ORDINANCE NO. 1326

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING ARTICLES I, II, III AND IV OF CHAPTER 9 OF THE CODE OF ORDINANCES, ENTITLED "GARBAGE AND TRASH," TO INCREASE THE PARTICIPATION OF PRIVATE WASTE COLLECTORS IN THE COLLECTION AND REMOVAL OF GARBAGE, TRASH AND SOLID WASTE, INCLUDING RECYCLABLE MATERIALS; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the collection and disposal of garbage and waste is a public duty to be performed by the City of North Miami ("City") in a manner that will best promote the health, safety and welfare of its inhabitants; and

WHEREAS, pursuant to its home rule powers, the City has broad discretion to determine the manner and means of exercising the duty to collect and dispose of garbage and waste; and

WHEREAS, on September 27, 2011, the Mayor and City Council directed the City administration to investigate and bring forth the advantages and disadvantages of privatizing commercial and residential sanitation services, including the collection of bulk trash; and

WHEREAS, at the behest of the Mayor and City Council, the firm Pro Resource Solutions LLC ("Pro Resource") was contracted on October 31, 2011, to perform the sanitation study; and

WHEREAS, on November 22, 2011, Pro Resource presented to the Mayor and City Council the results of the sanitation study, indicating the possibility of substantial savings to the City in the collection, removal and disposal of solid waste services by private service providers; and

WHEREAS, on December 13, 2011, the Mayor and City Council instructed City Administration to get comparison pricing for the collection, removal and disposal of solid waste services by private service providers; and

WHEREAS, in order to enhance sanitary services throughout the municipality at substantial savings to City residents, the City Manager is recommending the amendment of Chapter 9 of the City Code of Ordinances entitled, "Garbage and Trash"; and

WHEREAS, the proposed ordinance will better delineate the responsibilities of the City and private waste collectors, to bring about a more efficient and comprehensive sanitary service system at reduced cost to City taxpayers; and

WHEREAS, the Mayor and City Council of the City of North Miami have determined that the proposed amendments to the Ordinance facilitate the expeditious removal and disposal of garbage and waste substances at a competitive rate while ensuring the protection of the public's health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. The Mayor and City Council of the City of North Miami, Florida, hereby amend Articles I, II, III and IV of Chapter 9 of the Code of Ordinances, entitled "Garbage and Trash," to increase the participation of private waste collectors in the collection and removal of garbage, trash and solid waste, including recyclable materials, as follows:

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CHAPTER 9. GARBAGE AND TRASH

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ARTICLE I. IN GENERAL

Sec. 9-1. Legislative purpose and intent.

It is the purpose and intent of this chapter to ~~provide for~~ ensure the collection and disposal of all garbage, bulk trash, rubbish, ~~and~~ solid waste and recyclable materials generated ~~by residential units and commercial establishments~~ within the city ~~and to provide~~ by allowing, to fullest extent possible, the provision of collection and disposal services ~~for the collection~~ by a private waste collectors holding a current business tax receipt ~~of all garbage, bulk trash, and waste generated by commercial establishments and multi-family residences, provided the multi-family residences were not customers of and being serviced by the city on December 10, 1974~~.

Sec. 9-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

Automotive parts shall mean all waste generated from automobile repair or renovation, including, but not limited to tires, glass, engines and engine parts, automobile bodies or parts.

Building or *construction materials* shall mean waste generated by construction or remodeling, including, but not limited to, floor or yard tiles, roofing materials, sheet-rock, plaster-board, drywall, concrete blocks, wood, nails, cement, plaster, pallets, paint, loose or bagged rocks, and dirt.

Bulk trash shall mean refuse accumulations of paper, wooden or paper boxes or containers, furniture, appliances and all other accumulations of a nature other than garbage, which are usual to housekeeping and to the operation of stores, offices and other business places. Bulk trash shall not include industrial or hazardous waste, automotive parts, or building or construction materials.

Commercial establishment shall mean and include all retail, professional, wholesale, and industrial facilities and any other commercial properties, for profit or not for profit, offering goods or services to the public. The term "commercial establishment" shall not include any residential unit, duplex, ~~fourplex~~ or multi-family residential property.

Dumpster shall mean a steel or plastic container mounted on four (4) wheels with roller bearings which wheels shall be of the caster type for complete mobility and which wheels shall be of sufficient size to properly support the container. The dumpster shall be from one (1) to eight (8) cubic-yard capacity and shall be capable of fitting the hydraulic attachments of the appropriate equipment of the city or private waste collector. All dumpsters, garbage cans and garbage containers must have covers or lids that fit properly over these devices at all times.

Garbage shall mean every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruit or vegetables and any other matter, of any nature whatsoever, which is subject to decay and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for vermin or flies or other germ-carrying insects; and any bottles, cans or other containers, which due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects.

