

ORDINANCE NO. 237

AN ORDINANCE PROHIBITING THE THROWING OR DEPOSITING OF LITTER IN PUBLIC PLACES IN THE TOWN OF WEST MIAMI, FLORIDA; REGULATING THE DISTRIBUTION OF COMMERCIAL AND NON-COMMERCIAL HANDBILLS; CONTROLLING THE DEPOSITING OF LITTER ON PRIVATE PREMISES; PROVIDING A LIEN FOR CITY CLEARANCE; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ENACTED BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF WEST MIAMI, FLORIDA:

Section 1. This Ordinance shall be known and may be cited as the "West Miami Anti-Litter Ordinance."

Section 2. Definitions. For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

(b) "Authorized private receptacle" is a "garbage can" or "trash container" as required, defined and authorized in Ordinance No. 176 and amendments thereto, regulating garbage and trash accumulation, removal and disposal.

(c) "Town" is the Town of West Miami, Florida.

(d) "Commercial Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(1) Which advertises for sale any merchandise, product, commodity, or thing; or

(2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; Provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this Town; or

(4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(e) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(f) "Litter" is "garbage", "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(g) "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(h) "Non-Commercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(i) "Park" is a park, reservation, playground, beach, recreation center or any other public area in the Town, owned or used by the Town and devoted to active or passive recreation.

(j) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(k) "Private Premises" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and

shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(l) "Public Place" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(m) "Refuse" is all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(n) "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

(o) "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

Section 3. Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in public receptacles, in authorized private receptacles for collection, or in official Town dumps.

Section 4. Placement of Litter In Receptacles So as to Prevent Scattering. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 5. Sweeping Litter Into Gutters Prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Section 6. Merchants' Duty to Keep Sidewalks Free of Litter. No person owning or occupying a place of business shall sweep or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Town shall keep the sidewalk in front of their business premises free of litter.

Section 7. Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Town, or upon private property.

Section 8. Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle within the Town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley, or other public place. Nor shall any person drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or deposit in any street, alley, or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

Section 9. Litter in Parks. No person shall throw or deposit litter in any park within the Town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Section 10. Throwing or Distributing Commercial Handbills in Public Places. No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the Town. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the Town for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 11. Placing Commercial and Non-Commercial Handbills on Vehicles. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

Section 12. Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Section 13. Private Premises:

(a) Prohibiting Distribution of Commercial Handbills. No person shall throw, cast or distribute, or cause or permit to be thrown, cast or distributed any commercial handbills, as defined herein, or other advertising matter whatsoever in or upon any private premises. Provided, however, the provisions of this section shall not apply to distribution of mail by the United States, nor to newspapers (as herein defined), except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(b) Prohibiting Distribution of Non-Commercial Handbills Where Properly Posted. No person shall throw, deposit or distribute any non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

Section 14. Distributing Non-Commercial Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this Ordinance, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such non-commercial handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

Section 15. Dropping Litter From Aircraft. No person in an aircraft shall throw out, drop or deposit within the Town any litter, handbill or any other object.

Section 16. Posting Notices Prohibited. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or tree, or upon any public structure or building, except as may be authorized or required by law.

Section 17. Litter on Occupied Private Property. No

person shall throw or deposit litter on any occupied private property within the Town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 18. Owner to Maintain Premises Free of Litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 19. Litter on Vacant Lots. No person shall

throw or deposit litter on any open or vacant private property within the Town whether owned by such person or not.

Section 20. Clearing of Litter from Open Private Property by Town.

(a) Notice to Remove. The Mayor is hereby authorized and empowered to notify the owner of any open or vacant private property within the Town or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by Registered Mail, addressed to said owner at his last known address.

(b) Action Upon Non-Compliance. Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within thirty (30) days after receipt of written notice provided for in sub-section (a) above, or within thirty (30) days after the date of such notice in the event the



same is returned to the City Post Office Department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the Mayor is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the Town.

(c) Charge included in Tax Bill. When the City has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of six per cent (6%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Town, and said charge shall be due and payable by said owner at the time of payment of such bill.

(d) Recorded Statement Constitutes Lien.

Where the full amount due the Town is not paid by such owner within thirty (30) days after the disposal of such litter, as provided for in subsections (a) and (b) above, then, and in that case, the Mayor shall cause to be recorded in the Public Records of Dade County, Florida, a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes and further, shall be subject

to a delinquency penalty of ten percent (10%) in the event same is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.

Section 21. Penalties. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Five Hundred dollars (\$500.00) or be imprisoned in the West Miami jail for a period not exceeding sixty (60) days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 22. Separability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 23. Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

PASSED AND ADOPTED this 21 day of February 1962

ATTEST:

Bessie Morgan  
Town Clerk

APPROVED:

Edmund Rooper

Mayor

Harvey H. Stahl  
VICE - President of the Town Council