

ORDINANCE NO. 90-7

AN ORDINANCE OF THE CITY OF WEST MIAMI, FLORIDA, AMENDING SECTIONS 8-41 THROUGH 8-45 OF ARTICLE II OF CHAPTER 8 OF THE CITY OF WEST MIAMI CODE; PROVIDING FOR NON-EXCLUSIVE FRANCHISE LICENSE FOR PRIVATE REMOVAL, TRANSPORTATION OR DISPOSAL OF GARBAGE, TRASH; AND OTHER SOLID WASTE; PROVIDING FRANCHISE FEES, TERMS AND CONDITIONS; PROVIDING SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING FOR PENALTY; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission has determined that it would be in the best interest of the public in order to protect the life, health, safety and general welfare of the people of this City, that private removal, transportation or disposal of garbage and trash from any premises in the City, be required to obtain a non-exclusive franchise license in order to operate in the City;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WEST MIAMI, FLORIDA,

Section 1. Sections 8-41 through 8-45 of Article II of Chapter 8 of the City of West Miami Code are hereby amended to read as follows:

Sec. 8-41. Engaging in business of solid waste collection and disposal; issuance of permit to private solid waste collectors.

No person, firm or corporation shall remove or transport any garbage, trash, garden trash, construction debris, industrial waste or other solid waste and combination thereof from any premises in the City or through the streets or public right-a-ways of the City for hire or salvage without first applying for and receiving a non-exclusive franchise license from the City to carry

on such business. The franchise required by this Section shall be in addition to any occupational license which otherwise may be required by ordinance.

Sec. 8-42. Application for non-exclusive franchise license; terms and conditions.

Application for a non-exclusive franchise license shall be made to the City upon such forms and in such manner as shall be prescribed by the City Manager. Said form to elicit the following information and to be accompanied by supporting documents and such other information as may be required by the City Manager from time to time:

(a) Name of applicant. If applicant is a partnership or corporation, the name(s) and business address(es) of the principal officers and stockholders and other persons having any financial or controlling interest in the partnership or corporation.

(b) Character of applicant. The applicant under this Section, if an individual, or in case of a firm, corporation, partnership, association or organization, any person having any financial, controlling or managerial interest therein, shall be of good moral character. Making such determination the following information, which shall be submitted by applicant shall be considered:

(1) Penal history. If the applicant is an individual, a record of all convictions and the reason therefor shall be provided by the applicant. If the applicant is other than an individual, then the record of all convictions and the reason therefor of the principal controlling officers of applicant shall be provided. Provided, however, that in the case of a

publicly held corporation having twenty-five (25) or more shareholders, than only the aforementioned information applicable to its local managing officers shall be required.

(2) Finger prints. The finger prints of the persons mentioned in this subparagraph, a full set of which, for each of such persons shall accompany the application. Such service may be obtained from the City Police Department.

(3) Business history. Whether such applicant has operated a solid waste collection-removal business in this or another State under a franchise, permit or license, and if so, where and whether such franchise, permit or license has ever been revoked or suspended and the reason therefor.

(4) Existence of business entity. If applicant is a corporation, applicant shall submit proof of incorporation in good standing in the State of incorporation and if a foreign corporation, applicant shall provide information certifying that applicant is qualified to do business in the State of Florida. If applicant is other than a corporation and is operating under a fictitious name, applicant shall be required to submit information that such fictitious name is registered and held by the applicant.

(c) Equipment and method of operation. The applicant for a license shall process equipment capable of providing safe and efficient service. In making such determination and approving the method of operation for each applicant, the City shall require the following information:

(1) The type, number and complete description of all equipment to be used by the applicant providing service pursuant

to this Section.

(2) A statement that applicant will use only County-approved disposal sites for disposal of all garbage, garbage-trash, industrial waste and solid waste material which applicant collects and removes, except those sites which the City may from time to time approve.

(3) The names of customers, the addresses of each location served, and schedule of rates of the applicant.

(d) Insurance requirements. The applicant shall maintain insurance as specified herein and shall furnish a public liability policy to the City Manager and also file with the City Manager a Certificate of Insurance for all policies written in the applicant's name. The Certificate shall provide that said policies shall name the City as an additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of said policies shall be delivered to the City thirty (30) days in advance of the effective date thereof, by registered mail return receipt requested.

(1) Comprehensive general liability and automobile liability insurance shall be maintained throughout the term of the franchise license. Liability insurance insuring the City and the franchisee with regard to all damages caused by the franchisee or its servants, employees and agents in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, within the limit, however, Three Million Dollars (\$3,000,000.00) for bodily injury or death resulting from any one accident, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident.

(2) The insurance policies obtained by a grantee in compliance with this Section shall be issued by company or companies acceptable to the City and a current Certificate or Certificate of Insurance along with written evidence of payment of all required premiums, shall be filed and maintained with the City during the term of the license.

(3) The above insurance requirements shall not be construed as imposing upon the City or any official or employee thereof, any liability or responsibility for injury to any person or property caused by the franchisee, his/her/its agents or employees.

