

ORDINANCE NO. 2023-2282

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF ARTICLE II OF CHAPTER 10 OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO SOLID WASTE COLLECTION; PROVIDING FOR A SINGLE SOLID WASTE COLLECTOR THROUGHOUT THE CITY; PROVIDING FOR A MANDATORY FEE FOR ALL PROPERTY OWNERS IN THE CITY FOR SOLID WASTE COLLECTION; PROVIDING CRITERIA FOR DETERMINING THE FEE; PROVIDING FOR COLLECTION THEREOF, INCLUDING THE USE OF NON-AD VALOREM ASSESSMENTS; PROVIDING FOR SEPARATE CONSTRUCTION AND DEBRIS COLLECTION; PROVIDING FOR INCREASED INSURANCE REQUIREMENTS FOR COLLECTORS; PROVIDING FOR INDEMNIFICATION; PROVIDING MISCELLANEOUS REQUIREMENTS; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, within the city limits of the City of New Port Richey, Florida the use of multiple solid waste collectors throughout the city has caused increased wear and tear on the city's infrastructure, along with additional noise, traffic and disturbance of the citizens of the city; and

WHEREAS, the use of multiple solid waste collectors in the city is a detriment to the public health, safety, welfare and quality of life of the residents of the city; and

WHEREAS, the city council provided a three-year notice to all solid waste collection franchise holders within the city that it intended to award a single solid waste collection franchise to a qualified bidder to collect the city's solid waste from residential and commercial properties throughout the city; and

WHEREAS, the city council deems it appropriate to provide for a method of collecting the cost of solid waste collection from each property owner throughout the city based upon the type of property; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police powers.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

SECTION 1. Chapter 10, Article II, of the Code of Ordinances, pertaining to solid waste collection services and providing as follows, is hereby amended as follows (strikeout text is deleted and underlined text is added):

ARTICLE II. – SOLID WASTE COLLECTION ~~PRIVATE HAULERS~~

DIVISION 1. - GENERALLY

Sec. 10-21. Hauling of certain garbage prohibited.

It shall be unlawful for any person to haul garbage or other refuse of any kind which has an offensive odor or which might be injurious or dangerous to the health of the inhabitants of the city unless such vehicle in which the materials are being transported is covered or enclosed so as to prevent the falling off of the materials or any portion thereof and to prevent the offensive odors emitting therefrom.

Sec. 10-22. Placement of waste for collection.

The collection site for all garbage, trash and refuse shall be at the immediate proximity of the avenue or street side of the customer's real estate lot and all cans, containers or packages containing garbage, trash and refuse shall be placed and positioned as close as possible to the surface of such avenue or street, but shall not be placed in any manner whereby the same will constitute an obstacle, impairment or interference with vehicular or pedestrian traffic; provided, however, that where the customer's real estate lot abuts an alleyway that has been approved for collection as provided in this article, the collection site may be located as close as possible to the alleyway in such a manner that the same does not create an obstacle, impairment or interference with vehicular or pedestrian traffic along such an alleyway. All receptacles and mechanical containers shall be maintained in good condition and repair. All such receptacles shall be provided with a cover sufficiently tight to prevent flies or other insects from having access to the contents of such receptacles. Containers in which wet garbage or trash matter is placed shall be watertight. All garbage cans and mechanical containers shall be subject to inspection by the City at any time and may be rejected as appropriate. The city council may establish uniform approved trash receptacles for different types of properties as it deems necessary, and any owner or occupant of any such property so designated shall place all refuse in such approved receptacle, only, and no other receptacles shall be allowed on such property.

Sec. 10-23. Collection from alleys.