Garbage can shall mean a watertight galvanized metal, durable plastic or other suitable material container with suitable handles and tight fitting cover of the type commonly sold as a "garbage can" and shall be of a capacity not more than ninety-six (96) gallons nor less than fifteen (15) gallons. ~~In areas of the city designated by the public works director, city-issued ninety-six-gallon automated containers shall be used.~~

Garbage container shall mean ~~garbage or trash can or~~ a dumpster, recycling container or roll off container.

Garden trash shall mean all accumulations of lawn, grass or shrubbery cuttings or clippings and leaf rakings, which can be placed in a garbage can or container, and which is free of dirt, rock, large branches and bulky or noncombustible materials, which cannot be otherwise classified as industrial or hazardous waste.

Hazardous waste shall mean solid waste, or a combination of solid waste, which, because of its quality, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed. Hazardous waste shall include but not be limited to, household or industrial chemicals, medical waste, propane tanks, oxygen tanks, automotive oils and petroleum, commercial or domestic landscaping chemicals and supplies, acids, batteries, computers and florescent lighting.

Hotels and motels shall mean a residential building of sleeping or living quarters primarily used by transient guests and shall not have more than thirty (30) percent of the total number of units as efficiency apartments.

Industrial waste shall mean all waste and debris generated by construction, land clearing, excavating of structures, roads, streets, sidewalks and swale areas, including waste collected for recycling.

Mobile home is defined as any land mobile living unit.

Multi-family residence shall mean any building or structure containing ~~five (5)~~ four (4) or more contiguous residential units for residential purposes.

Nonexclusive franchise shall mean a nonexclusive right and privilege granted to a private waste collector pursuant to a franchise agreement with the city to remove, collect and transport for disposal from any residential, multifamily, commercial establishment, construction or renovation project over the streets or public rights-of-way within the incorporated areas of the city. Such activity shall not commence without first applying for and receiving a business tax receipt from the city to carry on such business. The franchise required by this section shall be in addition to all other permits, registrations or licenses that may be required by city, federal, state or local law.

Private waste collector shall mean a qualified private commercial solid waste firm granted ~~a~~ an exclusive or nonexclusive franchise by the city pursuant to a franchise agreement~~, in return for a percentage of its gross monthly billed receipts to the city pursuant to the provisions of this chapter~~ to collect and dispose garbage, bulk trash, rubbish, waste and recyclable materials generated within the city.

Recyclable materials shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste; recyclable materials shall include those materials defined as recovered materials pursuant to F.S. Ch. 403.

Residential unit shall mean a unit occupied or intended to be occupied as separate living quarters with separate cooking facilities. Individual apartments in a multi-family building shall be

considered a separate residential unit.

Roll off compaction container shall mean a roll off designed to hold or receive compacted trash or garbage.

Roll off container shall mean an open container with a minimum capacity of ten (10) cubic yards designed to be transported by motorized vehicle and used for the purpose of removing building or construction materials, or for the removal of large quantities of bulk trash.

Swale area shall mean the area between the property line and the public right-of-way or alley right-of-way.

Waste or *solid waste* shall include bulk trash, commercial refuse, garden trash, tree and shrubbery, garbage, refuse, rubbish, trash, hazardous waste, industrial waste, automotive parts, building or construction materials, or other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining or agricultural operations.

Secs. 9-3—9-9. - Reserved.

ARTICLE II. COLLECTION AND REMOVAL OF GARBAGE, TRASH AND SOLID WASTE

Sec. 9-10. Residential property garbage collection service required.

(a) Unless otherwise specified in this chapter, the city or a private waste collector selected by the city under a franchise agreement shall collect and dispose all garbage, ~~and~~ trash, solid waste and recyclable materials generated within the city. All owners or occupants of single-family, duplex, and triplex~~, and fourplex~~ residential units are required to use garbage cans and all owners, managers, operators, or occupants of multi-family residences are required to use dumpsters.

(b) It is compulsory for every single-family residential unit to have at least one (1) ~~city issued ninety-six-gallon automated~~ garbage can in areas designated by the public works director. Other garbage containers will not be serviced in areas where the ninety-six-gallon automated garbage cans are provided for use.

(c) Failure to use the proper container as prescribed in subsections (a) or (b) above shall constitute a violation of this section subject to a civil penalty pursuant to chapter 2 of this Code.

(d) ~~When collection by the city is not available,~~ ~~a~~ All owners, managers or occupants of multi-family residences, hotels and motels, and cooperative properties are required to ~~provide~~ have private waste collection service with a minimum collection frequency of two (2) times per week. Failure to provide private waste collection service in the manner provided herein shall be a violation of this subsection subject to a civil penalty pursuant to chapter 2 of this Code.

(e) ~~When city service is~~ Service provided to multi-family residences, hotels and motels, and cooperative properties, must have available a dumpster ~~may be purchased through the city by the property owner, manager or occupants,~~ with a capacity as provided for in subsection (f) below. The dumpster used by the property owner, manager or occupants must comply with the specifications prescribed by public works administrative regulations. Failure to provide the property with the required dumpster or with the minimum collection frequency, shall subject the property owner or manager to a civil penalty pursuant to chapter 2 of this Code.

