

RESOLUTION NO. 71-2019

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF COMMERCIAL SOLID WASTE; ESTABLISHING THE SOLID WASTE COST AND RATE OF ASSESSMENT; IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST CERTAIN ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF PALM BEACH; APPROVING THE UPDATED SOLID WASTE ASSESSMENT ROLL; CONFIRMING THE PRELIMINARY RATE RESOLUTION; PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 90 of the Town of Palm Beach Code of Ordinances (the "Code") authorizes the imposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against certain Assessed Property throughout the Town;

WHEREAS, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Cost among parcels of Assessed Property;

WHEREAS, the Town Council desires to impose an assessment program for Solid Waste collection and disposal services, facilities or programs throughout the Town using the tax bill collection method for the Fiscal Year beginning on October 1, 2019;

WHEREAS, the Town Council, on July 11, 2019, adopted Resolution No. 56-2019 (the "Preliminary Rate Resolution"), containing a brief and general description of the Solid Waste collection and disposal services, facilities or programs to be provided to Assessed Property, describing the method of apportioning the Solid Waste Cost to compute the Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs against

Apartments and Commercial Property, designating a rate of assessment, and directing preparation of the Assessment Roll and provision of the notice required by the Code;

WHEREAS, pursuant to the provisions of the Code, the Town Council is required to confirm or repeal the Preliminary Rate Resolution, with such amendments as the Town Council deems appropriate, after hearing comments and objections of all interested parties;

WHEREAS, the Assessment Roll has heretofore been made available for inspection by the public, as required by the Code;

WHEREAS, notice of a public hearing has been published and, as required by the terms of the Code, mailed to each Owner of Apartments and Commercial Property proposed to be assessed notifying such Owners of their opportunity to be heard; an affidavit regarding the notice mailed to each Owner of Apartments and Commercial Property being attached hereto as Appendix A and the proof of publication being attached hereto as Appendix B; and

WHEREAS, a public hearing was held on September 10, 2019, and comments and objections of all interested persons have been heard and considered as required by the terms of the Code;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of the Code; the Initial Assessment Resolution (Resolution No. 25-03); the Final Assessment Resolution (Resolution No. 44-03); the Preliminary Rate Resolution; Article VIII, Section 2, Florida Constitution; the Town of Palm Beach Charter; Chapter 166, Florida Statutes; and other applicable provisions of law.

SECTION 2. DEFINITIONS AND INTERPRETATION.

(A) This resolution constitutes the Annual Rate Resolution as defined in the Code.

(B) All capitalized terms in this resolution shall have the meanings defined in the Code, Section 102-1 of the Town of Palm Beach Code of Ordinances, the Initial Assessment Resolution, the Final Assessment Resolution, and the Preliminary Rate Resolution No. 107-2017.

SECTION 3. IMPOSITION OF SOLID WASTE SERVICE ASSESSMENTS.

(A) The parcels of Assessed Property described in the Solid Waste Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of Solid Waste collection and disposal services, facilities or programs described in the Preliminary Rate Resolution, in the amount of the Solid Waste Service Assessment set forth in the Solid Waste Assessment Roll, a copy of which was present at the above referenced public hearing and is incorporated herein by reference. Additionally, the Assessment Roll, as approved, includes those Tax Parcels of Assessed Property that cannot be set forth in that Assessment Roll due to the provisions of Chapter 2019-12, Laws of Florida, concerning exempt “home addresses” under Section 119.071(d), Florida Statutes.

(B) It is hereby ascertained, determined and declared that each parcel of Assessed Property within the Town of Palm Beach will be benefited by the Town's provision of Solid Waste collection and disposal services, facilities or programs in an amount not less than the Solid Waste Service Assessment for such parcel, computed in the manner set forth in this Resolution. Adoption of this Final Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit, as set forth in the Code, the Initial Assessment Resolution, the Final Assessment Resolution, and the Preliminary Rate Resolution from the Solid Waste collection and disposal services, facilities or programs to be provided and a legislative determination that the Solid

Waste Service Assessments are fairly and reasonably apportioned among the Apartments and Commercial Property that receive the special benefit as set forth in the Preliminary Rate Resolution.

(C) The method for computing Solid Waste Service Assessments described in the Preliminary Rate Resolution is hereby approved.

(D) For the Fiscal Year beginning October 1, 2019, the Solid Waste Cost to be assessed is \$826,978, with \$114,192 allocated to Apartments and \$712,756 allocated to Commercial Property. The Solid Waste Service Assessments to be assessed and apportioned among the Assessed Property to generate the Solid Waste Cost for the Fiscal Year beginning October 1, 2019 to fund Solid Waste collection and disposal services, facilities, and programs are hereby established as follows:

Property and Service Type	Annual Assessment Rate	Billing Unit
Apartments	\$155.83	Per Dwelling Unit
Commercial Property – 5 Day Service		
Low Volume	\$0.030	Per Square Foot
Medium Volume	\$0.197	Per Square Foot
High Volume	\$0.864	Per Square Foot
Commercial Property – 7 Day Service		
Low Volume	\$0.035	Per Square Foot
Medium Volume	\$0.235	Per Square Foot
High Volume	\$1.031	Per Square Foot

(E) Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs in the amounts set forth herein are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll for the Fiscal Year beginning October 1, 2019. Additionally, even though they may not be shown in the Assessment Roll due to the provisions of Chapter 2019-12, Laws of Florida, Solid Waste Service Assessments are hereby levied and imposed on all Tax Parcels of Assessed Property with exempt “home addresses” pursuant to Section 119.071(d), Florida Statutes.

