



City of Miami
Legislation
Ordinance: 13257

City Hall
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Miami, FL 33133
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File Number: 11-00077

Final Action Date: 3/10/2011

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 35/ARTICLE IX OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "MOTOR VEHICLES AND TRAFFIC/PARKING FACILITIES SURCHARGE," MORE PARTICULARLY BY AMENDING SECTIONS 35-346 AND 347 TO CLARIFY EXISTING LANGUAGE RELATING TO THE COLLECTION OF PARKING FACILITIES SURCHARGE AND PENALTIES AND ADDING A PROVISION FOR REPEAT OPERATOR VIOLATIONS; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami ("City") is authorized by Florida Statute 166.271 to collect a per vehicle surcharge for the sale, lease, or rental of space at parking facilities within the City; and

WHEREAS, the City is authorized to promote, protect, and improve the health, safety, and welfare of its citizens; and

WHEREAS, the City's current collection of the surcharge substantially reduces the City's ad valorem tax millage and improves transportation within the City; and

WHEREAS, the City wishes to ensure its current collection of the parking surcharge complies with the requirements of Florida Statute 166.271;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted and incorporated as if fully set forth in this Section.

Section 2. Chapter 35/Article IX of the Code of the City of Miami, Florida, as amended, is amended in the following particulars:{1}

"CHAPTER 35

MOTOR VEHICLES AND TRAFFIC

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ARTICLE IX. PARKING FACILITIES SURCHARGE

Sec. 35-342. Intent.

This article is intended to impose and levy a surcharge on the sale, lease or rental of space at parking facilities in the city at the rate of 15 percent of the revenues derived from any Fee, Charge or Exchange for the parking of a motor vehicle in or on any parking facility in the city for which a Fee, Charge or Exchange is made on an hourly, daily, weekly, monthly, yearly, event, validation programs, valet or any other basis. Revenues received as part of a daily, weekly, monthly, yearly, or event based rent without a separate Parking fee designation are also subject to this article. The net proceeds of the surcharge collected shall be deposited in the general fund subject to appropriation pursuant to the budget and fiscal provisions of the annual budget process.

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Sec. 35-344. Definitions.

As used in this article the following words and terms shall have the following meanings, unless another meaning is plainly intended:

City means the City of Miami, Florida.

Daily means the operation of a facility on any or all of the seven (7) days of the week, inclusive of holidays.

Fee, charge or exchange means the consideration paid including any and all compensation received or costs imposed, collected or exacted by the operator for parking in a parking facility including exchange, credit or otherwise. Fee, Charge or Exchange also means the consideration paid to the operator for goods and services ancillary to parking, if payment for such goods and services is mandatory and not optional to the user entering into a parking transaction. Examples of goods and services that may be considered ancillary to parking include, but are not limited to, food, beverages, air fresheners, windshield cleaning, car wash, tire pressure checks, jump starts, and emergency phone services. The intent of this definition is to impose the surcharge on all consideration paid by the user as a condition of entering into a parking transaction, irrespective of whether particular components of such consideration are characterized as compensation received or cost imposed for goods and services separate and apart from parking in an attempt to evade the surcharge.

Garage means any building or other structure in which motor vehicles may be parked, stored, housed, or kept for a Fee, Charge or Exchange.

Manager means the city manager of the city or his or her designee.

Motor vehicle means any self propelled vehicle operated or suitable for operation in a parking facility.

Net proceeds means the amount of the surcharge remitted to the city less the allocable cost of procedures used and expenses incurred by the city to enforce collection of the surcharge in an amount not to exceed five percent (5%).

Open to the general public means a facility which charges a Fee, Charge or Exchange for the use of any parking space therein regardless of when or how the Fee, Charge or Exchange is collected. The intent of this definition is to include all Parking Facilities including Parking Facilities that are used by anyone, including but not limited to any private tenant, who must pay a Fee, Charge or Exchange to the Operator of the Parking Facility except for those facilities described in Section 35-345.

Operator means any individual, partnership, association, corporation, or other entity which owns, controls, conducts, leases, operates, or causes to be operated a parking facility which offers parking accommodations for a fee, charge or exchange. The intent of this definition is to place the burden for collection of the surcharge on the owner of the facility and not the entity which operates the facility if different from the owner.

Parking means the parking, storing, housing or keeping of a motor vehicle.

Parking facility means any use in whole or in part of any space, plot, place, lot, parcel, yard, enclosure, parking lot, garage, street, building or structure that is open to the general public at which motor vehicles may be housed, stored, kept, or parked for which any Fee, Charge or Exchange is made, no matter how the Fee, Charge or Exchange is collected.

Parking lot means any outdoor area or space motor vehicles may be parked, stored, housed or kept for a Fee, Charge or Exchange.

Revenues means, any and all revenue, to include the entire amount of compensation in whatever form, exchange or otherwise, to be determined according to generally accepted accounting principles, derived directly or indirectly from or in connection with the Parking operation of the parking facility.