(f) The following minimum dumpster capacity, with a minimum collection frequency of two (2) times per week, shall be maintained:

TABLE INSET:

Number of Residential Units	Dumpster Capacity (cubic yards)
5—15	2 CY
16—30	4 CY
31—45	6 CY
45 and greater	8 CY

(g) Any multi-family residence owner or manager that places and maintains all required dumpsters in an area located within the building structure, such as a trash chute room, shall not be required to maintain the minimum capacity standards set forth in subsection (f) above, provided the dumpsters are not overflowing and the trash chute rooms are kept free of waste.

(h) All multi-family residences ~~that received sanitation service by the city on or after December 10, 1974~~ shall continue to be serviced by the city or by a private waste collector selected by the city under a franchise agreement and shall not become customers of, or be serviced by, any other service provider ~~private waste collector~~. Should ~~a private waste collector~~ any other service provider place a garbage container at any ~~city-serviced~~ property serviced by the city or by a private waste collector, the ~~private waste collector~~ service provider shall be notified~~,~~ in writing, to remove the garbage container immediately. If the garbage container remains on the property more than five (5) days after notification, the ~~private waste collector~~ service provider shall be in violation of this subsection and shall be subject to a civil penalty pursuant to chapter 2 of this Code. The city reserves the right to remove the garbage container after twenty (20) days written notice to the ~~private waste collector~~ service provider.

Sec. 9-11. Garbage collection service required for commercial establishments.

All owners, managers or tenants of commercial establishments are required to ~~secure~~ have private waste collection service with dumpsters for said service, and have a minimum collection frequency of two (2) times per week. Total dumpster capacity shall be a function of the nature of the commercial activity or activities conducted on the property, and shall be of sufficient volume to prevent the overflowing of the dumpster between collections. Failure to maintain sufficient dumpster capacity shall be a violation of this subsection subject to a civil penalty pursuant to chapter 2 of this Code.

Sec. 9-12. Location of dumpsters, garbage containers, and garbage cans.

(a) Dumpsters and garbage containers are required to be kept in a place easily accessible by the ~~city or~~ private waste collectors. The dumpsters and garbage containers shall be stored at a point upon the premises of the owner or occupant not closer to the street than one-half (½) the depth of the premises from such street or streets, except that where the premises abut a used alley, the dumpster or garbage container shall be placed within easy and convenient access from such alley. Dumpsters and garbage containers shall not be kept upon neighboring property not in the ownership or tenancy of the person by whom the garbage is accumulated irrespective that such property is vacant or unimproved. All dumpsters and garbage containers and their locations shall be subject to inspection and approval by the public works department. The city shall have the power to order the removal of any dumpster or garbage container when a hurricane watch has been issued by the National Hurricane Center. At no time shall any dumpster or garbage container be placed or stored upon the swale area or public right-of-way. All dumpsters, garbage cans and garbage containers shall have the lids closed over the debris at all times.

(b) Any dumpster which is located in a rear or side yard setback or a front yard setback of a commercial or multifamily residential property such that it is visible from the adjacent right-of-way or directly abuts a residential district must be placed in a city-approved dumpster enclosure.

(1) All required dumpster enclosures shall be structurally secured with a gate or door which is in proper working condition.

(2) All dumpster enclosure gates or doors shall be kept in a closed position when the dumpster is not being serviced.

(c) The public works director may, in writing, waive the requirements to provide dumpsters or amend requirements for dumpster enclosures in such circumstances where the physical layout of the premises being serviced does not permit access for the vehicles required to remove the contents of such dumpsters or a parking hardship of one (1) parking space per residential unit exists.

(d) It shall be unlawful for any person to place any garbage container, or dump or collect trash, garbage, waste or any like material between the hours of 10:00 p.m. and 7:00 a.m. daily.

(e) It is unlawful to place any garbage can, in position for collection more than twenty-four (24) hours prior to regularly scheduled pickup. Placing a garbage can for collection more than twenty-four (24) hours prior to the day of collection, shall constitute a violation of this subsection. All garbage cans shall be removed from the curbside or place of collection and returned to the residential property belonging to the owner of the garbage can within twenty-four (24) hours after pickup. Leaving a garbage can twenty-four (24) hours or more after the pickup day shall constitute a violation of this subsection.

(f) The failure to comply with any provision enumerated in this section shall constitute a code violation subject to a civil fine or penalty pursuant to chapter 2 of this Code.

Sec. 9-13. - Bulk trash; defective containers prohibited.

(a) It shall be unlawful to place bulk trash at curbside other than in closed containers except tree trimmings too large to fit in such containers and other bulk trash of such size that cannot fit in such containers. All tree trimmings shall be cut no more than five (5) feet in length. Except for trees cut or trimmed by a commercial entity, tree trimmings or bulk trash shall be placed at curbside for pickup according to the schedule established by the public works director.