Pursuant to a written request by any customer whose real estate lot abuts an alleyway or any holder of the solid waste collection franchise ~~a special permit as required by section 10-41~~ whose collection route includes real estate lots which abut an alleyway, the city council may adopt a resolution to establish collection sites along such alleyways subject to the following conditions:

- (1) Written notice must be provided to the solid waste collection franchisee ~~any permit holder~~ or customer who will be subjected to the mandate of such a resolution. The notice shall be mailed, by certified mail, return receipt requested, to such franchisee ~~permit holder~~ and by regular United States mail to such customer at least thirty (30) days prior to the meeting of the city council where the adoption of such a resolution will be considered by the city council, and the time, date and place of the meeting together with a statement that the franchisee ~~permit holder~~ or customer shall have the right to be heard

at the meeting on whether the resolution should be adopted, shall be included in the notice;:-

- (2) All customers whose real estate lots abut on such an alleyway shall be required to locate their cans, containers and packages for collection, at collection sites, at the near proximity along the route of any such alleyway if the city council, after due consideration, adopts such a resolution;:-and
- (3) Such a resolution shall be adopted only if the alleyway has a safe road surface and is not obstructed by trees, bushes, structural improvements, power or telephone poles or any other obstruction and is sufficient to accommodate the movement of the permit holder's collection vehicles or the accommodation of the permit holder's other equipment.
- (4) ~~All customers shall mark that portion of their real estate lots which face the alleyway in such a manner that the permit holder's employees can determine the number and street of the customer's real estate lots from the location of the alleyway.~~

Sec. 10-24. Duties of collector, property owner customer.

(a) The holder of the solid waste collection franchise, and any special permit as required in section 10-41, shall clean, sweep, collect and remove any garbage, trash, refuse or residue which may be spilled or is scattered, loose or otherwise uncovered at or within the immediate proximity of the garbage cans, trash cans or other containers or packages of garbage, trash or refuse so that upon such collection there shall be no scattered, loose or otherwise uncovered residue of any garbage, trash or refuse at the collection site; provided, that all garbage is enclosed, by the customer, in a garbage can, receptacle, or other waterproof container, and that all trash is properly packaged by the customer.

(b) ~~Each property owner or occupant within the city shall be charged a solid waste collection service fee, as determined from time to time by resolution of the city council, enter into and maintain at all times an agreement with a holder of a special permit as required in section 10-41, providing for the removal and collection of all garbage, trash or refuse from each said property owned thereby in accordance with this chapter. Each holder of a permit required in section 10-41 shall provide a list of all customers serviced by said permit holder pursuant to this chapter to the city's public works department, which shall include the name of each property owner or occupant, the current address thereof and the address of each property serviced by said permit holder. The aforesaid list shall be updated, periodically and no less frequently than once every ninety (90) days. The solid waste collection service fee for each property shall be determined by assessing the actual cost to the city of providing the collection service to each type of property within the city, together with appropriate administrative fees, including any fee imposed by the tax collector or property appraiser for non-ad valorem assessments, or billing fees, as applicable, and the franchise fee due from the solid waste collection franchisee. The fee for properties having residential dwellings of five (5) or fewer units, including single family dwellings, hereafter referred to as "residential collections", shall be a uniform fee for each residential unit, as determined by the city council by resolution. The fees for commercial, industrial, government, institutional, and multi-family properties with greater than five (5) dwelling units, hereinafter referred to as "commercial collections", shall be based upon the number, size and frequency of collection of the receptacles used on each such property. The city council shall set the rate for commercial collections for each such property annually, based upon the most recent level of service data for each such~~

