

MEMORANDUM

Date: November 1, 2021

To: Max Royle, City Manager

From: William Tredik, P.E., Public Works Director

Subject: Ordinance 21-14
Owner Provided Solid Waste Services: Review of Proposed Ordinance
2nd Reading and Public Hearing

BACKGROUND

On August 3, 2020 the City Commission Adopted Ordinance 20-09 modifying and restating Chapter 10 – Garbage and Trash, of the City Code. Several changes to Chapter 10 were adopted, including changes to Section 10-4 Residential Waste and 10-13 Commercial Waste providing for dwelling units within mixed-use buildings to be able to use the commercial dumpster or commercial trash area of the mixed-use building. The modifications adopted on August 3, 2020, however, did not account for buildings no longer being considered “mixed-use” if dwelling units within the building were operated as commercial service premises.

DISCUSSION

The proposed changes associated with Ordinance 21-14 modify Section 10-13 (f) to eliminate the language in this subsection pertaining to mixed-use buildings, and instead allow the owner or owners of a building containing a commercial dumpster or commercial trash area to permit up to four (4) commercial service premises within the building to use the building’s commercial dumpster or commercial trash area.

On October 4, 2021, the City Commission discussed the proposed ordinance at First Reading. The Commission asked whether the draft language of the ordinance allowed a commercial service premises without a commercial dumpster area or a commercial trash area to allow the use of the building’s commercial waste carts by another commercial service premises within the same building.

A review of the Chapter 10-1. – Definitions, of the City Code defines a Commercial Trash Area as follows:

Commercial trash area means any area used for accumulation of trash generated by any business, whether or not deposited in a container, which area is not enclosed within a building.

The definition of commercial trash area within the current City Code thus appears to apply only to an area not enclosed within a building. A new paragraph 10-13 (g) was therefore added to allow the owner of a building containing up to two (2) commercial service premises – but not

containing a commercial dumpster or commercial trash area – to utilize the building's commercial waste carts for both commercial service premises within the building. The owner would be required to purchase authorized waste carts of sufficient volume to serve the solid waste needs of both commercial services premises within the building.

ACTION REQUESTED

Adopt Ordinance 21-14 on 2nd Reading.

ORDINANCE NO: 21-14

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA, RELATING TO GARBAGE AND TRASH; AMENDING THE CODE OF THE CITY OF ST. AUGUSTINE BEACH, CHAPTER 10, GARBAGE AND TRASH, TO AMEND, REVISE AND RESTATE THE SECTION 10-13 OF THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City Commission for the City of St. Augustine Beach finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021 (4), Florida Statutes.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA:

SECTION 1. The foregoing recitals are incorporated as legislative findings of fact.

SECTION 2. Amend Article I Section 10-13 of the Code of the City of St. Augustine Beach be, and the same is, hereby amended, revised and restated to read:

Chapter 10 - GARBAGE AND TRASH

ARTICLE I. - IN GENERAL

Sec. 10-1. – Definitions.

Owner means a person owning, occupying or leasing (not including transient leases) any premises coming under the terms of this chapter. There may be multiple owners to the same property.

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Sec. 10-13. - Commercial waste.

- (a) Every commercial service premises, including, but not limited to, hotels and motels and transient rentals, shall pay to the city for the collection and disposal of waste collected by the city, or the availability of such service, the service charges provided in this section.
- (b) After September 30, 2020, commercial service premises having six (6) or more dwelling units are not eligible for City solid waste collection, disposal and recycling services, except as provided in subsection (c) below, and must secure private collection and disposal services from a City licensed private solid waste management company.
- (c) Commercial service premises having six (6) or more dwelling units which receive solid waste collection, disposal and recycling service from the City, as of the date of adoption of this ordinance, may petition the City to continue City service for all of its dwelling units beyond September 30, 2020 due to hardship associated with the infeasibility to convert to dumpster service or obtain private collection. Hardship petitions will be reviewed and processed by the City Manager. Denied petitions may be appealed to the City Commission.
- (d) Dwelling units within condominium or apartment complexes which continue to receive solid waste collection, disposal and recycling services from the City after September 30, 2020 are not required to purchase waste carts from the city and shall be allowed to place for collection the maximum quantities per dwelling unit provided in Section 10-04 - Residential Waste.
- (e) Condominium or apartment complexes which continue to receive City provided solid waste collection, disposal and recycling services for its dwelling units after September 30, 2020 shall be billed the commercial rate for condominiums and apartment complexes as established by resolution.
- (f) The owner or owners of a dwelling unit contained within a mixed-use building may utilize the commercial dumpster or commercial trash area associated with the mixed-use building, upon filing of permission from the commercial services premises in the mixed-use building. When a dwelling unit within a mixed-use building elects to utilize the commercial dumpster or commercial trash area associated with the mixed-use building, the dwelling unit may request exemption from the solid waste non-ad valorem special assessment, and all solid waste collection and disposal fees for the mixed-use building will be the responsibility of the commercial services premises. The owner or owners of the commercial service premises in the mixed-use building must provide a notarized affidavit indicating their authority and agreement to allow the dwelling unit within the mixed-use building to utilize the commercial dumpster or commercial trash area on the mixed-use building property. The owner or owners of a building containing a commercial dumpster or commercial trash area may allow up to four (4) commercial service premises

