

ORDINANCE NO. O-06-2014

AN ORDINANCE OF THE CITY OF GREEN COVE SPRINGS, FLORIDA AMENDING CITY CODE CHAPTER 58 ENTITLED SOLID WASTE; ESTABLISHING SECTION 58-11 FOR A NON-EXCLUSIVE FRANCHISE SYSTEM FOR THE PROVISION OF CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION SERVICE; PROVIDING FOR FRANCHISE FEES; PROVIDING AUDITING AND REPORTING REQUIREMENTS; PROVIDING APPLICATION REQUIREMENTS; PROVIDING PROCEDURES FOR EITHER DENIAL OF APPLICATION AND SUSPENSION OR REVOCATION OF FRANCHISE; PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Green Cove Springs finds that regulation of the provision of containers for, and the collection of, construction and demolition debris from properties in the City will protect the health, safety and welfare of City residents; and

WHEREAS, in consideration for the granting of a franchise, the franchisee agrees to collect construction and demolition debris from all properties in the City.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA AS FOLLOWS:

Section 1. City Code Section 58-11 entitled "Non-exclusive franchise system for the provision of construction and demolition debris collection service" shall be added as follows:

Sec. 58-11. Non-exclusive franchise system for construction and demolition (C&D) service.

Section 1. General Provisions.

- (a) It shall be unlawful to commence or engage in the business of providing Construction and Demolition (C&D) service to properties in the City without a franchise issued by the City in accordance with this Section.
- (b) No franchise shall be awarded until the City determines that the franchisee is capable of complying with the requirements of this Section.
- (c) The term of each franchise issued on or after August 1, 2014 shall extend for one (1) calendar year, unless forfeited or revoked sooner as provided herein. All franchises shall require completion of an application, which shall be valid for the term of the franchise. A franchise, once granted, may not be assigned or transferred without the express written approval of the City.

- (d) Each franchise shall be subject to the Charter of the City of Green Cove Springs and this Ordinance. Each franchise shall be subject to, and franchisee shall abide by, all present and future laws, regulations, orders of regulatory bodies, City Code provisions, and administrative rules applicable to the performance of the collection services hereunder. Each franchisee shall obtain all licenses and permits presently required by Federal, State and local governments, and as required from time to time.
- (e) Each franchisee shall make available daily (except days when the landfill is closed) collection of construction and demolition debris. Collection shall begin no earlier than 7:00 a.m. and shall cease no later than 6:00 p.m. In the event of an emergency, a franchisee may collect at times not allowed by this Section, provided the City Manager or his/her designee grants prior approval, to be later evidenced by a written memorandum. If no written memorandum is obtained, there shall be presumption that the franchisee had not obtained prior approval.
- (f) Franchisee shall not be relieved of the obligation to promptly comply with any provision of the franchise by failure of the City to enforce compliance with the franchise.
- (g) The franchise granted hereunder shall not be exclusive. The City reserves the right to grant similar rights or franchises to more than one (1) person or corporation as well as the right in its own name to use its streets for purposes similar to or different from those allowed to franchisees hereunder.
- (h) A franchisee shall respond to and, if feasible, resolve all complaints received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to and, if feasible, resolve all complaints after 12:00 noon on any business day by 12:00 noon the next business day.
- (i) The City requires that all franchisees who provide C&D service containers observe the following guidelines:
 1. Each container must be kept painted in good condition at all times, unless the container is made of aluminum, stainless steel, or other similar materials that do not readily accept painting;
 2. Every container will be clearly marked on the front of the container with the following information: name and phone number of commercial hauler; a serial number or property control number; "No Parking", "Unauthorized Entry or Use Prohibited", and "Depositing of Flammable Liquids or Explosives Prohibited";
 3. Each container shall be free of rust holes, broken hinges or door fasteners and will have solid substantial bottoms with at least one (1) drain hole for purposes of cleanout;

4. Containers shall not be filled to a height exceeding the level of the highest portion of the container body or rim; and
5. Containers must be placed on private property and shall not be placed on either the travel portions of any sidewalk, pedestrian travel path, designated bicycle path, street, and alley within the City, without prior authorization from the City Manager or his/her designee.

(j) The required disposal site is the Rosemary Hill Transfer Station in Green Cove Springs, Florida.

(k) A franchisee shall not be deemed to be an agent of the City and shall be responsible for any losses or damages of any kind arising from its performance or non-performance under its franchise. The franchisee shall fully indemnify and hold the City and all named herein harmless from any and all claims, suits or other actions seeking financial damages and shall defend at its own expense or reimburse the City for its defense, at the City's option, on any and all claims and suits brought against the City, its elected or appointed officers, employees, and agents (herein also collectively called "City") resulting from the franchisee's performance or non-performance of service pursuant to the franchise.

(l) Each franchisee shall establish and maintain a presence within the Greater Jacksonville metro area in the State of Florida. A local telephone number where the commercial franchisee can be reached during and after business hours shall be given to the City Manager or his/her designee.

Section 2. Franchise Fees.

- (a) The franchisee shall pay as compensation to the City, for the rights and benefits granted hereunder, a fee equal to six hundred dollars and no cents (\$600.00) per year. This fee shall be due upon submittal of the C&D franchise application.
- (b) Payment of this franchise fee shall not exempt the franchisee from the payment of any other license, fee, tax, or charge on the business, occupation, property, or income of the franchisee that may be imposed by the City.

Section 3. Books, Records and Reporting Requirements.

- (a) Each franchisee shall file an annual report including a monthly total of tons of C&D materials collected and disposed of under this franchise as well as a monthly total of the gross revenues received as pertains to the materials collected and services provided under this franchise. This annual report shall be submitted to the City Manager or his/her designee within thirty (30) days of the conclusion of the franchise period under this section.