property. The city manager may adjust the rate charged for any commercial collection at a property where sufficient evidence is made available to the city that there has been an established, consistent, long-term change in the level of service to the property served, through the number, size or frequency of collection of the receptacles at said property. The city manager shall not make adjustments to the commercial collection fees for intermittent, short-term, frequent or un-sustained changes in levels of service or based upon the actual use of the receptacles. Undeveloped properties shall be charged a fee for yard waste removal and administrative fees, only. For the purpose hereof, "undeveloped" shall mean having no structure of any kind thereon, which status shall continue until the issuance of a certificate of occupancy for new construction or the initiation of commercial collection, if applicable, whichever occurs earlier. In the event a property changes its status from residential collection to commercial collection, or vice versa, the service fees shall be adjusted accordingly upon the next billing cycle, pro rata to account for any undercharge or overcharge. The city council shall determine from time to time by resolution whether to bill property owners for the solid waste collection fee or whether to assess the same using the uniform non-ad valorem collection method. The city council may provide for special pick-ups included within the residential collection fees. The cost for special pick-ups in excess of those included in the residential collection fee shall be determined by, and paid to, the solid waste collection franchisee, per the franchise agreement therewith.

Sec. 10-25. Collection hours, days.

~~Those solid waste collection franchisee persons or entities holding a special permit referred to in section 10-41 herein~~ shall only be permitted to collect garbage, trash, refuse and recyclable materials between the hours of 6:00 a.m. and 7:00 p.m. on Mondays and Thursdays within those residential areas of the city where single or multiple family structures exist, and garbage cans for garbage, trash or refuse, or blue bags for recyclable materials, are used. No collection of garbage, trash, refuse or recyclable materials within said residential areas of the city shall be permitted on any other day of the week, except in the event the following holidays fall on a Monday or Thursday:

- (1) New Year's Day,
- (2) Dr. Martin Luther King, Jr. Birthday
- (3) Memorial Day,
- (4) Juneteenth,
- ~~(5)~~ Independence Day,
- ~~(6)~~ Labor Day,
- ~~(7)~~ Veterans' Day,
- ~~(8)~~ Thanksgiving Day,
- ~~(9)~~ Day after Thanksgiving, or
- ~~(10)~~ Christmas Day.

In the event any of the above listed holidays fall on a Monday or Thursday, the franchises holders of the aforesaid special permit referred to in section 10-41 herein shall collect such

garbage, trash, refuse or recyclable materials on the holiday or on the day immediately following the holiday.

~~Notwithstanding the foregoing, commercial collections may be made in those areas where industrial or commercial structures exist, as well as in those residential areas where multiple family structures with proper access to dumpsters exist, the collection of garbage, trash, refuse or recyclable materials may be collected by the holders of the special permit referred to in section 10-41 herein between the hours of 6:00 a.m. and 7:00 p.m. on any day of the week, except Sundays.~~

Sec. 10-26. Penalty.

Any person who ~~knowingly~~ violates any of the provisions of this article shall be subject to a penalty as prescribed by section 1-14.

DIVISION 2. – SOLID WASTE COLLECTION FRANCHISE, SPECIAL PERMITS

Sec. 10-41. Required.

It shall be unlawful for any person to engage in the business enterprise of collecting, transporting or disposing of garbage, trash or refuse within this city or to use the streets, alleys or rights-of-way of this city for such purpose, regardless of whether such person is required by law to hold a local business tax receipt issued by this city, without first being issued a solid waste collection franchise or special permit by the city council and entering into a franchise agreement with the city, the form of which shall be approved by the city council. For purposes of this chapter of the New Port Richey City Code and all sections hereof, "solid waste garbage, trash, or refuse" shall mean and include all garbage, trash or solid waste refuse, roll-off services of construction and debris (hereinafter "C&D"), special waste, and special pickups of seasonal trash and debris, but does not include the collection of "recovered materials" as defined in F.S. § 403.703, as regulated pursuant to F.S. ch. 403. The city council shall from time to time award a solid waste collection franchise to a single solid waste collector for all properties within the city for such term as the city council may authorize for the collection of all solid waste within the city other than C&D. In addition, the city council may issue annual special permits for collectors of C&D, only, to such collectors in the business of providing such services. The solid waste collection franchisee shall also obtain an annual special permit in accordance with this article.

Sec. 10-42. Qualification.