within the building to utilize the building's commercial dumpster or commercial trash area associated with the building, upon filing of permission from the owner responsible for the building's dumpster or commercial trash area. When a commercial service premises within a building elects and is authorized to utilize the commercial dumpster or commercial trash area associated with the building, all collection and disposal fees for the electing commercial service premises will be paid by the owner or owners of the building. The owner ~~or owners~~ of the building responsible for the dumpster or commercial trash area must provide a notarized affidavit indicating their authority and agreement to allow the commercial service premises within the building to utilize the building's commercial dumpster or commercial trash area.

- (g) The owner ~~or owners~~ of a building containing up to two (2) commercial services premises, but not containing a commercial dumpster or commercial trash area ~~as specifically defined in City Code~~, may allow both commercial service premises within the building to utilize the same City authorized commercial waste carts. If there are multiple owners of the building, the owners must provide a notarized affidavit indicating their authority and agreement to allow both commercial service premises within the building to utilize the building's City authorized commercial waste carts. When both commercial service premises within a building elect — and are authorized by the City — to use the same commercial waste carts associated with the building, all collection and disposal fees for the two commercial service premises will be paid by the owner ~~or owners of the building~~. The owner ~~or owners of the building responsible for the City authorized commercial waste carts must provide a notarized affidavit indicating their authority and agreement to allow both commercial service premises within the building to utilize the building's City authorized commercial waste carts.~~ The Owner or owners of the building will be responsible for purchasing City authorized waste carts of sufficient volume to meet the solid waste needs of the two commercial services premises within the building.

- ~~(f)~~(h) Commercial services premises which ~~generate, or generate or~~ have historically generated more than an average of ten (10) thirty-two-gallon waste receptacles (or equivalent volume) of solid waste per week will not be eligible for city solid waste collection services and must a secure private hauler for solid waste collection and disposal services, provided the hauler is duly franchised and authorized to collect solid waste within the city.

- ~~(g)~~(i) Authorized commercial containers; collection.

- (1) Commercial service premises shall purchase, from the city, waste carts with a volume between sixty-four (64) and ninety-six (96) gallons for use in city solid

waste collection. The number / total volume of waste carts to be purchased shall be based upon historic can count information for each commercial services premises. In cases where historic can count information is unavailable, the business owner will coordinate with the public works director to determine the appropriate "starting solid waste volume" based upon similar businesses. Carts purchased from the city will be uniquely identified and will be picked up during normal solid waste collection schedules without the assessment of additional fees, provided the carts are placed appropriately per Sec. 10-3. - Placement, are in proper working order, and are not overfilled so that the lids do not completely close. Cart purchase prices will be adjusted annually by the City Manager, based upon actual material and labor costs.

- (2) For the disposal of garbage, rubbish, and trash contained in sixty-four (64) through ninety-six (96) gallon waste carts as designated pursuant to subsection (1) hereof, excluding garden trash, each commercial service premises shall pay a monthly charge for each authorized waste cart purchased from the city. Monthly charges for waste carts will be established by resolution.
- (3) Unauthorized receptacles. Solid waste in unauthorized cans, carts, bags or other containers will be logged and assessed additional pickup fees as established by resolution. The volume of any solid waste collected from unauthorized receptacles will be measured and logged. If a commercial service premises utilizes unauthorized receptacles more than six (6) times in a twelve (12) month period, the commercial service premise will be required to purchase additional waste carts of sufficient volume so as to avoid future solid waste overages. An authorized receptacle which is overstuffed so that the lid does not completely close, or not placed per Sec. 10-3. - Placement, will be deemed an unauthorized receptacle, and will be logged and assessed an additional pickup fee.
- (4) Uncontainerized solid waste. Uncontainerized solid waste will be charged additional pickup fees, depending upon the quantity, volume and type of material collected. A fee schedule for uncontainerized solid waste will be set by resolution.
- (5) Change in commercial solid waste volume. If a business undergoes changes resulting in the reduction of solid waste generation, they may request an adjustment of the mandated number / volume of solid waste carts. The business must submit, in writing, to the City Manager's office, a request for a revaluation of solid waste fee. Upon receipt, the Public Works Department will conduct a random audit of the business's solid waste volume, to determine if a fee reduction is warranted. The random audit will be conducted within a six (6) month period to account for seasonal variation. If it is determined that a fee reduction is warranted, the business must return the appropriate number of waste carts to the city, and the monthly cart fee will be adjusted accordingly. A business may request a reduction of the mandated