Surcharge means the parking facility's surcharge expressed as a percentage or in dollars.

Transaction - means the parking, storing, housing or keeping of a motor vehicle in a parking facility, in the city, Fee, Charge or Exchange.

Sec. 35-345. Applicability of parking facilities surcharge.

This article shall be uniformly applicable to all parking in parking facilities in the city, exclusive of residential parking of tenants or residents, in apartments, condominiums or co-operatives where parking is provided pursuant to a lease or in a separate writing between the apartment building owner, condominium or cooperative and the tenants or residents, whether a parking charge is payable to the apartment owner, condominium or cooperative or to the operator of a residential parking facility. This article shall not apply to any Parking Facilities located in any airports, seaports, county administration buildings or other projects defined under F.S. 125.011 and 125.015.

Sec. 35-346. Collection of the parking facilities surcharge.

(a) Surcharge amounts due pursuant to this article shall be collected by the operator of a parking Facility at the time of, and in addition to, collection of any other amounts for the parking of a motor vehicle in a parking facility, whether charge is made on an hourly, daily, weekly, monthly, yearly, event, validation programs, valet or any other basis. All operators shall be required to maintain a valid operational license. The local business tax receipt of an operator shall be, revoked upon the failure to remit the surcharge amounts for three consecutive months. No operator shall be permitted to operate the parking facility until all arrears are paid.

(b) ~~No later than the 20th day of each calendar month, the operator of every parking facility shall remit to the manager the funds collected pursuant to this surcharge, net of refunds, for the preceding calendar month. The operator of every parking facility shall remit funds collected pursuant to this surcharge, net of refunds, for the preceding calendar month; payments must be received by the City of Miami by the 20th day of each calendar month.~~ Each monthly remittance will be accompanied by such reports as may be prescribed by the manager on forms identifying for each parking facility, the name, address, account number, capacity, parking charges or fees, or rate schedule, number and type of transactions and such other information as may be necessary or convenient to fully calculate the surcharge.

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Sec. 35-347. Failure to comply; penalties.

(a) The operator of a parking facility who:

- (1) Fails, neglects or refuses to collect the surcharge; or
- (2) Fails, neglects or refuses to remit the surcharge; or
- (3) Fails, neglects or refuses to keep accurate records; or
- (4) Submits any incomplete, false or fraudulent return; or
- (5) Refuses to permit the manager to examine books, records and papers relating to the surcharge; or
- (6) Fails to fully comply with any or all rules or regulations promulgated by the manager pursuant to the authority contained herein, or to keep complete and proper records as required, shall be subject to the following penalties for each offense:

- (i) Have his or her local business tax receipt revoked; and/or
- (ii) Have a lien placed upon the parking facility for the sums owed plus interest pursuant to law; and/or
- (iii) Be subject to an administrative fine in the amount of \$500.00; and/or
- (iv) Be required to comply with stricter reporting requirements.

(b) The operator of a parking facility who:

- (1) Has outstanding surcharge payments for three (3) months; or
- (2) Has outstanding penalty and interest payments for three (3) months; or
- (3) Fails to maintain complete and accurate records as stipulated by the ordinance; or
- (4) Fails to comply after receiving two (2) notifications regarding compliance with the ordinance; or
- (5) Fails to comply with an audit request after the manager has reasonably attempted to schedule such audit shall be subject to additional reporting requirements including:

(i)The operator of the parking facility will be required to register parking slips, receipts, chits, tickets or the like with the manager.

(ii)The operator of the parking facility will be required to complete and submit a "Parking Surcharge Recap Monthly Report."

(iii)The operator of the parking facility may be required to install parking revenue control equipment in said facility, as approved by the City Manager or City Commission.

(iv)The operator of the parking facility may be required to cease operation for a period of thirty (30) days.

(c) Repeat operator violations:

The operator of the parking facility who:

- 1) Has been found to have underreported parking revenue or parking surcharge amounts; or
- (2) Has been found to not maintain complete and accurate records as stipulated by the ordinance; or
- (3) Has been assessed an administrative fine more than once; or
- (4) Has been found violating any part of Section 35-347 of the Surcharge Ordinance more than once shall be subject to:
 - (i) The operator shall continue to be subject to all remedies noted in (a)(6) of Section 35-347.
 - (ii) The operator of the parking facility shall be required to cease operation for a period of thirty (30)

days.

(iii) The operator of the parking facility shall be required to install parking revenue control equipment which will monitor and count the number of vehicles admitted to and leaving from a parking facility. This equipment shall be approved by the City Manager or City Commission. This type of equipment shall have entrance and exit counters that count every vehicle that enters and exits a parking facility and shall include non-resettable, continuous counters. The equipment shall be used and effective during operating hours.

(d) Further, the city is authorized to seek injunctive or other equitable relief to enforce compliance with this article.

* * * *"

Section 3. If any section, part of a section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected .

Section 4. This Ordinance shall become effective thirty (30) days after final reading and adoption thereof.{2}

Footnotes:

{1} Words/and or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.