(b) In the event city residents hire a private contractor or landscaper to trim or cut tree(s) from their property, the contractor or landscaper shall remove and dispose of all the tree trimmings and or tree trunks cut from the property, and shall not place such trash or bulk trash at curbside for ~~the city's~~ pickup. A violation of this subsection shall subject the property owner to a civil penalty pursuant to chapter 2 of this Code.

(c) It shall be unlawful to place bulk trash at curbside earlier than twenty-four (24) hours prior to its collection. A violation of this subsection is subject to a civil penalty pursuant to chapter 2 of this Code. Bulk trash placed in position for collection more than twenty-four (24) hours prior to its collection shall be exempt from this penalty if an arrangement for pickup of such bulk trash is made in advance with the department of public works.

(d) The use of any dumpster which contains defects likely to hamper the collection of the contents, or injure the person collecting the contents, or cause the dumpster area to become littered with garbage or waste liquids is prohibited. Such dumpster shall be promptly repaired or replaced by the owner or user of the dumpster upon receipt of written notice of such defect. If the dumpster is not repaired or replaced within the time prescribed in said written notice, the property owner shall be subject to a civil penalty pursuant to chapter 2 of this Code.

Sec. 9-14. - Commingling garbage with bulk trash prohibited.

(a) It is prohibited to commingle garbage with bulk trash placed in the swale for removal. If garbage is found commingled with the bulk trash the property owner or tenant shall be notified to remove the garbage prior to the bulk trash pickup. Failure to separate the garbage from the bulk trash shall constitute a violation of this section subject to a civil penalty pursuant to chapter 2 of the city code.

(b) Disposal or commingling of building material and automotive waste, as defined in this chapter, with bulk trash for removal is prohibited. If such items are found with the bulk waste the city shall notify the property owner by posting notice that the prohibited items be removed within seven (7) days. If the prohibited items remain after seven (7) days from the time the notice was posted, the city shall ~~collect and dispose~~ <u>ensure the proper collection and disposal</u> of such prohibited items and charge the property owner for the collection and disposal at the rate prescribed by city administrative regulations. If the charge is not paid, it shall constitute a lien against the property pursuant to section 9-45

Sec. 9-15. - Illegal disposal.

(a) It shall be unlawful for any person to burn garbage, garden trash or any waste or to deposit on or bury in or cause to be deposited on or buried in any land within the limits of the city

garbage or garden trash. It shall be unlawful for any person to place, leave, dump, or permit to accumulate garbage, garden trash or waste on any premises, land or waterway.

(b) It shall be unlawful for any person to transport garbage, garden trash or any waste generated from a location ~~where city service is not provided for,~~ outside the city boundary, to a city serviced location for removal. When the public works department finds that a property owner, manager or tenant brought waste, which was generated at a location other than the location where the waste was to be removed, the property owner, manager or tenant shall be notified to immediately removed the waste. Failure to remove the waste within the time prescribed shall constitute a violation of this section.

(c) Any violation of this section is subject to a civil penalty pursuant to chapter 2 of this Code.

Sec. 9-16. - Garbage accumulation.

(a) It shall be unlawful to allow an accumulation upon any premises within the city, garbage, garden trash, discarded household or commercial appliances, building materials, dirt, rock, glass or scrap iron or any other waste or solid waste as defined in this chapter. If such an accumulation of garbage is found upon any property within the city, the property owner shall be notified to remove said garbage within the time prescribed in the written notice. If the garbage is not removed within the time prescribed in the written notice, the property owner shall be subject to a civil penalty pursuant to chapter 2 of this Code.

(b) If such an accumulation is found on or in any public right-of-way, street or alley, the city shall notify the abutting property owner by posting a copy of the notice at the abutting property, and direct that the accumulation be removed within seven (7) days. If the accumulation remains after seven (7) days, the city shall ~~collect and dispose~~ ensure the proper collection and disposal of such accumulation, and shall charge the abutting property owner for the collection and disposal of the accumulation at the rate prescribed by the city's administrative regulations. The charge shall constitute a lien equal in dignity to special assessment liens referenced in section 9-45, against the premises and shall become effective and binding as a lien from the date when the charge becomes due, unpaid and in arrears.

(c) Overflowing dumpsters and/or littered enclosures shall be considered an accumulation of garbage or garden trash, constituting a violation of this section subject to a civil penalty pursuant to chapter 2 of this Code.

Sec. 9-17. - Prima facie evidence of waste accumulation.

