

ORDINANCE NO. 1942

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 7, HEALTH AND SANITATION, SECTION 8 COMMERCIAL WASTE COLLECTION FRANCHISE, TERRELL CITY CODE, REVISED; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

ARTICLE I.

THAT, Chapter 7, Health and Sanitation, Section 8 Commercial Waste Collection Franchise, Paragraph I. Street Use Fees be deleted in its entirety and replaced with the following:

I. STREET USE FEES

In consideration of the grant contained in Paragraph 1 hereof, the Franchisee agrees to pay to the City a street use fee equal to *(the greater of \$500.00 per month or four percent (4%)* eight percent (8%) of the gross receipt collected by the Franchisee from contracted solid waste accounts for services rendered under the provisions of this Franchise, said fees to be paid monthly. Additionally, the Franchisee will provide, on an “as needed” basis, commercial collection of three (3) yard container routes if requested by the City.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE IV.

This ordinance will take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED THIS _____ DAY OF _____ 1998.
PASSED AND ADOPTED THIS _____ DAY OF _____ 1998.

HENRY C. MADGWICK, SR., MAYOR

ATTEST:

JOHN ROUNSAVALL, CITY SECRETARY

APPROVED AS TO FORM:

MARY GAYLE RAMSEY, CITY ATTORNEY

**CITY OF TERRELL
INTEROFFICE CORRESPONDENCE
SEPTEMBER 15, 1998**

TO: MARY GAYLE RAMSEY
CITY ATTORNEY

FROM: LINDA SEABOLT
ASST. CITY MANAGER

SUBJ: FRANCHISE ORDINANCE

IN REVIEWING THE WASTE DISPOSAL FRANCHISE AGREEMENT, IT WAS BROUGHT TO OUR ATTENTION THAT THE STREET USE FEE IS CURRENTLY THE GREATER OF \$500.00 PER MONTH OR FOUR PERCENT (4%) OF GROSS RECEIPTS. IN THE CASE OF WASTE DISPOSAL - \$500.00 PER MONTH. THIS IS THE REQUIREMENTS OF THE CITY'S CODE.

WASTE MANAGEMENT'S CONTRACT WAS NEGOTIATED AT A STRAIGHT 8% OF GROSS RECEIPTS.

MR. ROGERS, MR. PIERCE AND I HAVE DISCUSSED THAT IN ALL FAIRNESS, WASTE DISPOSAL SHOULD BE ASSESSED AT THE SAME RATE AS WASTE MANAGEMENT = 8% OF GROSS RECEIPTS.

THE ONLY PROBLEM IS THAT THE CITY CODE SPELLS OUT "GREATER OF \$500.00 PER MONTH OR FOUR PERCENT (4%)"..... THE CODE NEEDS TO BE REVISED TO REFLECT 8% OF GROSS RECEIPTS. IT IS TIME TO REVIEW WASTE DISPOSAL'S CONTRACT AND MAKE NEGOTIATED CHANGES. PLEASE REVIEW THE ATTACHED ORDINANCE AMENDING THE CODE AND MARK UP AS NEEDED.

IT IS TIME TO REVIEW WASTE DISPOSAL'S CONTRACT AND RECOMMEND EXTENSION OF CONTRACT AND ANY CHANGES NEGOTIATED WITH SAME.

