

ORDINANCE NO. 01-09

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, REQUIRING A FRANCHISE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION; IMPOSING A FRANCHISE FEE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION ACTIVITIES; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") has the authority to require that persons and entities engaging in the business of solid waste collection from commercial establishments and multi-family residential establishments in the Town obtain a franchise from the Town and pay solid waste collection franchise fees imposed by the Town; and

WHEREAS, the Town Council desires to issue such franchises and to impose such franchise fees, as a percentage of gross receipts, as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:

Section 1. The Town of Miami Lakes Commercial and Multi-Family Residential Solid Waste Franchise Ordinance is hereby created to read as follows:

"Section 1.01. Definitions.

The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section.

(a) ***Commercial Establishment:*** Any structure used or constructed for use for business operations. For purposes of this Ordinance, hotels and motels are commercial establishments. The term "commercial establishment" shall not include any residential unit or multi-family residential establishment.

(b) ***Customer:*** A person who uses the solid waste or recycling

services of a Private Hauler.

(c) **Franchisee:** The named person who obtains a franchise from the Town pursuant to this Ordinance.

(d) **Gross Receipts:** Gross receipts shall mean all monies invoiced resulting from the collection of all Solid Waste from Multi-Family Residential and Commercial customers located within the Town.

(e) **Multi-family Residential Establishment:** Any structure other than a residential unit which is used, or constructed for use, as a multiple dwelling facility. Multi-family residential establishments shall include, without limitation, rooming house, tourist court, trailer park, apartment building with rental or cooperative apartments, or multiple story condominiums with common means of ingress and egress.

(f) **Person:** Any natural person, individual, public or private corporation, firm, partnership, association, joint venture, municipality, or any combination of such, jointly or severally.

(g) **Private Solid Waste Hauler (Collector); Private Hauler; Hauler:** Any person, entity, corporation or partnership that removes, collects and transports for disposal for hire any solid waste over the streets or public rights-of-way within the incorporated area of the Town.

(h) **Residential Unit:** Any structure which is used, or constructed for use, as a single-family dwelling, duplex, cluster house or townhouse, and which is located on a single lot, parcel or tract of land. For the purposes of this chapter, any condominium structure composed of privately-owned, single family housing units with separate means of ingress of egress and containing no more than two stories shall be considered a residential unit. The term "Residential Unit" shall not include any multi-family residential establishment.

(i) **Solid Waste:** Garbage, trash, litter, yard trash, hazardous waste, construction and demolition debris, industrial waste, or other discarded material, including solid or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

(j) **Solid Waste Disposal:** Disposition of solid waste by means of combustion, land filling or other final method of discard.

(k) **Town Manager:** Town Manager means the Town Manager of

the Town of Miami Lakes, Florida or his/her designee.

Section 1.02. Franchise Required by the Town for Solid Waste Collection.

(a) No Private Hauler shall remove, collect or transport for disposal from any Commercial Establishment or Multi-family Residential Establishment in the Town, Solid Waste over the streets or public right-of-way located within the Town without first applying for and receiving the appropriate Solid Waste Franchise from the Town to carry on such business.

(b) The Franchise required by this section shall be in addition to any other permits, registration or occupational license which may be required by federal, state or local law.

(c) Granting of a franchise shall be limited to private haulers holding a valid Miami-Dade County permit on the effective date of this Ordinance.

Section 1.03. Application for Franchise.

(a) Applications for a Franchise shall be made to the Town upon a form prescribed by the Town Manager and shall be accompanied by supporting documents and such other information (collectively "the Application") as may be required by the Town Manager.

(b) The Application shall include submission of an application fee of Five Hundred and No/100 (\$500.00) Dollars.

(c) After receipt of the Application and all required fees and documents, the Town Manager shall review the Application and shall either deny the Application or request additional information from the Applicant.

(d) The applicant for a new franchise or the applicant for renewal of a franchise shall provide a list of existing customers in the Town and the service levels.