The fact that any residential unit or any commercial establishment located in the city is occupied shall be prima facie evidence that garbage or other refuse is being produced or accumulated upon such premises and the owner, occupant, firm or corporation occupying such property shall be liable to the city for such service charge whether service is used or not. However, temporary residential vacancy, regardless of duration, shall not authorize a refund or excuse the nonpayment of any waste fee. Waste fees shall be chargeable on new residential units immediately following issuance of certificate of occupancy by the city. ~~Commercial establishments and multi-family residential properties not serviced by the city shall secure a garbage and trash account with a private waste collector and provide a dumpster when the~~

~~premises are occupied.~~

Sec. 9-18. - Garbage drained of liquids; wrapped in paper or plastic required.

It shall be unlawful to place any garbage in a garbage can or dumpster without first draining all liquids from the garbage and wrapping the garbage in a paper or plastic bag. Failure to remove the liquids from the garbage or to wrap the garbage in a paper or plastic bag is a violation subject to a civil penalty pursuant to chapter 2 of this Code.

Sec. 9-19. - Garden trash.

(a) All owners or occupants of single-family, duplex, or triplex ~~or fourplex~~ residential properties in the city shall deposit garden trash, properly contained, upon the swale area immediately in front of the premises of the person by whom such accumulation is made, away from trees, automobiles or other obstructions for removal and disposition ~~by the city~~ or subject to the restrictions of this chapter. Multi-family residences and commercial establishments shall deposit garden trash in a dumpster pursuant to section 9-12. Garden trash placed improperly for collection or placed too close to obstructions shall be considered a violation of this section. Property owners shall be notified to remove or relocate said garden trash before the next scheduled pickup day. Failure to relocate the garden trash within the specified time is subject to a civil penalty pursuant to chapter 2 of this Code.

(b) It shall be unlawful to place tree trunks or branches in excess of five (5) feet in length in position for removal and no single piece shall exceed fifty (50) pounds in weight. Should a property owner place a tree trunk or branches in position for pickup that exceed the size and weight limitations, the property owner shall be notified to modify the size of said tree trunk or branches by the next pickup day. Failure to modify the height and weight of the tree trunk or branches shall constitute a violation subject to a civil penalty pursuant to chapter 2 of this Code.

(c) Garden trash which has decayed, gives off offensive odors or attracts rodents shall be removed by the owner. A compost pile shall be allowed as long as it is properly maintained in accordance with the standards of the public works director and the Miami-Dade County Department of Environmental Resource Management. Unpaid charges for removal shall be and constitute a lien of equal dignity to special assessment liens under section 9-45 against the premises and shall become effective from the date upon which the account becomes due, unpaid and in arrears.

(d) Leaves, grass clippings, branches and other landscaping maintenance debris must be bagged, and shall not be blown, swept or placed into public or private roadways, storm drains, alleys or onto adjacent properties. Landscaping debris which is not bagged and properly disposed of, or is blown, swept or placed into public or private roadways, storm drains, or alleys or to adjacent properties, shall constitute a violation of this subsection, pursuant to chapter 2 of this Code.

Sec. 9-20. - Disposal or commingling of inherently dangerous materials or hazardous waste with garbage; prohibited.

It shall be unlawful for any person, desiring to dispose of acids, explosives, inflammables or any

hazardous substances or materials inherently dangerous to life or limb, to commingle the same with other refuse or garbage set aside for disposal. A violation of this section is subject to a civil citation or civil violation ticket per occurrence, pursuant to chapter 2 of this Code.

Secs. 9-21—9-29. - Reserved.

ARTICLE III. BUSINESS TAX RECEIPT FOR PRIVATE WASTE COLLECTORS

Sec. 9-30. - Business tax receipt required.

The requirements of this article are to ensure and facilitate the collection of the business tax, to provide uniformity and quality of service from private waste collectors, and to ensure safe, efficient, sanitary and qualified garbage and trash collection and disposal pursuant to this chapter.

(a) No person shall engage in the business of removing, disposing or collecting any kind of waste, garbage, trash, recyclable material, hazardous or industrial waste within the city without having been approved by the city, and having secured a business tax receipt for such individual activity. The business tax receipt will be issued when the applicant has paid the business tax and has met all applicable requirements as set forth in this chapter and chapter 11 of this Code. Business tax receipts for private waste collectors shall be classified as follows:

a. Franchise waste collectors;

b. Roll off waste collectors;

c. Recycling waste collectors; and

d. Hazardous waste collectors.

(b) The application shall:

(1) Be a written statement upon a form provided by the city. The form shall include an affidavit to be sworn to by the applicant before a notary public of this state;

(2) Require the disclosure of all information necessary in compliance with this article;

(3) Be accompanied by the full amount of the fees chargeable for such business tax receipt, which payment shall be held by the city clerk until a final determination as to the issuance of a business tax receipt is made by the city;

(4) Be accompanied by a description of the equipment to be used in the removal, transportation and disposal of waste, and the description of the method of collection to be employed including the location of all final disposal facilities; and

(5) Be accompanied by a sworn statement of the applicant attesting that there are no outstanding contracts for the collection of waste from commercial establishments and multi-family residences within the city between the applicant and any third party for the collection of garbage, trash, and industrial make. If any contracts exist as of the date of application, the sworn statement shall state that all commercial establishments and multi-family residences who are parties to the contracts have been extended in writing by the applicant on a form to be approved by the city.

