

ORDINANCE NO. 20-15

AN ORDINANCE OF THE CITY OF FORT MEADE, FLORIDA; MODIFYING SECTION 12-79, OF THE CODE OF THE CITY OF FORT MEADE, FLORIDA (THE "CITY CODE") TO RATIFY AND INCREASE A CITY ADMINISTRATION & COLLECTION FEE APPLICABLE TO CITY SOLID WASTE CUSTOMERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A COPY TO BE KEPT ON FILE, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FORT MEADE, FLORIDA, AS FOLLOWS:

SECTION 1. AMENDMENT TO SECTION 12-79, CITY CODE. Section 12-79, City Code, is hereby amended to read as follows:

**"Sec. 12-79. - Franchise fees and payment.**

(1) *Fee calculation.* As a consideration for the grant of any service franchise, franchisee shall pay to the city a franchise fee ("franchise fee") in the amount to be negotiated by franchisee and the city based upon a mutually agreeable methodology. The franchise fee provided for herein shall constitute the exclusive payment by franchisee to the city for franchisee's use and occupancy of the rights-of-way within the city's boundaries.

(2) *Time of payment.* Unless a different payment schedule is negotiated and specifically provided for by the city and the franchisee in the applicable franchise ordinance, then within thirty (30) calendar days after the close of each month, the franchisee shall pay the franchise fee as provided in subsection (1) of this section.

(3) *Supporting documentation.* Accompanying each franchise fee payment, franchisee shall prepare and provide all reasonable calculations and documentation necessary to support the franchise fee payment calculations. In the event the city disputes the amount of any franchise fee payment made, the city shall be entitled to perform or cause to be performed an independent audit of franchisee's accounts with respect to franchise fee calculations and supporting information. The city shall provide franchisee with thirty (30) days' prior written notice of its intent to perform any such audit. Upon receipt of such notice, franchisee shall make available the applicable documentation and records necessary to allow the city to perform the audit.

(4) *Audit.* The city may require an audit of franchisee's books not more frequently than once each calendar year. Franchisee will reimburse city's audit costs if the audit identifies errors in the franchisee's franchise revenues of five (5) percent or more for the period audited that results in Franchisee having underpaid the franchise fee. Errors identified during the audit process shall be projected retrospectively for any additional time periods not covered during the audit if there is a reasonable probability these errors occurred during the unaudited period,

but not for more than five (5) years. If an underpayment of the franchise fee has occurred, interest will be computed at a rate of ten (10) percent per annum from the date such underpayment was originally due. Both the underpayment and interest shall be paid within thirty (30) days after receipt of demand therefor from city.

(5) *Other taxes.* The sums of money to be paid by the franchisee to the city under this section are compensation and consideration for the use by the franchisee of the city's public ways for the construction, maintenance and operation of the franchisee facilities and are not taxes as allowed by the Florida Constitution, the general or special laws of the state, or any other ordinances of the city. The franchisee shall at all times continue to be subject to public service taxes (F.S. § 166.231), ad valorem taxes (F.S. § 166.211) and such other taxes, charges or fees as may be lawfully authorized by the Florida Constitution, the general or special laws of the state, the provisions of the Municipal Home Rule Powers Act (F.S. ch. 166) or the ordinances of the city.

(6) Administrative & Collection Fee. The City has previously levied a fee to cover certain administrative and bad debt collection costs a fee of 11% of the monthly charge levied by the private solid waste franchisee/hauler pursuant to Resolution No. R-12-12 and prior resolutions. The City hereby repeals section 14 of Resolution No. R12-12 and in its place, adopts an administrative collection fee to be levied as a part of the monthly bill based upon eleven percent (11%) of the monthly charge of the private solid waste franchisee/hauler. By way of illustration, if the fee charged by the franchisee/hauler is ~~\$18.17~~ \$20.34 per month, then the City's administrative and collection fee shall be ~~\$2.00~~ \$2.24 per month, with the total fee to customer being ~~\$20.17~~ \$22.58 per month.

**SECTION 2. UPDATING THE CODE OF ORDINANCES.** This Ordinance shall be codified and made part of the official Code of Ordinances of the City of Fort Meade. The City's staff is directed to update the Code of Ordinances to insert the revisions reflected herein.

**SECTION 3. REPEAL OF CONFLICTING ORDINANCES; RATIFYING UNAMENDED PROVISIONS OF THE CODE OF ORDINANCES.** All ordinances or parts of ordinances in conflict herewith (including but not limited to Ordinance No. 93-3) are hereby repealed and, all provisions in the Code of Ordinances shall remain unamended and are hereby ratified and confirmed.

**SECTION 4. SEVERABILITY.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall become effective immediately upon adoption.

Passed on first reading this 10<sup>th</sup> day of September, 2020.

Passed and enacted on second reading this 22<sup>nd</sup> day of September, 2020.

CITY OF FORT MEADE, FLORIDA

  
James Watts, Mayor

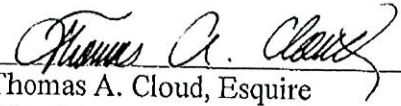
ATTEST:

  
Melissa Cannon, Deputy City Clerk

APPROVED:

  
Danielle J. Judd, City Manager

APPROVED AS TO FORM AND  
LEGALITY:

  
Thomas A. Cloud, Esquire  
City Attorney