

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager *RW*

DATE: June 26, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE CITY'S ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS; SAID AMENDMENT NECESSARY TO CONFORM WITH CERTAIN PROVISIONS OF THE RULES AND REGULATIONS TO NEWLY ENACTED STATE LAW (HOUSE BILL NO. 179); AND FURTHER APPROVING AN INCREASE IN BEACH TOWING SERVICES, INC.'S AND TREMONT TOWING INC.'S (PERMITTEES) ADMINISTRATIVE FEE FOR NON-RESIDENT TOWS FROM THE CURRENT \$77, TO \$110 CONDITIONED ON THE PERMITTEES' AGREEMENT TO A \$50 FLAT RATE TOW FOR CITY RESIDENTS DURING FLOODS AND OTHER SPECIFIED SEVERE WEATHER EVENTS; WITH SAID AMENDMENT, INCREASED ADMINISTRATIVE FEES AND FLAT RATE TOWING FEES FOR RESIDENTS TO TAKE EFFECT ON JULY 1, 2024.

### RECOMMENDATION

The City Administration ("Administration") recommends that the Mayor and City Commission ("City Commission") adopt the Resolution.

### BACKGROUND/HISTORY

The City of Miami Beach ("City") is authorized to issue towing permits for the discharge of towing and/or storage of vehicles identified by the City's Police Department or Parking Department, required for the removal of vehicles from the public rights-of-way (the "Towing Permits").

The City currently issues Towing Permits to the following two (2) providers which satisfy all of the City's requirements, both in the City Code and pursuant to the City's Administrative Rules and Regulations for Police and Parking Towing Permits (the "Administrative Rules and Regulations"):

- 1.) Beach Towing Services, Inc. and 2.) Tremont Towing, Inc. (the "Permittees").

The Permittees work closely with the City's Police and Parking departments, respectively, and have consistently provided good and capable service to the City. Most recently, in response to the severe flooding that occurred in Miami Beach, the Permittees volunteered to offer their services, free of charge, to assist residents with towing their stalled vehicles out of floodwaters.

On June 4, 2024, the Administration received a letter (Attachment A) from the Permittees' legal counsel, Rafael Andrade, Esq., regarding a newly enacted State Law, Committee Substitute for House Bill No. 179 ("HB 179") (Attachment B), which will take effect on July 1, 2024, and which will impact the City and the Permittees in several ways, including the City's current Administrative Rules and Regulations.

## ANALYSIS

HB 179 resulted from extensive lobbying efforts by rental car companies, including, but not limited to, Enterprise, Alamo, and National rental car corporations. The resulting State law requires amending the City's Administrative Rules and Regulations, since some existing provisions will, as of July 1, 2024, be in conflict with the new State law. In summary, the proposed amendments included in HB 179 and their impact on the City's Administrative Rules and Regulations are as follows:

- 1.) Counties or municipalities that establish Maximum Allowable rates will be required to post the rates on their websites, as well as the process they follow for complaints regarding fees charged in excess of the rates. It should be noted that the City is in compliance with this requirement, as rates and a complaint process are currently included in the Towing Bill of Rights posted on the City's website, thus this new provision in the law does not require an amendment to the City's Administrative Rules and Regulations; and
- 2.) Towing companies/Permittees are now required to send lien notices (for unclaimed vehicles or for which charges for towing or storage services remain unpaid) within five (5) calendar days, rather than the current seven (7) days. Note this new provision does not require an amendment to the City's Rules and Regulations, simply compliance by the Permittees; and
- 3.) For purposes of releasing a towed vehicle, Tow companies/Permittees may no longer accept a rental car agreement from a renter of the vehicle as evidence that the person who rented the vehicle is an agent of the rental vehicle. Instead, the renter of a vehicle must now present a notarized agreement evidencing that the renter is an agent of the vehicle. This amendment to the current law will greatly impact the City and further investigation will be required to determine what, in effect, will be satisfactory proof under the new law for a renter to present to a tow company in order to obtain a release of their rental vehicle. Note this new provision in the law requires an amendment to the City's Rules and Regulations; and
- 4.) Tow companies/Permittees are authorized under HB 179 to accept two (2) forms of payment from a list that includes (i) cash, cashier's check, money order or traveler's check, (ii) bank, debit, or credit card, and (iii) mobile payment service, digital wallet or other electronic payment system. Currently, the City's Administrative Rules and Regulations do not include mobile payment, digital wallet or other electronic payment systems, thus, an amendment to the City's Administrative Rules and Regulations is required to include these new forms of payment which the Permittees have expressed that they would accept. It is important to note that in addition to (i) and (iii), the Permittees will continue to accept credit card and debit card payments from City residents only, and only debit card payments from Miami-Dade County residents.