Sec. 9-31. - Insurance required.

(a) Before actually commencing business, each private waste collector shall maintain the following insurance and shall furnish the original owner's protective liability policy to the city and also file with the city a certificate of insurance for all policies written in the waste collector's name. This certificate shall provide that the policies contain an endorsement requiring that the city shall be furnished with ten (10) days written notice by registered mail prior to any cancellation or material change in the policies.

(b) The private waste collector shall carry with a company authorized under the laws of the State of Florida workers compensation, occupational diseases and employer's liability coverage with minimum limits ~~of five hundred thousand dollars ($500,000.00) for each type of coverage~~ established by the city risk manager.

(c) The private waste collector shall carry a comprehensive automobile liability insurance policy with a minimum limit ~~of one million dollars ($1,000,000.00) combined single limit~~ established by the city risk manager. This policy shall list the city as additional insured.

(d) The private waste collector shall carry ~~a~~ comprehensive general liability coverage for operations other than automobile with minimum limits ~~of one million dollars ($1,000,000.00) per occurrence and aggregate limit~~ established by the city risk manager. The general liability coverage is to be written on an Insurance Services Office form and shall cover liability arising from premises, operations, independent contractors, products completed operations and personal injury. The city shall be listed as additional insured for commercial general liability.

(e) The above insurance requirements shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured or any property damaged by a commercial and multi-family residential private waste collector.

Sec. 9-32. - Vehicle and garbage container identification.

(a) Each vehicle operated and each garbage container located within the city under this chapter shall be conspicuously marked accordingly:

(1) *Vehicles.* On both sides of the vehicle with a plastic decal furnished by the city in an area of four (4) inches by sixteen (16) inches with the following information: "City of North Miami, I.D. #_____." The name of the private waste collector shall also appear on each vehicle used within the city.

(2) *Containers.* Private waste collector's name shall appear on the container. Unmarked or

improperly marked vehicles and containers are prohibited. Failure to properly mark or identify the private waste collector's vehicle or container will result the issuance of a civil citation or civil violation ticket per vehicle and/or container, pursuant to chapter 2 of this Code.

Sec. 9-33. - Vehicle permits.

Private waste collectors shall be required to have a valid vehicle class permit for each collection vehicle which shall be concurrent with the waste collection business tax receipt. Each vehicle shall display the vehicle class permit in a designated place on the vehicle.

Sec. 9-34. - Inspection of vehicles and garbage containers.

All vehicles and garbage containers shall be properly inspected by the city or any other local authority. The public works department may inspect all vehicles and garbage containers for proper maintenance and operation including but not limited to safety, cleanliness and licensure, prior to the issuance or the renewal of a business tax receipt, or at a time the public works director, shall deem it appropriate.

Sec. 9-35. - Business tax receipt required prior to doing business.

It shall be unlawful for any person, firm or corporation to operate, engage in or conduct any business involving the removal, collection or disposal of waste as defined by this chapter, in the city without a current valid business tax receipt. Conducting business without a business tax receipt constitutes a violation of this section subject to a civil penalty pursuant to F.S. § 205.053.

Sec. 9-36. - Renewal of business tax receipt requirements.

Business tax receipts shall be renewed only upon a satisfactory showing by a private waste collector that there is compliance with all of the provisions of this chapter, including payment of all required fees and submission of all required information, including audits and financial reports.

Sec. 9-37. - Collection standards; penalty for violation.

(a) All work relative to the collection and removal contemplated in this chapter shall be performed as scheduled and in a complete workmanlike manner. The private waste collector shall properly service all clients by placing all garbage containers in their proper locations in a litter-free and sanitary condition.

(b) Trucks utilized by private waste collectors as waste collection equipment shall consist of leak proof and enclosed bodies with compactors and sanitizing materials in each truck. Similarly, all dumpsters provided by a private waste collector shall be covered and be leak proof.

(c) Each private waste collector shall apply for a permit to place any container within the city. The permit application shall describe each desired location of the containers along with the container size and the applicant's business tax receipt number. No container shall be placed without prior approval of the public works department. Failure to submit the required container

placement permit application prior to placing the container within city limits is a violation of this subsection subject to a civil penalty per container, pursuant to chapter 2 of this Code.

(d) Each of the containers placed within the city limits shall be serviced and sanitized not less than once a week. The failure of a private waste collector to service and sanitize containers is a violation of this subsection subject to a civil penalty, pursuant to chapter 2 of this Code.

(e) The public works director shall have the power to order the removal by the private waste collector of all overflowing roll off containers. Failure to remove a container after being notified to do so shall be a violation of this subsection subject to a civil penalty pursuant to chapter 2 of this Code.