In order for any person or entity to qualify for the solid waste collection franchise or a special permit as required by this division, the city council shall determine by competent, substantial evidence that such person or entity has complied with the following criteria. Such person or entity shall:

- (1) Own, possess, lease or otherwise maintain or control the necessary equipment of a type, design and specification which is generally manufactured for the collection of garbage, trash and refuse in sufficient quantity to assure the prompt, sanitary and efficient collection, transportation and disposition of the garbage, trash and refuse which is to be collected by such person or entity within this city in the performance of such a business; provided, however, that the body of all garbage collection vehicles used by such person or entity shall be watertight to the extent that it shall be impossible for water or other liquids to escape prior to the unloading of the contents thereof at the disposal area and

all packer vehicles so listed shall have an enclosed cab, well located handrails, adequate door fastenings, hydraulic unloading capabilities, and ample racks or supports for tools, containers and other equipment and all such vehicles shall have adequate cover to prevent the contents thereof from falling, spilling or being blown from any such vehicle while in transit and all such vehicles shall be adequate in number and type to perform, satisfactorily, the duties prescribed for the same and shall be maintained in good mechanical condition; provided, however, that all such vehicles or other equipment shall also conform to any requirements as prescribed by the laws of the state or the rules and regulations of the state department of health and rehabilitative services, the state department of pollution control and any other governmental agency having jurisdiction to prescribe the type, standards or specifications of any such vehicles or equipment;

- (2) Employ, supervise, manage and control a required number of qualified employees who are necessary in order to operate and maintain such equipment so that the use thereof will conform with the requirements of this article and all other laws, rules or ordinances;
- (3) Own, possess, lease or otherwise maintain or control the necessary collection equipment and employ, supervise, manage and control the required number of competent employees to ensure that the residential, commercial and industrial customers of such applicant will receive collection service at a frequency of not less than two (2) times per week, between the hours of 6:00 a.m. and 7:00 p.m. on Mondays and Thursdays within those residential areas of the city where single or multiple family structures exist, and garbage cans for garbage, trash or refuse, or blue bags for recyclable materials are used, at intervals of not less than three (3) calendar days between collections during such a workweek except during weeks which contain legal holidays in which event the applicant shall possess the necessary equipment and employ the necessary personnel to ensure that there will be a collection of garbage, trash and refuse from those customers receiving such service on the day immediately following the holiday, if the holiday occurred on the day which was scheduled for collection, and recycling collection services of not less than one (1) time per week; ~~provided, however, that nothing contained in this subsection will prevent such applicant and any customer of such applicant from entering into a special agreement for a collection schedule of less or greater frequency than required by this subsection;~~
- (4) Be insured by a comprehensive liability insurance policy in an amount not less than one million hundred thousand dollars (\$1,000,000.00) per person bodily injury, two million three hundred thousand dollars (\$2,300,000.00) per occurrence, and one hundred twenty five thousand dollars (\$25100,000.00) property damage per occurrence, and that the employees of such person are properly insured as required by F.S. ch. 440, and that the insurance shall be evidenced by delivering a certificate of such insurance with the application for such the solid waste collection franchise or a special permit; ~~and~~
- (5) Indemnify and hold the city harmless against any and all losses, claims, damages, suits or actions for personal injury or property damage arising from the collection of solid waste by the permit holder or franchisee, including all attorneys' fees incurred by the city in any legal or administrative proceeding and all appeals thereof;

- (6) If the solid waste collection franchisee, maintain an office within the city limits of New Port Richey, Florida, sufficiently staffed and open from 9:00 a.m. to 4:00 p.m. Monday through Friday, except on legal holidays, to field customer inquiries and complaints;
- (7) Have installed and functioning on all trucks a global positioning system monitor and cameras providing digital video images emanating from all four (4) sides of each truck; and
- (8) Have the capacity and willingness to comply with all applicable local, state, and federal laws, rules, and regulations.

Sec. 10-43. Application.

