



# Broward County

## Legislation Details (With Text)

**File #:** 22-1180      **Version:** 1

**Status:** Agenda Ready

**In control:** REQUEST TO SET FOR PUBLIC HEARING

**On agenda:** 9/8/2022      **Final action:** 9/8/2022

**Title:** MOTION TO ADOPT Resolution directing the County Administrator to publish Notice of Public Hearing to be held on September 20, 2022, at 10:00 a.m. in Room 422 of the Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, FL to consider adoption of a proposed Resolution Amending the Broward County Administrative Code, the title of which is as follows:

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO PORT EVERGLADES TARIFF NO. 12; AMENDING SECTION 42.25 OF THE BROWARD COUNTY ADMINISTRATIVE CODE (“ADMINISTRATIVE CODE”); AMENDING TARIFF RATES AND REQUIREMENTS FOR VARIOUS ACTIVITIES AT PORT EVERGLADES; PROVIDING FOR GENERAL UPDATES TO TARIFF TEXT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

**Sponsors:**

**Indexes:** Established Commission Goals

**Code sections:**

**Attachments:** 1. Exhibit 1 - Admin Code Reso - PEV Tariff No. 12, 2. Exhibit 2 - Port Everglades Tariff 12, 3. Exhibit 3 - Notice to Publish, 4. Exhibit 4 - Port Everglades FY23 Projected Revenue, 5. Additional Material - Information

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

### Broward County Commission Regular Meeting

**Director's Name:** Jonathan Daniels

**Department:** Port Everglades

**Division:** Operations

### Information

#### Requested Action

MOTION TO ADOPT Resolution directing the County Administrator to publish Notice of Public Hearing to be held on September 20, 2022, at 10:00 a.m. in Room 422 of the Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, FL to consider adoption of a proposed Resolution Amending the Broward County Administrative Code, the title of which is as follows:

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO PORT EVERGLADES TARIFF NO. 12; AMENDING SECTION 42.25 OF THE BROWARD COUNTY ADMINISTRATIVE CODE (“ADMINISTRATIVE CODE”); AMENDING TARIFF RATES AND REQUIREMENTS FOR VARIOUS ACTIVITIES AT PORT EVERGLADES; PROVIDING FOR GENERAL UPDATES TO TARIFF TEXT; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

#### Why Action is Necessary

The Broward County Charter requires the posting of notice and a public hearing for adoption of amendments to the Broward County Administrative Code.

**What Action Accomplishes**

Enables the setting of a public hearing during which the Board may consider adopting the proposed Resolution amending the Broward County Administrative Code.

**Is this Action Goal Related**

Yes

**Previous Action Taken**

None

**Summary Explanation/Background**

THE PORT EVERGLADES DEPARTMENT RECOMMENDS APPROVAL.

This action supports the Broward County Board of County Commissioners' ("Board") Value of "Ensuring economic opportunities for Broward's diverse population and businesses" and the Goal to "Increase the economic strength and Impact of revenue-generating County enterprises balancing economic, environmental, and community needs."

Port Everglades Tariff No. 12 ("Tariff") provides the rules, regulations, and fees that govern the use of the facilities and services at Port Everglades that are not otherwise provided for in separate contractual agreements with Port Everglades port users. As required by the Federal Maritime Commission, the Tariff is published on the Internet. Port Everglades staff is proposing revisions to the Tariff that include increases in Tariff rates, as well as revisions to certain Tariff provisions governing operations at the Port as further described below.

The proposed Tariff rate increases include approximately 3.0% for cargo, container, fire protection service fees, grid yard areas for temporary assignment of land within the Port not covered by a lease, petroleum dockage and wharfage, container crane rental, and for other marine services; and 3.5% for cruise dockage and wharfage. A larger percentage increase in business permit fees is discussed in more detail below. No rate increases are proposed for cargo security fees and garage and surface lot hourly and daily parking rates.

In addition to the proposed rate increases, the Resolution includes minor changes to several Tariff items to reflect current information or practice, or to delete outdated language.

Substantive changes are proposed for the following Tariff items:

- Communications (Item No. 120): The list of Port Everglades Divisions and Offices and phone contact numbers has been updated to reflect the reorganization approved by the Board in 2021.
- Foreign-Trade Zone (Item No. 145): The language is modified to refer to Foreign-Trade Zone No. 25 Tariff No. 5, which is replacing Foreign-Trade Zone No. 25 Tariff No. 4 and the subject of a separate Board action.
- Dock facilities (Item No. 225): The lengths of the new Berth 30 segments in the Southport Turning Notch Extension project have been added since those new berths are now available for use.

