

ORDINANCE NO. 2016-959

AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, ADDRESSING CANCELLATION OF SUNSHINE DISPOSAL, INC.'S WUTC PERMIT FOR SOLID WASTE COLLECTION IN CERTAIN ANNEXED AREAS AND GRANTING A SEVEN-YEAR FRANCHISE TO SUNSHINE DISPOSAL, INC., PURSUANT TO RCW 35A.14.900; CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Deer Park previously annexed certain real property contiguous to the city limits through the passage of Ordinance No. 2007-851; and

WHEREAS, such annexed area is more fully described within the above-referenced annexation ordinance; and

WHEREAS, Sunshine Disposal, Inc. ("Sunshine") holds a certificate, issued by the Washington State Utilities and Transportation Commission ("WUTC") authorizing the collection of solid waste, Certificate No. G-199, which is incorporated herein by reference as if fully set forth; and

WHEREAS, pursuant to RCW 35A.14.900, the annexation by the City cancelled Sunshine's WUTC certificate in those annexed areas from the effective date of the annexation; and

WHEREAS, Sunshine has continued to serve the annexed area to the present date; and

WHEREAS, pursuant to RCW 35A.14.900, the City is required to grant an exclusive franchise for garbage collection and/or disposal to the holder of any existing franchise or permit from the state of Washington to continue such business within the annexed territories for a term of not less than seven (7) years; and

WHEREAS, RCW 35A.14.900 provides a mechanism for the orderly transfer of solid waste collection activities from a private certificate holder to the City and authorizes the City to provide for the continuation of solid waste collection within the annexed areas; now, therefore,

THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Unless otherwise agreed in writing between Sunshine and the City, or the City exercises its rights pursuant to RCW 35A.14.900 to extend similar competing services upon a showing of Sunshine's inability or refusal to service the annexed area at a reasonable price, the City hereby grants Sunshine an exclusive franchise to provide solid waste collection services, as those services now exist, pursuant to Sunshine's WUTC permit, within those annexed areas described in the annexation ordinances identified below. This franchise may not be transferred, assigned, sold or in any manner conveyed without the prior express written approval of the City Council.

Section 2. The real property to which this franchise applies is as described in Ordinance No. 2007-851.

Section 3. The term of the franchise granted herein shall be for a period of seven (7) years from the effective date of this Ordinance.

Section 4. This franchise supersedes all oral and written negotiations, authorizations, ordinances, permits, and agreements pertaining to the annexed area set forth in Section 2 of this Ordinance.

Section 5. The City retains full authority to regulate and tax Sunshine as authorized by law and to require franchisee to dispose of all materials, garbage and refuse collected in designated

landfills or other solid waste disposal sites designated by the City Community Services Director and to pay applicable rates therefore.

Section 6. Sunshine shall perform its own billing and collection fee services and shall charge fees as provided in Certificate No. G-199, as the same exists now or may be hereafter amended.

Section 7. Complaints against Sunshine may be heard and decided by the City Community Services Director. The decision of the Community Services Director shall be final and binding, but no revocation of the franchise shall occur without a hearing before and decision made by the City Council.

Upon receiving a complaint, the Community Services Director shall notify Sunshine in writing within five business days. Sunshine shall have five business days from the date of receipt of the City notice to respond in writing. The Community Services Director shall take appropriate action and may make recommendations to the City Council if revocation or partial revocation is recommended. The City Council shall set the matter for public hearing within 30 days after receipt of the City Community Service Director's recommendation. The City Council's decision upon revocation or partial revocation shall be final.

Section 8. The City reserves the right to revoke the privileges extended to Sunshine in whole or in part, should the City determine Sunshine is unwilling or unable to provide adequate service to the annexed areas at a reasonable price with adequate service based upon safe, sanitary and reliable service, or in the event Sunshine violates the conditions of this franchise, applicable laws or ordinances, or otherwise adversely affects the public health and safety. The City Council's decision shall be final.

Section 9. Absent regulatory action by the City, operation by Sunshine in compliance with Chapter 81.77 RCW, the rules and regulations of the WUTC, and the ordinances and rules governing operations of the City of Deer Park Public utilities and public works, all as the same exist now or may be hereafter amended, shall establish a rebuttable presumption of adequate service at a reasonable cost.

Section 10. Sunshine shall extend service within the franchise territory to persons requesting said service unless other arrangements are made in writing with the City of Deer Park. The City Council may make reasonable rules and regulations as may be required to secure adequate and proper service to the public.

Section 11. This franchise is granted pursuant to state law and is not to be construed as appointing Sunshine as an agent of the City for the performance of any municipal, governmental or proprietary function. The City assumes no liability for the acts or omissions of Sunshine and assumes no responsibility for solid waste collection and disposal in the territory described in this franchise.

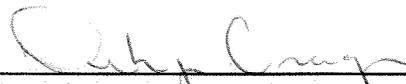
Section 12. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 13. This Ordinance shall take effect and be in full force five (5) days after publication of a summary of this Ordinance.

APPROVED:


MAYOR ROBERT WHISMAN

ATTEST/AUTHENTICATED:


CITY CLERK, DEBY CRAGUN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

BY 
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK:	<u>February 3, 2016</u>
PASSED BY THE CITY COUNCIL:	<u>February 17, 2016</u>
PUBLISHED:	<u>February 20, 2016</u>
EFFECTIVE DATE:	<u>February 25, 2016</u>
ORDINANCE NO.:	<u>2016-959</u>

SUMMARY OF ORDINANCE NO. 2016-959

of the City of Deer Park, Washington

On the 17th day of February, 2016, the City Council of the City of Deer Park, Washington, passed Ordinance No 2016-959. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, ADDRESSING CANCELLATION OF SUNSHINE DISPOSAL, INC.'S WUTC PERMIT FOR SOLID WASTE COLLECTION IN CERTAIN ANNEXED AREAS AND GRANTING A SEVEN-YEAR FRANCHISE TO SUNSHINE DISPOSAL, INC. PURSUANT TO RCW 35A.14.900; CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 18th day of February, 2016.



CITY CLERK, DEBY CRAGUN