Section 4. Application Requirements.

(a) Application for a franchise hereunder shall be made to the City Manager or his/her designee on such forms and in such manner as prescribed by the City. Said forms will require, at a minimum, the following information to be accompanied by supporting documents and any such other information as may be required by the City:

1. If the applicant is a partnership or corporation, the name(s) or business address(es) of the principal officers and stockholders and other persons having financial or controlling interest in the partnership or corporation; provided, however, that if the corporation is a publicly owned corporation having more than 25 shareholders, then only the names and business addresses of the local managing officers shall be required.
2. The applicant for a permit under this Section, if an individual, or in the case of a firm, corporation, partnership, association, or organization, and any person having any controlling or managerial interest herein, may be required to provide criminal histories, if requested by the City Manager or his/her designee.
3. A statement whether such applicant operates or has operated a solid waste or construction and demolition collection business in this or any other state or territory under a franchise, permit, or license; and if so, where and whether such franchise permit or license has ever been revoked or suspended and the reasons therefor.
4. If applicant is a corporation, applicant shall submit proof that the corporation is in good standing in the state of incorporation and, if not, a Florida corporation, applicant shall provide information certifying that applicant is qualified to do business in the State of Florida. If applicant is other than a corporation and is operating under a fictitious name, applicant shall be required to submit information that such fictitious name is registered and held by the applicant.
5. The applicant for a franchise shall possess equipment capable of providing safe and efficient services. In making such a determination and approving the method of operation for each applicant, the City Manager or his/her designee shall require submittal of a list of the type, number and complete description of all equipment to be used by the applicant for providing service pursuant to this Section. The franchisee shall provide an updated list each year as part of the annual report required in Section 3(a). The City Manager or his/her designee may conduct an inspection of all equipment utilized in providing the services as outlined in the franchise.
6. The applicant shall maintain in full force and effect insurance as specified herein for all policies written in the applicant's name. A comprehensive general liability policy shall be maintained in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. This policy must also cover premises and/or operations.

independent contractors, products and/or completed operations. A comprehensive automobile policy shall be maintained in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. This policy must also cover owned vehicles, hired and non-owned vehicles. A worker's compensation policy shall be maintained in statutory limits in accordance with Florida law.

7. The Certificates of Insurance shall be filed by the applicant in the office of the City Manager or his/her designee and shall remain on file and in full force so long as the franchisee operates a franchise.
8. Whenever lawful, the City shall be named as an additional insured in all insurance policies required herein.
9. The applicant shall pay the City a franchise fee as prescribed in Section 3 at the time application is filed with the City Manager or his/her designee. The franchise fee for any application that is not approved shall be returned to the applicant immediately upon such denial of a franchise by the City.

- (b) The applicant shall execute Form PUR7058, SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES, including proper check(s) in the space(s) provided, and submit it with the application.
- (c) The applicant shall execute a Drug-Free Workplace Form in accordance with Section 287.087, Florida Statutes, and submit it with the application.

Section 5. Denial of Application; Suspension or Revocation of Franchise; Right of Appeal.

- (a) The City Manager or his/her designee shall be responsible for granting, denying, suspending, or revoking a franchise. The basis for such actions may include, but is not necessarily limited to the failure to meet the requirements of this Ordinance, violation of any provision of this Ordinance or any of the Ordinances of the City, or the laws of the United States or the State of Florida.
- (b) Prior to denial, suspension, or revocation, the applicant shall be given ten (10) days' notice of the proposed action to be taken and shall have an opportunity to present to the City Manager or his/her designee evidence as to why the franchise should not be denied, suspended, or revoked within the ten (10) day period. The notice of intention of denial, suspension, or revocation shall be served upon the applicant or franchisee by registered mail or personal service.
- (c) Any applicant or franchisee whose franchise is denied, suspended, or revoked by the City Manager or his/her designee may appeal the decision to the City Council. The appeal shall be taken by filing a written appeal, in duplicate, with the City Clerk within ten (10) after the decision of City Manager or his/her designee to deny, suspend, or revoke the application of franchise. The City Manager or

his/her designee shall forthwith transmit copies of the appeal to the City Council along with all papers constituting the record upon which the action appealed is based. The City Manager or his/her designee shall place the appeal on the agenda of the next regularly scheduled City Council meeting which is not less than ten (10) days from the date of the filing of the appeal. The City Council shall review the record and decide whether or not to uphold the decision of the City Manager or his/her designee. The City Council shall render its decision in writing within ten (10) days of the meeting and it shall constitute a final administrative action.

Section 2. Repealer. Any Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 3. Severability. The various parts, sections, and clauses of this Ordinance are hereby declared severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

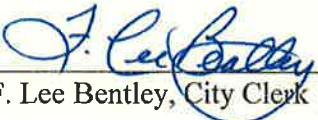
Section 4. Effective Date. This Ordinance shall become effective upon passage.

INTRODUCED AND APPROVED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, ON THIS 3RD DAY OF JUNE, 2014.

CITY OF GREEN COVE SPRINGS, FLORIDA

C. Felecia Hampshire
C. Felecia Hampshire, Mayor

ATTEST:


F. Lee Bentley, City Clerk

PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF
THE CITY OF GREEN COVE SPRINGS, FLORIDA, THIS 17TH DAY OF JUNE, 2014.

CITY OF GREEN COVE SPRINGS, FLORIDA

C. Felecia Hampshire
C. Felecia Hampshire, Mayor

ATTEST:

F. Lee Bentley
F. Lee Bentley, City Clerk

APPROVED AS TO FORM:

L. J. Arnold, III
L. J. Arnold, III, City Attorney