(e) Application fee. Each application shall be accompanied by a fee of Three Hundred Dollars (\$300.00). The completed application shall be submitted to the City Manager and upon receipt of a completed application, the City Manager or his designated representative, shall review said application. Should the City Manager deny an application for a non-exclusive franchise, he shall notify the applicant of such denial in writing not later than fourteen (14) days after taking such action. Notice of denial shall contain a statement of the reasons why the application was denied. The denial or revocation of a non-exclusive franchise by the City Manager may be appealed to the City Commission. The Notice of Appeal shall be filed in writing with the City Clerk no later than thirty (30) days after the mailing to the applicant of the denial or revocation. The hearing before the City Commission shall not be held any sooner than the second (2nd) regular meeting of the City Commission after

the date of the filing of the Notice of Appeal or shall said hearing be held any later than the fourth (4th) regular meeting of the City Commission after the filing of the Notice of Appeal, the City Commission shall either affirm the decision of the City Manager or direct the City Manager to issue or reinstate the franchise license which decision shall be final.

(f) License term.

Any license granted by the City Manager shall be for a term of ten (10) years.

Sec. 8-43. License Fee.

(a) Any person, firm or corporation granted a non-exclusive franchise license shall pay to the City, each year during the life of the license, a franchise license fee in the sum of six percent (6%) of the licensee's annual gross receipts derived from the licensee's operation within the City limits.

(b) A licensee shall file with the City Manager, a quarterly financial statement showing the gross revenue, as defined herein, of the licensee during said calendar quarter or portion thereof, which ever is applicable, no later than thirty (30) days from the ending of said quarter. It shall be the duty of the licensee to pay the City within fifteen (15) days after the time for filing said statement, the sum prescribed above for the quarterly period covered by said statement.

(c) A licensee shall file with the City Manager within ninety (90) days after expiration of any calendar year, or portion thereof, during which the licensee's license is in force, an annual financial statement, certified by a Certified Public

Accountant, showing the gross revenue as defined herein, of the licensee during the preceding calendar year or portion thereof. It shall be the duty of the licensee to pay to the City within fifteen (15) days after said filing of the certified annual report, any deficiency that may be shown by said report in the calculation of the franchise fees. If there is an overpayment by licensee to the City, the City shall credit said overpayment on the next quarterly payment due the City.

(d) The City shall have the right to inspect the licensee's records showing the gross revenues from which the licensee's payments are computed and shall also have the right of audit and recomputation of any and all amounts paid under this Chapter. No acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Chapter, or for the performance of any other obligation hereunder.

(e) The licensee shall set forth the initial rates which licensee shall charge its customers upon commencing service.

Sec. 8-44. Information required of licensee.

At least annually, but not more frequently than quarterly as determined by the City Manager, each licensee shall supply the following information on a form and in a manner prescribed by the City Manager or his designee:

(a) A listing, as of the reporting date, of the names and addresses of customers, the addresses of each location served and schedule of rates charged by licensee to each customer.

(b) A summary of the number of cubic yards of garbage, trash, garden trash and other solid waste material collected

weekly based on scheduled service, as of the reporting date.

(c) Each licensee shall file any change in its schedule of charges with the City Manager in writing on a form prescribed by the City Manager or his designee prior to becoming effective.

Sec. 8-45. Revocation of franchise license.

(a) The violation of any of the terms and conditions of the West Miami City Code or ordinances which endanger the public health, safety and welfare, or the violation of any of the terms and conditions of license, or the failure to promptly pay the fees and charges provided in this Chapter shall be cause for revocation of the license. The City Manger may revoke a license for a violation or violations as aforementioned, and may immediately declare such license null and void, and upon such declaration, the licensee shall immediately cease all operations and shall be considered to have forfeited such license and the rights required thereunder. Should the City Manager decide to revoke a license, he shall provide the licensee with notice of such revocation and the reason therefor. Upon receipt of such notice, the licensee may appeal such revocation to the City Commission and the appeal and hearing thereon shall be conducted in accordance with the procedure set forth in Sec. 8-42(e) of this ordinance.

(b) The City hereby reserves the right to reject any application for franchise license and to terminate any franchise license.

Section 2. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

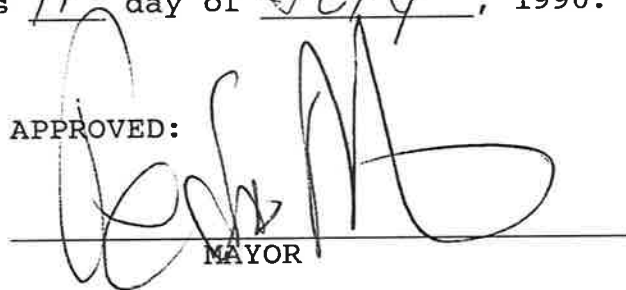
Section 3. If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 4. It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the West Miami Code; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section, article" or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. This Ordinance shall take effect immediately upon passage.

PASSED AND ADOPTED this 11th day of July, 1990.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

Approved as to form and sufficiency


CITY ATTORNEY

Roll Call Vote:

Mayor Reboredo Y

Vice Mayor Sosa Y

Commissioner Busse Y

Commissioner Hickey-Patton Y

Commissioner Trigo Y

Date of 1st reading: 6-20-90

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