(f) It shall be unlawful for any private waste collector to store or leave their garbage container at a commercial enterprise if said commercial establishment is out of business or closed. All such garbage containers shall be removed within seven (7) days of the business closing. Failure of the private waste collector to remove their container from a closed commercial enterprise shall constitute a violation of this subsection, subject to a civil penalty pursuant to chapter 2 of this Code.

(g) If a private waste collector will cease waste collection service to any location due to non-payment of waste service fees, the private waste collector must notify the city in writing, the location of the account and the date that service will be interrupted along with any contact information for said account. Failure of the private waste collector to notify the city of such interruption of service shall be a violation of this section subject to a civil penalty pursuant to chapter 2 of this Code.

ARTICLE IV. FEES

Sec. 9-38. - Collection service and charge.

(a) Sanitation pick-up shall be twice each week from all residential units on a fixed schedule as determined by the public works department of the city. The owner, occupant, firm or corporation owning, occupying or managing such properties or receiving such sanitation service shall be jointly and severally liable for paying to the city the ~~following sums~~ collection services fee.

~~(1) *Single-family units; curbside collection.* Five hundred eighteen dollars and twenty-eight cents ($518.28) per year.~~

~~(2) *Duplex, triplex, and fourplex housing.* Five hundred eighteen dollars and twenty eight cents ($518.28) per year, for each residential unit.~~

~~(3) *Backyard collection surcharge.* One hundred sixty dollars and ninety-two cents ($160.92) per year.~~

~~(4) *Multi-family residences.* Three hundred sixty-eight dollars and eighty-eight cents ($368.88) per unit, per year.~~

~~(5) *Mobile homes.* Three hundred thirty-one dollars and twenty cents ($331.20) per year,~~

~~per space.~~

~~(6) *Hotels and motels.* One hundred ninety nine dollars and eighty cents ($199.80) per sleeping room, per year.~~

(b) Annual charges are due and payable in advance on the first day of October, quarterly charges are due and payable in advance on the first day of October, first day of January, first day of April, and the first day of July with monthly charges due when billed. All charges shall be adjusted yearly to increases in the consumer price index. If payment is not received by the city after notice is given, then the city may discontinue water service to the property until such time the account is paid in full.

Sec. 9-39. - Reserved.

Sec. 9-40. - Trash removal; excess trash charge; billing.

(a) Owners or occupants of commercial and non-commercial properties ~~single-family, duplex, triplex and fourplex residential units, apartment houses and mobile homes serviced by the city~~ are entitled to the removal ~~by the city~~ of up to ~~six (6)~~ eight (8) cubic yards of trash and other bulky items including household and commercial appliances from their premises according to the schedule established by the public works director, and upon the payment of the garbage collection charge. Trash and other bulk trash in excess of ~~six (6)~~ eight (8) cubic yards will be picked up at an additional charge ~~of fifteen dollars ($15.00) per cubic yard~~ in accordance with the city's administrative regulations.

~~(b) Apartment houses not serviced by the city, and commercial establishments shall be charged separately for collection of all trash and bulk trash including household and commercial appliances performed by the city in accordance with the city's administrative regulations.~~

(c) The finance department shall be responsible for billing and collecting fees for waste, trash and recycling collection ~~performed by the public works department~~, and shall keep records as will be reasonably sufficient to support the fees charged. The finance department is authorized to include the collection fee on the water bill of the owner or occupant of premises served, provided the fees are separately itemized.

Sec. 9-41. - Recycling service fee.

The recycling service fee ~~is~~ shall be established by administrative regulations ~~at a rate of thirty-seven dollars and ninety-two cents ($37.92) per year for each residential unit~~ for all serviced ~~by the city~~ properties, payable in monthly installments. The fee shall be applied, billed and collected in the same manner as fees above, and shall be treated as a garbage and trash charge for purposes of section 19-231(e) of the city code, which authorizes the discontinuance of water and sewer, garbage and trash services for non-payment of service fees.

Sec. 9-42. - Nonexclusive franchise fee.

(a) It shall be unlawful for any person, partnership, association or corporation to engage in the business of collecting, removing and transporting for disposal, from any commercial or

noncommercial property within the city, any solid waste or recyclable materials over the streets or public rights-of-way without first receiving the appropriate franchise from the city to carry on such business. The city reserves the right to issue an exclusive franchise or to award additional franchises or to utilize other solid waste collection programs.

~~(a)~~ (b) The private waste collector, granted a business tax receipt pursuant to article III, shall file with the public works director on forms provided by the city, a monthly report beginning thirty (30) days from issuance of a business tax receipt, under oath, stating the names and addresses, and contact information of all accounts serviced by the private waste collector, together with the gross receipts from each account, and shall pay to the city monthly, simultaneously with the filing of such report, the nonexclusive franchise fee, in a sum equal to twenty (20) percent of licensee's total gross receipts as reflected on each monthly report.