In addition to the above, the Permittees have requested, via the June 4, 2024 letter to the Interim City Manager, that the City approve an increase to the Administrative Fee, for non-resident tows, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases. The Permittees recently met with the City's Parking Department staff and stated that the proposed increase in the Administrative Fee for non-City residents is necessary as compliance with HB 179 (particularly in terms of the reduced time for filing notices of lien) will increase their operating costs. Additionally, the Permittees represented

that rising operating costs due to sustained inflation and rising insurance, equipment, and labor costs have created a financial burden. To remain financially viable and to continue to provide the expected levels of service to the City, the Permittees have represented that they must increase the Administrative Fee, for non-City resident tows only, to \$150. On June 17, 2024, the Permittees' legal counsel, Rafael Andrade, Esq., provided an email to the Administration with an attached letter (Attachment C), dated February 26, 2024, from Chase Insurance Agency, Inc. addressed to Beach Towing Services, Inc. with a breakdown of Beach Towing's annual insurance premiums for the last five (5) years. The letter documents a significant increase from \$168,397 in 2023/2024 to \$410,677 in 2024/2025 (an increase of approximately \$242,000 over a one (1) year period). Beyond the letter, the Permittees have not provided any additional evidence, empirical data, or costs to further substantiate their claim. Notwithstanding, the Administration has negotiated in good faith with the Permittees' legal counsel. As a result of these discussions, the Administration and the Permittees have agreed to the following (subject to City Commission consideration):

- Administrative Fee of \$110, for non-City resident tows, which reflects a 43% increase from the current amount of \$77, and a 27% decrease from the Permittee's requested amount of \$150; and
- Flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

#### **FISCAL IMPACT STATEMENT**

N/A

#### **Does this Ordinance require a Business Impact Estimate?** (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

#### **FINANCIAL INFORMATION**

N/A

#### **CONCLUSION**

The proposed amendments to the City's Administrative Rules and Regulations are necessary in order to comply with the new State law resulting from HB 179, which will take effect on July 1, 2024. With regard to the Permittees' requested increase in the Administrative Fee, for non-City resident tows only, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150, the Permittees have stated that the increase is necessary in order for them to remain financially viable, and to continue to provide the City with the expected levels of service. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases.

The Administration has negotiated in good faith with the Permittees legal counsel; and, as a result, the Administration and the Permittees have agreed, subject to City Commission consideration, to an

Administrative Fee of \$110, for non-City resident tows, and a flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

It should be noted that the Permittees are the only two (2) service providers which satisfy the City's towing requirements under the City Code and the City's Administrative Rules and Regulations. Further, the Permittees have and are providing good and capable towing services to the City, and these services continue to be necessary.

The attached Resolution for City Commission consideration sets forth the necessary amendments to the City's Administrative Rules and Regulations. The City's Administrative Rules and Regulations will be amended administratively prior to the new State law taking effect on July 1, 2024.

The Administration recommends that the City Commission approve Amendment No. 1 to the City's Administrative Rules and Regulations; said Amendment necessary to conform with certain provision of the rules and regulations to newly enacted State law (House Bill 179); and further approving an increase in the Permittees' Administrative Fee for non-City resident tows from the current \$77 to \$110, conditioned on the Permittees' agreement to a \$50 flat rate tow for City residents during floods and other specified severe weather events; with said amendment, increased Administrative Fees and flat rate towing fees for residents to take effect on July 1, 2024.

Since the new law, HB 179, shortens the time for the towing companies (Permittees) to file a Notice of Lien (for unpaid charges) from 7 to 5 days, Permittees have informed the City that they can no longer agree to maintain the voluntary 36 hour waiting period (i.e. within which to delay sending the lien notices) set forth in the current Administrative Rules and Regulations. Therefore, this Supplemental Memorandum will amend the original Commission Memorandum to advise the Mayor and City Commission that a further amendment to the Administrative Rules and Regulations will be necessary to eliminate and delete the language requiring the 36 hour voluntary hold ( which language is found in Section 22(C)(3) of the Rules and Regulations).

After meeting with Permittees, the Administration has no objection to the above amendment.

**Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond Project:**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** Yes

If so, specify the name of lobbyist(s) and principal(s): Ralph Andrade

**Department**

Parking

**Sponsor(s)**

**Co-sponsor(s)**