- Obstruction of facilities (Item No. 440): This Item is renamed to “Container, cargo, equipment staging and obstruction of facilities” and language added to incorporate similar provisions currently in Tariff Item No. 450, and Item No. 450 is deleted. In addition, the penalty for use of a staging area without prior permission or beyond the approved period is increased from \$1,000 per 24-hour period to \$2,500. The staging of cargo beyond the time period approved by the Harbormaster adversely affects other Port users.
- Bunkering (Item No. 445): In anticipation of the arrival of liquefied natural gas (LNG) fueled cruise ships to the port within the next year, language is added to make clear that LNG bunkering is covered by this Item. In addition, the language on when bunkers delivered by barge loaded at another port is subject to wharfage charges is clarified.
- Storm protection (Item No. 455): Language has been added imposing additional requirements for vessels to receive prior approval to immobilize the engine(s) or other ship propulsion systems while in port for repairs, including the submission of a Vessel Heavy Weather Lay-Up Plan if the immobilization will extend for greater than three days. This new requirement is proposed to ensure the safety of the Port since such vessels are unable to get underway under their own power in an emergency, as well as to comply with US Coast Guard Port Condition requirements that may apply during Hurricane Season.
- Transit sheds (Item No. 460): This Item is being deleted since there are no longer any Port-owned buildings available for use as transit shed space for cargo.
- Computation of Free Time (Item No. 605): The language is clarified to make clearer that the calculation of free time for assembling outbound cargo begins on the day after the first lot of cargo arrives at the Port, and the minimum time period will apply unless the franchised steamship agent or vessel representative provides a report each day on the amount of cargo staged (in tons).
- Inside transit shed storage rates (Item No. 625): For the same reason that Item No. 460 is proposed to be deleted, the rates that apply to inside transit shed storage would be deleted from the Tariff.
- Container gantry and mobile harbor cranes - Rules & regulations (Item No. 705): The requirements for documenting required training of personnel authorized to operate Port-owned container gantry cranes or mobile harbor crane have been clarified.
- Franchises and business permits (Item No. 800): The initial processing fee and assignment fee for business permits is proposed to be increased 50% from \$200 to \$300, and the annual fee increased 40% from \$250 to \$350. The fee for companies engaging in motor vehicle rental services is increased 40% from \$3.95 to \$5.50 per contract. These fees have not been increased for many years, and the increase more accurately reflects the cost of processing the permit applications.
- Insurance (Tariff Item No. 805): Language is added to this Item restating the insurance requirements for franchised stevedores using Port-owned cranes. This requirement was already included under Tariff Item No. 705, but is now repeated in this Item so that all applicable insurance requirements are listed in one place.
- Waiver/reduction of dockage charges (Item No. 940): The language in this Item is modified to increase the limit of the Port Everglades Chief Executive/Port Director’s authority to waive dockage charges for several different categories of ship calls for special events from \$10,000 to \$15,000 before Board approval is required. The proposed amount of the increase is based on the dockage charges for a number of recent ship calls that were eligible for the waiver that exceeded the current limit. The existing waiver limitation does not apply to military vessels

participating in the annual Fleet Week celebration, and the proposal would also expand that authority to also grant the Chief Executive/Port Director the authority to waive the full amount of dockage charges for military ship commissionings.

- Waiver/reduction of parking charges (Item No. 945): The existing language authorizing the Chief Executive/Port Director to authorize the reduction of parking charges by up to 50% for guests, up to a cumulative maximum of \$10,000, for attending promotional activities related to a new cruise ship being homeported at Port Everglades is modified to clarify the scope of the authority and to note that Board approval is required for a waiver exceeding \$10,000, a fee reduction greater than 50%, or a full waiver of all parking fees.
- Waiver of charges for declared emergency (Item No. 950): The proposed change would increase the authority of the Chief Executive/Port Director to waive all Tariff charges related to the shipment of relief supplies during a declared emergency or a natural disaster suffered by a country served by ships from Port Everglades from the current maximum of \$10,000 to \$50,000 without Board approval. This authority provides the flexibility for the Port to rapidly provide support and facilitate humanitarian relief efforts. The amount of the proposed increase is based on the Port's experience with several natural disasters over the last few years where humanitarian relief supplies were shipped through Port Everglades. Any waivers above \$50,000 would require Board approval.
- Fire protection service fee (Item No. 1057): The Item is modified to clarify that this fee only applies to petroleum products transported by maritime shipping. Petroleum products entering the Port by truck, rail, or pipeline are subject to a separate fee in Tariff Item No. 520 that includes fire protection services.
- Security fees (Item No. 1066): The existing security fee for containers and trailers is proposed to be reduced from \$3.50 to \$2.25 per container/trailer. This would make permanent a temporary Tariff reduction previously granted by the Chief Executive/Port Director effective January 1, 2022 under Tariff Item No. 180 authority to address competitive concerns with other ports in the Southeastern US. A new provision is also added providing hourly rates for provide contract security officer and sworn law enforcement services that the Port may need to provide if a Port user fails to implement proper security protocols as required by federal regulations. These rates include a 15% administrative fee charge.
- Cruise terminal security (Item No. 1069): Based on experience during the pandemic when cruise terminals were used for testing and crew processing without a ship at the berth, this Item is modified to make clear that the cruise line is responsible for providing security at the terminal at their sole cost.
- Surcharges for use of facilities (Item No. 1120): Language is added to clarify the Tariff charges that would apply when a Port user requests the use of a cruise terminal for a use not covered by a Berth Agreement. In addition, all references to the use of transit sheds are deleted.
- Electricity for refrigerated containers (Item No. 1130): This Item is deleted since the Port no longer has a Port-operated common use yard for refrigerated containers.
- Grid yard areas (Item No. 1140): This item is updated to add the Port's Business Development Division as the lead for grid assignments and administration.
- Definitions (Item No. 1200): Several definitions of terms used in the Tariff have been modified or deleted to reflect the current use of the terms.

All the proposed revisions to the Tariff would be effective as of October 1, 2022.

Attachment A to Exhibit 1 will be distributed as additional material.

**Source of Additional Information**

Ricardo Charlton, Director of Operations, Port Everglades Department, 954-468-0218.

**Fiscal Impact**

**Fiscal Impact/Cost Summary**

The proposed Tariff increases have been budgeted and are projected to generate an additional estimated \$3 million in revenues in Fiscal Year 2023. As shown in Exhibit 4, approximately 43% of the Port's projected revenue in Fiscal Year 2023 results from charges subject to the Tariff, with the remaining revenue governed by contracts.