The application for a special permit as required by this division shall be on a form provided by the city, by May 1 of each year for the following calendar year, council which shall list the following information:

- (1) The name, street address and mailing address of the principal place of business and branch locations of the person or persons to be granted such a special permit or if the applicant is a partnership, corporation, joint venture or other business entity, the application shall set forth the name or names, street addresses, and mailing addresses of the principal officers thereof, the name or names, street addresses and mailing addresses of the person or persons who are to be the manager, supervisor or executive employee of such entity as well as the street address and mailing address and location of the principal place of business and any branch offices of such partnership, corporation, joint venture or other business entity;
- (2) A full description of all of the equipment owned, possessed, leased or otherwise maintained or controlled by the applicant which will be used in the collection, transportation and disposition of such garbage, trash and refuse and the exact location and method where the same will be disposed of; provided, however, that if the location of the disposal site is outside of the city, the applicant shall produce, in writing, from the officials of the county or municipality in which such location exists that the disposal site has been approved by the governing body of such county or municipality and any condition pertaining to such approval shall also be set forth in the application;
- (3) A complete list of the names, ages and addresses of all employees who will be employed by the applicant by the business enterprise within this city and the exact duties which will be performed by any such employee; provided, however, that if the applicant is issued such a special permit and subsequent thereto there is a change in the list of employees, the applicant shall, within seventy-two (72) hours from the date of such change, notify the city clerk, in writing, by providing the city clerk with a current, corrected list of all such employees;
- (4) ~~The applicant shall furnish with the application the number of commercial collection its accounts, which shall be itemized, listed and classified as either residential accounts, commercial accounts or industrial accounts which it has contracted, or which it intends to contract, to service with the number, size and frequency of collection for each receptacle at each commercial collection property served, along with the date and nature of any change in service during the prior year present equipment that is owned, possessed or otherwise maintained or controlled by the applicant;~~

- (5) A complete rate schedule of the respective rates that such applicant intends to charge for residential and commercial collections for the upcoming calendar year or industrial accounts, if a special permit is issued to the applicant by the city council, ~~together with a statement by the applicant that in the event of a change or modification in such rate schedule, subsequent to the issuance of the special permit, the applicant shall file with the city clerk the modified schedule at least thirty (30) days prior to the date when the same is intended to become effective;~~
- (6) A statement by the applicant that collection of garbage, trash and refuse shall be available for each such account at a frequency of no less than two (2) times per week at intervals of not less than three (3) calendar days between collections for the solid waste collection franchisee, or at such other frequencies and intervals of time as the applicant and the customers shall agree upon for C&D;
- (7) A statement by the applicant that all collection equipment shall be of a type as generally manufactured for the collection of refuse and a listing of all such equipment shall be included as provided in this section. A service fee in an amount determined by resolution of the city council and payable to the city shall accompany the application.

Sec. 10-44. Public notice of hearing ~~on application~~.

A public notice of the hearing on the award of the solid waste collection franchise or application for the issuance of a special permit as required by this division shall be published in a newspaper which is published in the city at least ten (10) days prior to the date of the hearing at which the application will be considered by the city council and the notice of hearing shall be in the following form:

Notice of Public Hearing

Please take notice that an application for a special permit to collect, transport and dispose of garbage, trash and refuse has been made to the city council of New Port Richey, Florida by _____ of _____, and that a hearing on said application will be held in the city council chambers at the Municipal Building, ~~320 E.~~ 5919 Main Street, New Port Richey, Florida, commencing at the hour of ~~7:30~~ o'clock p.m. or as soon thereafter as the matter may be heard, on the _____ day of _____, 20____.

All persons who are residents of said city or otherwise have valid evidence pertaining to said application are invited to attend said hearing and to be heard by said city council pertaining thereto.

City Clerk

Sec. 10-45. Criteria for issuance.

