

ORDINANCE NO. 373

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA, AMENDING CHAPTER 9 OF THE CODE OF ORDINANCES OF THE CITY OF WEST MIAMI, FLORIDA, BY DEFINING THE TERM "SAMPLE"; AUTHORIZING DISTRIBUTION OF SAMPLES AND COMMERCIAL HANDBILLS WITHIN THE CITY; REGULATING METHODS OF DISTRIBUTION, AND REQUIRING LICENSES FOR PERSONS MAKING DISTRIBUTION; SETTING FORTH INTENT THAT ORDINANCE BE INCLUDED IN THE CITY CODE AND ESTABLISHING EFFECTIVE DATE.

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

Section 1. Subsection (n) of Section 9-20 of the City Code is created to read:

"(n) 'Sample'" is an article of merchandise given or distributed without charge to advertise merchandise."

Section 2. Section 9-41 of the West Miami Code is amended to read as follows:

"Sec. 9-41. Private premises.

(a) Method of 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 or samples whatsoever in or upon any private premises unless such items are placed on private property in bags of plastic or other similar material and affixed to a door knob or other similar projection so as to prevent their being carried or deposited by the elements upon other property, public, or private. 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 noncommercial handbills where properly posted: no person shall throw, deposit or distribute any noncommercial 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 to privacy disturbed, or to have any such handbills left upon such premises."

Section 3. Section 9-41A of the West Miami Code is created to read as follows:

"Sec. 9-41A Licensing of persons distributing samples and commercial handbills.

(a) It shall be unlawful for any person to distribute any sample, as herein defined, or any commercial handbill, as herein defined, within the corporate limits of the City of West Miami, without first obtaining a permit and license therefor as provided herein, except as hereinafter provided.

(b) It shall be unlawful for any person to cause the distribution of samples or commercial handbills within the corporate limits of the City of West Miami by a person or persons not licensed as provided herein, except as hereinafter provided.

(c) Applicants for permit and license under this article must file with the Mayor a sworn application in writing (in duplicate) on a form to be furnished by the Mayor, which shall give substantially the following information:

- (1) Name and description of applicant;
- (2) Address (legal and local);
- (3) A brief description of the sample or commercial handbill to be distributed;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to distribute samples or commercial handbills is desired;
- (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (7) Two prints of photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) The fingerprints of the applicant;

- ( 9) A statement as to whether or not the applicant has been convicted of any felony, the nature of the offense and the punishment or penalty assessed therefor;
- (10) If the applicant is a paid distributor of samples or commercial handbills a fee of \$10.00 shall be paid by the applicant to the Mayor to cover the cost of investigation.

(d) Upon receipt of such application, the Mayor shall endorse approval on the application, execute a permit addressed to the applicant and upon payment of the prescribed license fee, deliver to the applicant his permit and license. Licenses and permits issued shall show the name and address of the person to whom issued, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and the other identifying description of any vehicle to be used. The Mayor shall keep a permanent record of all licenses and permits issued.

(e) In addition to the application fee provided above, persons who are required to pay such fee shall in addition pay a license fee of 50¢ per week, or \$2.00 per month, or \$20.00 per year; provided, however, that where one or more persons are engaged in the delivery of samples or commercial handbills of one publisher under the supervision of one person, only the supervisor shall be required to pay the license fee herein provided. In such event all persons working under such supervisor must obtain a permit as herein provided.

(f) For the purpose of this article any period of seven (7) calendar days or less shall be considered one week; any period of more than seven (7) calendar days and not more than thirty (30) calendar days shall be considered one month; any period of more than thirty (30) calendar days and not more than one calendar year shall be treated as a year. The annual fees herein provided for shall be assessed on a yearly basis commencing October 1st. of each year and on and after April 1st. the amount of the fee for such annual licenses shall be one-half the amount stipulated for the remainder of the year.

(g) Licenses issued hereunder may be renewed upon payment of fees required by this section.

(h) The Mayor shall issue to each licensee and permittee at the time of delivery of his license and/or permit an identification card. The identification card shall bear the words "Registered Distributor," a photograph of the distributor, the period

for which the license or permit is issued, and the number of the license or permit, in letters and figures plainly discernible. Such identification card shall be worn constantly by the distributor on the front of his outer garment in such a way as to be conspicuous during such time as he is engaged in distributing samples or commercial handbills within the limits of the City of West Miami. In addition, persons distributing samples or handbills shall wear a distinctive uniform or shirt with the name of the distributing company in letters at least two (2) inches in height.

(i) No license, permit, or identification card issued under the provisions of this section shall be used or worn at any time by any person other than the one to whom it was issued.

(j) Persons holding licenses and permits issued pursuant to this section are required to exhibit their licenses or permits at the request of any resident or Police Officer of the City within the corporate limits of the City.

(k) It shall be the duty of any Police Officer to require any person seen distributing samples or commercial handbills, and who is not known by such Officer to be duly licensed or registered, to produce his license or permit and to enforce the provisions of this article against any person found to be violating the same.

(l) The Chief of Police shall report to the Mayor all convictions for violation of this section and the Mayor shall maintain a record for each license and permit issued and record the reports of violation therein.

(m) All annual licenses issued under the provisions of this section shall expire on the 30th. day of September following date of issue. Other than annual licenses shall expire on the date specified in the license.

(n) Violation of any of the terms of this article, or conviction of a felony or a crime of moral turpitude, shall be ground for revocation of the permits and licenses issued pursuant to this section."

Section 4. If any clause or section of this ordinance shall for any reason be held invalid, the same shall be eliminated and the remaining portions herein shall be and remain in full force and effect as if said invalid clause provision or section had not been incorporated herein.

Section 5. By reason of the content of this ordinance it shall be incorporated into the City Code.

Section 6. This ordinance shall take effect April 11,  
1977.

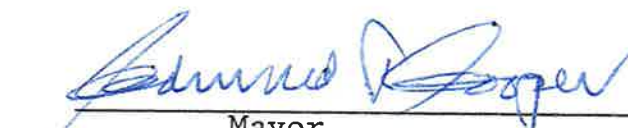
PASSED AND ADOPTED, this 6th day of April, 1977.

  
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President, City Council

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED:

  
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Mayor