(F) Any shortfall in the expected Solid Waste Service Assessment proceeds due to any reduction or exemption from payment of the Solid Waste Service Assessments required by law or authorized by the Town Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste Service Assessments.

(G) As authorized in Section 90-69 of the Code, interim Solid Waste Service Assessments are also levied and imposed against all Apartments and Commercial Property for which a Building Permit is issued after adoption of this Annual Rate Resolution based upon the rates of assessment approved herein.

(H) Solid Waste Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(I) The Solid Waste Assessment Roll shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Solid Waste Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 4. CONFIRMATION OF PRELIMINARY RATE RESOLUTION. The Preliminary Rate Resolution is hereby ratified and confirmed.

SECTION 5. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the method of apportionment, the rate of assessment, the updated Assessment Roll and the levy and lien of the Solid Waste Service Assessments for Solid Waste collection and

disposal services, facilities or programs) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Annual Rate Resolution.

SECTION 6. SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall remain in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 7. EFFECTIVE DATE. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 10th day of September, 2019.

Gail L. Coniglio, Mayor

ATTEST:

Kathleen Dominguez, Town Clerk

APPENDIX A

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared H. Paul Brazil, who, after being duly sworn, depose and say:

1. I, H. Paul Brazil, P.E., as the Director of the Public Works Department of the Town of Palm Beach ("Town"), have been directed by the Town Council, to mail or cause to be mailed the notices required by Section 10 of Resolution No. 56-2019 and Section 90-65 of the Town of Palm Beach Code.

2. In accordance with Section 10 of Resolution No. 56-2019 and Section 90-65 of the Town of Palm Beach Code, I have caused such individual notices for each affected property owner to be prepared and each notice included the following information: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the Town expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

3. On or before August 20, 2019, I mailed, or directed the mailing of, said notices by first class mail to each owner of property within the Town that is included on the Assessment Roll at the address then shown on the real property assessment tax roll maintained by the Palm Beach County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

4. Additionally, in accordance with Chapter 92-264, Laws of Florida, I timely provided the information detailed in paragraph 2. above concerning the assessments to the Palm Beach County Property Appraiser for inclusion as a part of the notice of proposed property taxes under Section 200.069, Florida Statutes, the truth-in-millage notification.

FURTHER AFFIANT SAYETH NOT.



H. Paul Brazil P.E., Director of Public Works

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 26th day of August, 2019 by H. Paul Brazil, P.E., Public Works Director, Town of Palm Beach, Florida. He is personally known to me or has produced _____ as identification and did take an oath.



Jennifer D. Bell

Printed Name:

Jennifer D. Bell
Notary Public, State of Florida

At Large

My Commission Expires: 10/15/19

Commission No.: FF927949

APPENDIX B
PROOF OF PUBLICATION

PROOF OF PUBLICATION STATE OF FLORIDA

PUBLIC NOTICE

Before the undersigned authority, personally appeared Teal Pontarelli, who on oath, says that he/she is a Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published in West Palm Beach and distributed in Palm Beach County, Martin County, and St. Lucie County, Florida; that the attached copy of advertising for a P-Main Legal ROP was published in said newspaper on: first date of Publication 08/20/2019 and last date of Publication 08/20/2019. Affiant further says that the said The Palm Beach Post is a newspaper published in West Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

PALM BEACH, TOWN OF
PO BOX 2029
PALM BEACH, FL 33480-2029

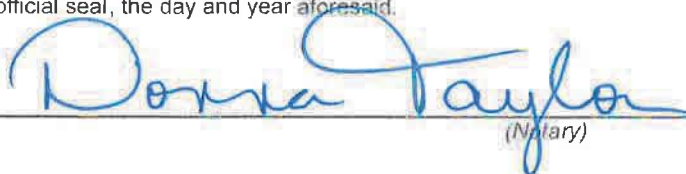
Invoice/Order Number:	0000505785
Ad Cost:	\$700.00
Paid:	\$0.00
Balance Due:	\$700.00

Signed


(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 21st day of August, 2019 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed


(Notary)



DONNA S. TAYLOR
MY COMMISSION # GG 031838
EXPIRES: September 19, 2020
Bonded Thru Budget Notary Services

Please see Ad on following page(s).