- (a) After reviewing the application for a special permit as required by this division at a duly convened meeting of the city council, written notice of which shall be provided to the applicant, by certified mail at least ten (10) days prior to the meeting, the city council shall ascertain and determine that the:
 - (1) Equipment listed by the applicant is of such a nature that the same will meet the specifications as required in this article;

- (2) Applicant owns or possesses sufficient equipment and employs a sufficient number of employees to provide service to the number of customers listed on the application in accordance with the frequency and intervals of collection that is required in order to ensure that garbage, trash and refuse is collected, transported and disposed of, as required in this article;
 - (3) Applicant is insured by a comprehensive liability insurance coverage in an amount not less than one ~~million hundred thousand~~ dollars (\$~~1,000,000.00~~) per person, bodily injury; ~~two million three hundred thousand~~ dollars (\$~~32,000,000.00~~) per occurrence; and ~~one hundred twenty five thousand~~ dollars (\$~~25100,000.00~~) property damage per occurrence.
- (b) If the city council shall determine that the applicant complies with the requirements of this article, the city council may issue a special permit providing therein such terms and conditions as the city council shall determine to be necessary in order to ensure that the applicant shall comply with the provisions of this article. The granting of such a special permit shall not be construed as the grant of a franchise or of a vested right nor shall such special permit become coupled with an interest and such permit may be revoked or suspended by the city council upon the showing of good cause.

Sec. 10-46. Non-transferability.

The special permit authorized by this article shall be nontransferable so that any person or entity that ~~who~~ intends to succeed to the business interests of a permit holder shall file an application for such special permit and comply with the other procedural and substantive requirements of this article in order to qualify for the issuance of such a special permit.

Sec. 10-47. Revocation or suspension.

- (a) The city council may revoke or suspend any special permit if the city council shall determine that the permit holder has failed to:
- (1) Provide adequate and satisfactory service as required by the special permit;
 - (2) Maintain proper equipment and personnel for the collection and disposal of garbage, trash and refuse as required by the special permit;
 - (3) Maintain a timely schedule of pickups within the frequency and duration of time for such pickups as prescribed in this article;
 - (4) Dispose of garbage, trash or refuse in a manner prescribed by the state department of health and rehabilitative services or in an approved sanitary landfill; or
 - (5) Maintain comprehensive liability insurance coverage as required by this article.
- (b) If a complaint is filed with the city council and the city council deems it advisable to inquire into the matter of such complaint, and if the complaint is of such a nature that the special permit can be suspended or revoked, the city council shall adopt a resolution directed to the permit holder which shall specify therein the exact nature of the charges or complaints which have been filed against the permit holder, the name and residence address of the person or persons making such complaint, a list of the names and addresses of all material witnesses who are available to testify in regard to the complaint, and a notice of hearing which shall be held no less than ten (10) days nor more than thirty (30) days after a copy of the resolution

has been served upon the permit holder in accordance with the provisions of F.S. chapter 48, which pertains to service of process. The resolution shall also specify the time, date and place where the hearing will be held on such complaint and shall advise the permit holder that he is entitled to be represented by counsel at the hearing. ~~The procedure pertaining to the hearing shall be governed by F.S. chapter 120, otherwise known as the Administrative Procedure Act.~~ Upon the hearing of testimony and the receipt of evidence, if the city council shall, by competent and substantial evidence, determine that the charge or complaint against the permit holder is true and correct, the city council may then revoke or suspend the special permit or if the charge or complaint is not established by substantial, competent evidence, then such charges shall be dismissed. If the city council, by substantial, competent evidence, does not find the misconduct on the part of the permit holder to warrant a revocation or suspension, but that the same does warrant a citation or the imposition of additional conditions on the special permit of the permit holder, the city council shall so stipulate in writing.

Sec. 10-48. Renewal.