number / volume of solid waste carts a maximum of once per 12-month time period.

- (6) The owner of a commercial service premises may elect, as provided in subsection (m) hereof, on a form designated by the city manager to exempt the commercial service establishment from collection by the city provided that the commercial garbage dumpster, waste receptacle storage area, waste cart storage area or commercial trash area meets the requirements of Sec. 10-3, Placement (d).

~~(h)~~(j) The quantity of garbage and rubbish which a commercial services premises may place for collection is limited to that which will fit within the business's purchased authorized commercial receptacles. The quantity of trash, white goods and recyclable material which a commercial service premises may place for collection by the city is subject to the same maximum limits provided for a single-family residence under subsection 10-4(a).

~~(i)~~(k) This section does not prohibit an owner from placing for collection garbage, rubbish, trash, white goods, and recyclable material in excess of the maximum quantities provided under subsection (i) when the city has previously agreed with the owner to collect such excess quantities. Quantities in excess of the maximum quantities will be assessed an additional pickup fee as set by resolution.

~~(j)~~(l) The city will not collect commercial waste contained in a garbage dumpster from any service premises.

~~(k)~~(m) The service charges provided in this section shall be due and by the end of the calendar month in which the invoice for such services is rendered and shall be regarded as delinquent thereafter.

~~(l)~~(n) A commercial service premises may be exempted from payment of the service charges upon written notice delivered to the office of the city manager, stating that the owner elects not to receive any waste collection and disposal service from the city, provided the owner furnishes evidence of a contract for dumpster service. It shall be a violation of this Code punishable as provided in section 10-11 hereof to collect dumpster garbage and trash between the hours of 7:00 p.m. of any day and 7:00 a.m. of the ensuing day.

~~(m)~~(o) The city manager is hereby authorized, from time to time, to determine the cost to the city for the utilization of landfills and to promulgate waste disposal service charges for each equivalent container to be charged pursuant to this section hereof in accordance with such costs. Such charges shall become effective as of the beginning of the next ensuing fiscal quarter after a copy thereof has been furnished to the city commission, unless the city commission shall, by ordinance, provide some other fee or charge or direct that no charge be made.

~~(n)~~(p) Commercial garden trash collection shall be provided to each commercial service premises once per week and be subject to the same rules governing the collection of uncontainerized and containerized residential garden trash waste. The amount charged by the city for such collection shall be set by resolution.

~~(e)~~(q) Up to two (2) cubic yards of commercial construction debris per week, if generated by the business occupant with a valid building permit, if such a permit is required, is to be collected from each commercial service premises that receives solid waste collection and disposal services from the city. (Construction debris generated by a contractor shall not be collected by the city and the contractor shall be responsible for disposal regardless of whether the waste is residential or commercial

~~(p)~~(r) Collection of garbage and refuse for commercial service premises may be permitted in excess of one (1) day per week on a subscription basis. Commercial service premises shall pay an additional fee for each additional collection day plus the standard disposal costs as required with basic collection services. Commercial service premises may have up to one (1) additional collection days per week, provided an application for such service is made to the city and the city manager or his designee determines the public works department has capacity to provide the additional service. No garbage or refuse will be collected on Wednesdays, weekends or City holidays. Fees for the additional collection services shall be set from time to time by resolution of the city commission.

~~(q)~~(s) In lieu of receiving garbage collection service from the city, commercial service businesses may contract with a private hauler for garbage and refuse collection services provided the hauler is duly franchised and authorized to collect garbage within the city

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 5. This Ordinance shall take effect ten (10) days after passage, pursuant to Section 166.041(4), Florida Statutes

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this ____ day of _____ 2021.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2021.

MAYOR

Published in the _____ on the ____ day of _____,
2021. Posted on www.staugbch.com on the ____ day of _____, 2021.