Invoice/Order Number: 0000505785
Ad Cost: \$700.00
Paid: \$0.00
Balance Due: \$700.00

NOTICE OF HEARING TO REIMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE SERVICE ASSESSMENTS

Notice is hereby given that the Town Council of the Town of Palm Beach will conduct a public hearing to consider reimposing nonad valorem special assessments for the provision of solid waste collection and disposal services, facilities, and programs against commercial property and apartments within the boundaries of the Town of Palm Beach for the Fiscal Year beginning October 1, 2019.

The hearing will be held at 5:00 p.m. on Tuesday, September 30, 2019, in the Town of Palm Beach Town Council Chambers, Town Hall, 360 South County Road, Palm Beach, Florida, for the purpose of receiving public comment on the proposed special nonad valorem assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 10 days of this notice.

Pursuant to section 286.0105, Florida Statutes, if you decide to appeal any decision made by the Town Council with respect to any matter considered at the hearing or at any subsequent meeting to which the Town Council has continued its deliberations, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Manager's Office at (561) 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) days prior to the date of the hearing.

The assessment for your property will be based all or in part, on the type of commercial designation assigned, including apartments and the number of apartments located on a specific parcel, frequency of solid waste collection service, square footage of the property and volume of solid waste using commercial land use volume generation rates as determined by the Solid Waste Authority of Palm Beach County and approved by the Town Council of the Town of Palm Beach, as these values were assigned upon the initiation of the assessment program with the adoption of the Initial Assessment Resolution (No. 25-03) and as amended by subsequent official Town modification of assessment criteria for those commercial properties assessed or added to the Commercial Customer Solid Waste Collection Services program since its inception.

The rates of assessment for the fiscal year commencing on October 1, 2019, are as follows:

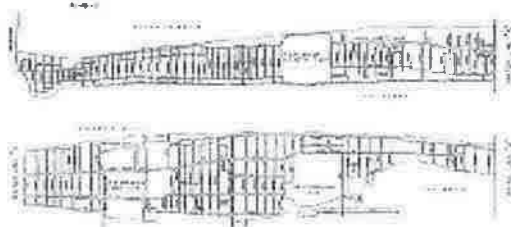
Property and Service Type	Annual Assessment Rate	Billing Unit
Apartments	\$155.83	Per Dwelling Unit
Commercial Property - 5 Day Service		
Low Volume	\$0.030	Per Square Foot
Medium Volume	\$0.197	Per Square Foot
High Volume	\$0.864	Per Square Foot
Commercial Property - 7 Day Service		
Low Volume	\$0.035	Per Square Foot
Medium Volume	\$0.235	Per Square Foot
High Volume	\$1.031	Per Square Foot

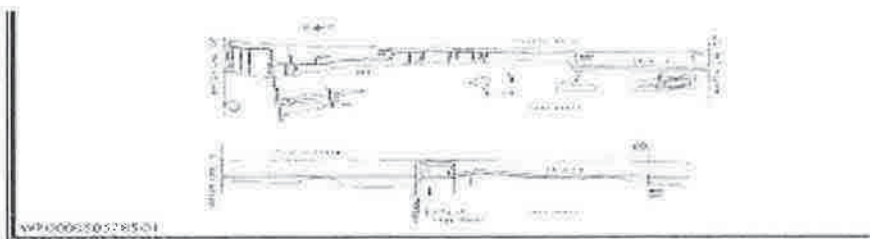
A more specific description of the services and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution (Resolution No. 25-03), the Final Assessment Resolution (Resolution No. 144-2007), the Preliminary Rate Resolution for FY 17-18 (Resolution No. 107-2017), the Preliminary Rate Resolution for FY 18-19 (Resolution No. 087-2018), and the Preliminary Rate Resolution for FY 19-20 (Resolution No. 56-2019). Copies of Chapter 90, Article II of the Town Code, the above referenced resolutions, and the updated Solid Waste Assessment Roll for the upcoming fiscal year are available for inspection at the office of the Town Manager, located at Town Hall, 360 South County Road, Palm Beach, Florida.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2019, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the Town Manager's Office at (561) 838-5410, Monday through Friday between 8:30 a.m. and 5:00 p.m.

TOWN OF PALM BEACH COUNCIL CHAMBERS





APPENDIX C

**FORM OF CERTIFICATE TO
NON-AD VALOREM ASSESSMENT ROLL**



CERTIFICATE TO NON-AD VALOREM ASSESSMENT ROLL

I, the undersigned, hereby certify that I am the Chairman of the Board, or authorized agent of Town of Palm Beach, located in Palm Beach County, Florida; as such, I have satisfied myself that all property included or includable on the Non-Ad Valorem Assessment Roll for the aforesaid county is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I further certify that, upon completion of this certificate and the attachment of same to the herein described Non-Ad Valorem Assessment Roll as part thereof, said Non-Ad Valorem Assessment Roll will be delivered to the Tax Collector of this county.

In witness whereof, I have subscribed this certificate and caused the same to be attached to and made a part of the above described Non-Ad Valorem Assessment Roll this the 10th day of September, 2019 year.

Chairman of the Board or authorized agent

of Town of Palm Beach
Name of local government

Palm Beach County, Florida