~~(b)~~ (c) For the purpose of this section, the term "gross receipts" shall mean the gross charges imposed/billed/assessed each account, before assessing the franchise fee, regardless of whether the private waste collector receives payment. The report and payment of the twenty (20) percent nonexclusive franchise fee shall be due from the private waste collector to the city on or before the fifteenth day of each month. There shall be a ten (10) percent monthly surcharge on the nonexclusive franchise fee payable to the city if the franchise fee is not timely paid by the private waste collector.

~~(c)~~ (d) The private waste collector shall, on or before the thirtieth day of September, deliver to the city a statement of its annual gross receipts generated from accounts within the city, certified by an independent certified public accountant reflecting gross receipts within the city for the preceding fiscal year. Failure to submit the required statement of annual gross receipts shall constitute a violation of this section subjecting the private waste collector to a denial of renewal of the business tax receipt or to the revocation of said business tax receipt.

Sec. 9-43. - Collection by the public works department.

The public works department shall be responsible for billing and collecting franchise fees from private waste collectors, and shall keep records as will be reasonably sufficient to support the fees charged.

ARTICLE V. PENALTIES; APPEAL

Sec. 9-44. - Denial of application; revocation of business tax receipt.

(a) The director of public works shall deny the application for a business tax receipt, or revoke the business tax receipt of any individual, partnership, or other incorporated or unincorporated business entity holding a business tax receipt under this chapter, where it is determined by the director of public works that the individual, partnership, or other incorporated or unincorporated business entity:

(1) Has a business tax receipt under suspension or revocation.

(2) Has materially misrepresented or failed to include the information mandated by the application of the business tax receipt.

(3) Is the subject of a code enforcement violation, a state or county law violation, or a violation of the zoning ordinance or other city ordinance. Said business tax receipt shall be withheld by the director of public works, until such time as said violation is corrected and all attendant fines are paid in full, or the code enforcement board, a special magistrate, or a court of competent jurisdiction issues an order directing the issuance of the business tax receipt.

(4) Has an unpaid balance of the franchise fees or other fees imposed by the city.

(5) Has failed to provide the city the statement of annual gross receipts generated from accounts in the city, certified by an independent certified public accountant, reflecting gross receipts within the city for the preceding fiscal year.

(6) Has failed to submit all the required information, including accounts, statements, annual reports, customer information and fees charged for each account within the city.

(7) Has breached or defaulted on any term or condition of the franchise agreement.

(b) Should the director of public works deny an application for a business tax receipt or revoke the business tax receipt of any individual, partnership, or other incorporated or unincorporated business entity, notice of such denial or revocation by certified mail shall be provided by the director of public works not later than ten (10) days after the director of public works takes such action. The notice of denial shall contain a statement of the reasons why the application was denied or the license revoked.

Sec. 9-45. - Lien for collection.

When waste collection service is provided to an owner or occupant, and the collection fee is unpaid and in arrears, such failure to pay the fee constitutes a lien against the premises and shall become effective and binding as such lien from the date upon which the account becomes due.

Sec. 9-46. - Right to appeal.

(a) The denial or revocation of a business tax receipt by the director of public works may be appealed to the special magistrate pursuant to section 2-112 of this Code. Within ten (10) days after the mailing of notice of denial of business tax receipt or the revocation of the business tax receipt the applicant, individual, partnership, or other incorporated or unincorporated business entity may make written request to the city clerk for a hearing before the city manager or city manager's designee. The notice of appeal shall be filed in writing no later than fourteen (14) days after the receipt of the certified letter advising applicant, individual, partnership, or other incorporated or unincorporated business entity of denial or revocation by the director of public works. The city clerk shall notify the city manager of such request.

(b) The city manager or city manager's designee shall fix the date and time for hearing the appeal. Said hearing shall be held within sixty (60) days after receipt of the notice of appeal. Both, the city and the applicant, individual, partnership, or other incorporated or unincorporated business entity may introduce such evidence and testimony as is deemed necessary. The special magistrate shall either affirm or reject the decision of the director of public works.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict herewith are repealed.

Section 3. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of 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. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

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

PASSED AND ADOPTED by a 3-2 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 10 day of January, 2012.

PASSED AND ADOPTED by a 3-2 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 24 day of January, 2012.

ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ROLAND C. GALDOS
INTERIM CITY ATTORNEY

SPONSORED BY: COUNCILMAN JEAN R. MARCELLUS

Moved by: Vice Mayor Marcellus

Seconded by: Mayor Pierre

Vote:

Mayor Andre D. Pierre, Esq.	X	(Yes)		(No)
Vice Mayor Jean R. Marcellus	X	(Yes)		(No)
Councilperson Michael R. Blynn, Esq.		(Yes)	X	(No)
Councilperson Scott Galvin		(Yes)	X	(No)
Councilperson Marie Erlande Steril	X	(Yes)		(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.