Section 1.04. Denial of Franchise.

Should the Town Manager deny an Application for a Franchise, the applicant shall be notified by certified mail not later than fourteen (14) days from the date of the denial of the Application.

Section 1.05. Term of Franchise.

A Franchise approved pursuant to the provisions of this Ordinance shall be valid for a period of one (1) year from the date of issuance.

Section 1.06 Renewal of Franchise.

A Franchise may be renewed from year to year by the Town Manager. Any such renewal shall be subject to the same terms and conditions applicable to the issuance of the original Franchise. The Town Manager shall charge and collect renewal permit fees at the rates established by the Town Council by Resolution.

Section 1.07. Transfer of Franchise prohibited.

No Franchise for the collection of solid waste issued under the provisions of this Ordinance may be assigned or transferred. In the event of any change in ownership, or a change of the name of the corporation or partnership, formal notification shall be given the Town Manager and a new franchise must be applied for and obtained from the Town, within thirty (30) days thereof.

Section 1.08. Information required of Franchisee.

At least annually, or more frequently if determined by the Town Manager, each Franchisee shall supply the following information to the Town on a form and in the manner prescribed by the Town Manager.

- (a) A listing, as of the reporting date, of the names and addresses of customers, and the addresses of each location served. For each customer on the list, the Private Hauler shall provide the following:
 - (1) whether the customer served is a Multi-family Residential or Commercial Establishment; and
 - (2) whether the service provided is solid waste collection,

recycling, or a combination of both; and

- (3) a listing of those materials being recycled at each customer location; and
 - (4) the name of a customer contact person who can provide additional information regarding the recycling program.
- (b) A summary of the number of tons and cubic yards of solid waste collected quarterly from the customer based on scheduled service, as of the reporting date.
- (c) A summary of the number of tons and cubic yards of recyclable material collected and marketed quarterly.

Section 1.09. Disposal required at County-approved facilities.

Any and all Solid Waste collected by a Franchisee within the Town shall be disposed of only at the solid waste disposal facilities approved by the Miami-Dade County Department of Solid Waste Management, the Florida Department of Environmental Regulation, or other governmental regulatory authority.

Section 1.10. Revocation of Franchise.

(a) The following shall constitute cause for revocation of a solid waste Franchise by the Town Manager:

- (1) Violation of any of the provisions of this Ordinance, the Code of Miami-Dade County, or any other applicable law where the violation endangers the public health, safety or welfare; or
- (2) Violation of any of terms or conditions of the Franchise; or
- (3) the failure to pay the Franchise fee when due.

(b) The Town Manager may revoke a Franchise for a violation or violations and may immediately declare such Franchise null and void. Upon such declaration by the Town Manager, the Franchisee shall immediately cease all operation and shall be considered to have forfeited its Franchise and the rights acquired thereunder. The

Franchise shall be provided with written notice of such revocation.

Section 1.11. Franchise Fee.

(a) All Private Haulers operating in the Town shall pay the following Franchise Fees to the Town for the privilege of collecting, removing or disposing of solid waste from Commercial or Multi-family Residential establishments over the streets or public rights of way located within in the Town:

- (1) A Franchise Fee equal to fifteen (15%) percent of its monthly total gross receipts for all of its accounts which are located in the Town.
- (2) The Franchise Fee shall be paid to the Town by the Private Hauler on a monthly basis. The Franchise Fee is due on the 15th day of the month succeeding the month for which the Franchise Fee is being paid.
- (3) The Franchise Fee shall be accompanied by a report to the Town Manager designating the names and addresses of each account of the Private Hauler located in the Town that was provided solid waste collection and disposal service for the preceding month. The report shall include the monthly total gross receipts of all such accounts. The report shall be in a format approved by the Town Manager.

(b) If the Franchise Fee is not paid by the 15th of the month by the Private Hauler, an additional monthly surcharge, equal to fifteen (15%) percent of monthly total gross receipts for the preceding month, shall be payable to the Town for each month the payment Franchise fee is delinquent.

