposal agreement. All materials shall be generated from the property on which the materials are placed for removal.

(A) Residential customer – house, duplex and triplex dwellings.

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(E) Miscellaneous.

(1) Service to be withheld where receptacles do not comply with standards. No service shall be given where the material to be collected is not placed in receptacles, or containers as specified in this subchapter. No service shall be given where the receptacles are defective or are missing handles or contain excessive amounts of water.

(2) Extra collections. Where necessary to protect public health, the city shall have the authority to require more frequent collections, modify size of dumpster or additional container(s) and require the user to pay for the additional services.

(a) The customer may be assessed a special service fee from the franchise collector applied to its account. This special service fee may be assessed for the collection and disposal of material overloading the container in a manner that its contents are not contained within. The special service fee shall compensate for the additional time required for the driver to clean up materials spilled during collection due to an overloaded container and for disruption to the service schedule. The special service fee charge of \$175 per incident shall be capped at \$700 per month. The franchise collector shall take date/time stamped photos of the overloaded container, and the photos of the overloaded container will be provided to the customer.

(b) The customer will then have an opportunity to adjust the container size or service days to properly accommodate its solid waste needs to avoid any future overloads. Upon the adjustment, the franchise hauler will credit any special service fee charge paid.

(c) Alternatively, the customer may request to appeal the imposition of the special service fee within 30 days of the date of invoice, by providing written request for a hearing before the city's Special Magistrate for Code Compliance, delivered to the city's Solid Waste Manager. Following review of all evidence, the Special Magistrate may uphold or reverse the assessment of the special service fee and may impose an additional assessment for the cost of the proceeding should the special service fee be upheld.

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SECTION 2. That Section 96.22, "Requirements for Recovered Materials Haulers," of Chapter 96 of the Code of Ordinances of the City of Pompano Beach, Florida, is hereby amended to read as follows:

§ 96.22 REQUIREMENTS FOR RECOVERED MATERIALS HAULERS.

(A) Before engaging in business in the city, all recovered materials haulers must:

(1) Be certified by the Florida Department of Environmental Protection or any successor agency performing a like function, pursuant to Section 403.7046, Florida Statutes; and

(2) Register with the city on an annual basis and must have an active, current registration permit.

(a) Registration and application. Any person who engages in the purchasing, transporting and processing of recovered materials at commercial establishments shall register with the city in accordance with the requirements of this section. The registrant shall submit an original and one copy of all required information to the City of Pompano Beach Solid Waste Department. The registration required by this section shall be in addition to and not satisfied by any occupational license, which may be required. Applications for registration required by this section shall be made to the city upon such form and in such manner as prescribed by the city. The application shall be in such form to elicit the following information and such other information as may be required from time to time:

1. Registration fee. To be acceptable for filing, an application for registration shall be accompanied by a registration fee in the following amount, as appropriate:

<u>Initial registration application or re-application</u>	<u>\$200.00</u>
<u>Annual renewal of registration</u>	<u>\$200.00</u>
<u>Transfer of registration</u>	<u>\$100.00</u>

(3) Certification or proof of insurance, detailing terms and provisions of coverage, must be received and approved by the City of Pompano Beach Risk Management Division.

(a) Liability insurance. The hauler shall maintain liability insurance on all equipment operated in the city for bodily injury and

property damage in amounts not less than two hundred fifty thousand/five hundred thousand dollars (\$250,000.00/\$500,000.00) bodily injury in any one (1) accident, the latter figure for accidents involving more than one (1) person; and property damage insurance in an amount of not less than twenty-five thousand dollars (\$25,000.00) for one (1) accident. Further, the hauler shall provide worker's compensation insurance for its employees in the form and amount prescribed by law. The aforesaid liability insurance shall include a ten-day notice of cancellation in favor of the city. The hauler shall furnish to the city a copy of the aforesaid insurance policies. The city shall be an additional named insured in such policies.

(B) Recovered materials generated at a commercial establishment must be source separated at the premises of the commercial establishment.

(C) Failure to comply with any requirements of subsection (A) and (B) above shall constitute a violation punishable as provided in Section 96.53 of this chapter.

(1) Violation. Each violation of this section or any of its subsections is deemed a separate and distinct violation of this Code; however, for the first violation of operating without a registration the hauler or dealer shall be given a written warning and allowed ten calendar days to apply for and receive the required permit.

(2) Penalty. Any person who violates any provision of this section shall be punished as provided herein:

(a) Fine. Each violation of this section shall be punishable by a minimum civil penalty of \$250.00. Any fine not paid within ten days of issuance shall be filed and prosecuted in the County Court, whereupon, a maximum civil penalty of \$500.00 may be assessed plus the costs associated with investigation and prosecution together with any equitable remedies deemed reasonable and proper by the court.

(D) (1) Registration by recovered materials haulers shall be made with the ~~Public Works Director~~ Solid Waste Manager or his designee, on a form provided and shall include:

(a) Proof of registration with the state per subsection (A)(1) above; and

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(e) Payment of the annual registration fee of ~~\$50.00~~ 200.00 to cover the costs incurred in the registration process.

(2) Failure to comply with all registration requirements shall result in a denial of the ~~registration~~ permit.

(3) Renewal of ~~registration~~ permits shall be made on an annual basis by ~~February~~ January 1 of each year and shall require:

(a) Compliance with all requirements of subsections (A) and (D) above including, but not limited to, payment of the registration fee; and

(b) Filing of a report by the hauler identifying the approximate amount of recovered materials collected, recycled or reused from the city during the prior year; the approximate percentage of recovered materials reused, stored or delivered to a recovered materials processing facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste as solid waste at the City's designated disposal facility.

(c) Permit holder must provide to the city a copy of the recovered materials reporting forms, as submitted to the State of Florida Department of Environmental Protection.

(4) Failure to comply with any requirement for renewal shall result in denial of the renewal of a registration permit. In no event shall the registrant perform commercial establishment solid waste collection services under the guise of collecting, transporting, processing, or disposing of recovered materials.

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(6) If the city finds that the hauler has on more than two occasions within a one-year period violated state or local laws, ordinances, rules and regulations in the city related to its handling of recovered materials, the city may temporarily suspend or permanently revoke the registration a permit for a violation as aforementioned and may immediately declare such permit null and void, and, upon such declaration, the hauler issued the permit shall immediately cease all operations and shall be considered to have forfeited such permit and the rights permit and the authority of a recovered materials hauler to do business in the city if the city finds that the hauler has consistently and repeatedly violated state or local laws, ordinances, rules and regulations.

(a) Reasonable notice of the intention to suspend or revoke the permit and reasons therefore must first be provided in writing, along with a notice of hearing before the city's Special Magistrate with date, time and location. A minimum of ten days' notice prior to any such hearing shall be provided.

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(c) Following the hearing, the Special Magistrate may uphold, deny or modify the city's ~~requested~~ action as to suspension or revocation.

(d) Appeal of the Special Magistrate's decision shall be made to Broward Circuit Court in accordance with the Florida Rules of Civil Procedure.

(e) Nothing in this section shall prohibit the city from enforcing this section by other means.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective immediately upon passage.

PASSED FIRST READING this _____ day of _____, 2019.

PASSED SECOND READING this _____ day of _____, 2019.

REX HARDIN, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

:jrm
8/12/19
l:ord/ch96/2019-165