All permits as authorized in this article shall be renewable from year to year and shall be effective between January first and December thirty-first of each such year or that portion thereof from the date of issuance until the next succeeding thirty-first day of December. The renewal of special permits as required in this article shall be subject to the same application and hearing requirements as specified in sections 10-43 through 10-45 and the hearing for the annual renewal thereof shall be held no later than November fifteenth of each such year. The city council, after considering the renewal application and after hearing all relevant evidence pertaining thereto, may approve the renewal of such permit for the ensuing year if the applicant shall establish, by competent substantial evidence, that such a renewal is consistent with the health, safety, welfare and hygiene of the residents of the city.

Sec. 10-49. Franchise agreement.

- (a) The franchise agreement required by section 10-41 shall be in addition to all other provisions of this division, including the required special permit. No person shall utilize public rights-of-way, alleys, streets, and other public infrastructure within the city for the purpose of engaging in the business enterprise of collecting, transporting or disposing of garbage, trash or refuse within this city without first entering into a franchise agreement with the city, the form and terms of which shall be set by resolution of the city council.
- (b) A person may not execute a franchise agreement with the city unless and until they have met all requirements contained in this article and obtained a special permit pursuant to this division and which is valid and in good standing.
- (c) Upon execution of the franchise agreement, the person shall be considered a "franchisee" with all benefits and privileges set forth in the franchise agreement and must at all times comply with all requirements set forth in this article, the franchise agreement, as well as any and all laws, rules, regulations, ordinances, and orders of regulatory bodies applicable to the business enterprise of collecting and transporting or disposing of garbage, trash or refuse within this city. Failure of the city or any governmental agency to take action on any violation shall not relieve the franchisee of compliance nor be deemed a waiver of franchisee's obligation to comply with all such requirements and laws.

(d) Franchise fees:

- (1) Each franchise agreement shall provide for payment of franchise fees from the franchisee to the city as compensation for the rights and benefits granted hereunder, including but not limited to, the right to engage in the business enterprise of collecting, transporting or disposing of garbage, trash or refuse within this city and the right to utilize public rights-of-way, alleys, streets, and other public infrastructure within the city and all benefits associated therewith.
 - (2) The franchise fee shall be based on the collected revenues of the franchisee, and shall be in the form of a percentage set by resolution of the city council. Use of a billing method that has the affect of reducing or avoiding the payment of franchise fees under the franchise agreement shall be cause for immediate termination and revocation of the franchise agreement, without prejudice as to any additional penalties for such actions.
 - (3) ~~Nothing contained herein shall be construed to permit or allow any franchisee to charge a rate amount to its customers within the city in excess of those prescribed by the Pasco County Board of County Commissioners.~~
 - ~~(4) For C&D permit holders, f~~Franchise fees shall be paid monthly and must be accompanied by a statement of the franchisee's collected revenues in a form prescribed by the city's finance department. Failure to remit the franchise fees and documentation required herein shall be grounds for termination and revocation of the franchise agreement. For the solid waste collection franchise holder, franchise fees shall be deducted from any payment remitted to the franchisee by the city.
- (e) The city reserves its right to enter into franchise agreements and grant other similar rights to more than one (1) person, business, or entity. The franchise agreement is not an exclusive right to provide the services described herein within the city. The city further reserves its right to provide its services, including but not limited to, the waste collection services described herein, to any person. The execution of the franchise agreement, and any renewal thereof, shall not be construed as creating any vested rights. Each franchise agreement shall be terminable and revocable in accordance with its terms and the terms of this article.

SECTION 2. Enforcement. The provisions of this Ordinance shall be enforced as otherwise provided in the Code of Ordinances.

SECTION 3. Conflict with Other Ordinances and Codes. All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

SECTION 4. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall take effect immediately upon its adoption as provided by law.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2023, and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2023.

ATTEST:

By: _____
Judy Meyers, CMC, City Clerk

By: _____
Alfred C. Davis, Mayor-Council Member

(Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE SOLE
USE AND RELIANCE OF THE CITY OF NEW PORT RICHEY,
FLORIDA:

Timothy P. Driscoll, City Attorney CA Approved 8-17-23