Section 1.12. Record keeping; Audit; and Inspection.

Each Private Hauler is required to establish and maintain appropriate records, showing in such detail as the Town Manager may prescribe, the amount of monthly solid waste collection and disposal service fee receipts for each of its accounts located in the Town. All such records shall be open to inspection and/or audit by the Town Manager at all reasonable times. The Town Manager is authorized to promulgate such rules and regulations with respect to the establishment and

maintenance of such records as the Town Manager deems necessary.

Section 1.13. Existing County Licensees.

For a ninety (90) calendar day period following the effective date of this Ordinance, each Private Hauler who currently holds a license in good standing from Miami-Dade County pursuant to section 15-17 of the Miami-Dade County Code, shall be allowed to continue to provide service in the Town provided that the Private Hauler shall submit an Application for a Town Franchise within forty five (45) days of the effective date of this Ordinance.

Section 1.14. Restoration.

The Franchisee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its services in as good or better condition as it was before being damaged or altered.

Section 1.15 Collection Hours.

Hours of collection shall be set by the Town Manager.

Section 1.16 Collection Equipment.

Solid waste collection equipment shall be kept clean, sanitary, neat in appearance and in good repair at all times. The Franchisee shall have on hand at all times sufficient equipment in good working order to permit Franchisee to perform its solid waste collection duties fully, adequately, and efficiently.

Section 1.17 Spillage and Litter.

The Franchisee shall not litter in the process of making collections. During hauling, all solid waste shall be contained, tied or enclosed so that leaking, spilling or blowing is prevented. In the event of spillage by the Franchisee, the Franchisee shall promptly clean up the litter.

Section 1.18 Storms and Other Emergencies.

In event of a storm or emergency requiring mass cleanup operations, Franchisee, shall, upon direction of Town, participate in said cleanup to the extent directed by the Town.

Section 1.19 Franchise Non-Exclusive

(a) Any Franchise granted by this Ordinance is non-exclusive, and the Town reserves the right to award additional Franchises or utilize other collection programs for Commercial and Multi-family Residential solid waste.

(b) Nothing herein shall authorize collection of solid waste from Residential Units in the Town.

Section 1.20 Town's Right to Regulate Use of Streets Not Abrogated.

Nothing in this Ordinance shall be construed as a surrender by the Town of its right or power to pass Ordinances regulating the use of its streets in accordance with Town's police powers or property rights.

Section 1.21 Penalties.

Any person who violates any provisions of this Ordinance shall, upon conviction, be punished by a fine not to exceed \$500 or imprisonment in the County jail not to exceed sixty (60) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation. Nothing contained in this Ordinance shall prohibit the Town from enforcing its Code by any other means including, but not limited to, any enforcement provisions provided in Chapter 162, Florida Statutes, or a civil action for injunctive or other appropriate relief in a court of competent jurisdiction. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of the Town Code."

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Repeal Of Conflicting Provisions. All provisions of the Miami-Dade

County Code as made applicable to the Town by Article VIII, Section 8.3 of the Town Charter which are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Miami Lakes Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or "Chapter" or other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by **Councilmember Collins**, who moved its adoption on first reading. The motion was seconded by **Councilmember Pizzi** and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

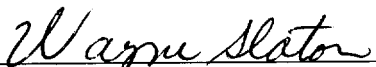
PASSED AND ADOPTED on first reading this 28th day of August, 2001.

The foregoing Ordinance was offered by Councilmember Collins who moved its adoption on second reading. The motion was seconded by Councilmember Pizzi, and upon being put to a vote, the vote was as follows:

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Yes
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on second reading this 25th day of September 2001.

ATTEST:



WAYNE SLATON, MAYOR



BEATRIS M. ARGUELLES
TOWN CLERK

APPROVED AS TO FORM:



TOWN ATTORNEY