

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

CITY CLERK DEPT.

DEPARTMENT: ENVIRONMENTAL SERVICES

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AGENDA DATE: INTRODUCTION: FEBRUARY 6, 2007; PUBLIC HEARING: FEBRUARY 20, 2007

CONTACT PERSON/PHONE: ELLEN A. SMYTH P.E., DIRECTOR, ENVIRONMENTAL SERVICES 621-6719

DISTRICT(S) AFFECTED: ALL

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An Ordinance amending Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management) in its entirety to add Article X, Construction Debris and to Revise the Requisite fees the penalty being as provided in Section 9.04.390 of the El Paso City Code.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Environmental Services is recommending that Title 9.0 Chapter 9.04 be revised in it's entirety in order to update many of the sections. The changes include updates to the definitions to current industry standards. Also, added definitions to make the ordinance more user-friendly. Specifically:

1. Clarified that Class A generators include detached and attached single family dwellings, duplex, triplex and quadruplex residences, townhomes and other single-family. 9.04.040 A.
2. Added to the Class A generator residences located in Mobile Home Districts, 9.04.040 A.
3. Added a new Class of solid waste generator, Class D to include all generators located within the Downtown Management District (DMD). The proposed ordinance also clarifies the type of containers that may be used, where they may be located and the frequency of service within the DMD, 9.04.040.D, 9.04.050.D, 9.04.060.C and 9.04.070.
4. Clarified the container placement curbside exemption rules:
 - a. The exemption is only available to eligible persons living alone or with another eligible person.
 - b. The exemption is only available for one container only.
 - c. The exemption does not entitle the eligible person to receive the Senior or Disabled Citizen Discount.
5. Restricted the DMD generators to receive solid waste collection services from the Department only.
6. Introduced regulations for the upcoming curbside recycling program.
7. Clarified that the curbside recycling program is mandatory.
8. Clarified that monthly fees, set by Council resolution, will be assessed to non-participants and those excluded from the program because of excessive violations of the rules.
9. Required that all appeals of denial, suspension or revocation of solid waste permits be heard by the City Manager and the decision will be final.
10. Clarified the type of asbestos that may be accepted by the landfill for disposal.
11. Introduced new regulations to regulate litter.
12. Clarified the rules for tall weeds and grass by requiring that all tall weeds and grasses taller than twelve (120 inches be removed from all lots 2 acres or less in size or within 100 feet of the curblines, private or public school, or private public property line.
13. Set up some grounds for exemption from the tall grasses rule.

- 14. Clarified that the City will abate tall weeds and grasses after original notice has expired and no compliance taken place. Also, clarified that future violations occurring within 12 months of the original notice will be abated by the City without further notice. In all cases, the property owner will be assessed the cost of clean-ups performed by the City.
- 15. Changed the notice given to property owners to remove tall grasses and weeds from twenty (20) to seven (7) days.
- 16. Changed the notice provided to property owners to pay the City for performed abatement from sixty (60) days to thirty (30) days.
- 17. Imposed a fee for uncovered loads received at the landfill.
- 18. Introduced rules for the management of construction debris.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

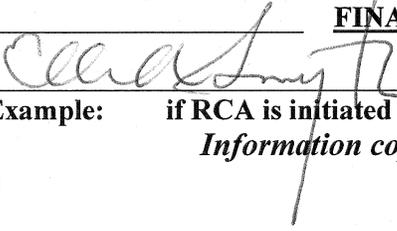
No budget transfer is required.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD:  _____
 (Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____
AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04
(SOLID WASTE MANAGEMENT) IN ITS ENTIRETY TO ADD ARTICLE X,
CONSTRUCTION DEBRIS AND TO REVISE THE REQUISITE FEES THE PENALTY
BEING AS PROVIDED IN SECTION 9.04.390 OF THE EL PASO CITY CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Chapter 9.04, Solid Waste Management, shall be revised to read as follows:

ARTICLE I - GENERAL

9.04.010. Creation and Purpose of Department.

The city is responsible for public health, cleanliness and sanitation in El Paso. The purpose of this chapter is to provide for protection of the health, safety and welfare of the residents of the city by prescribing minimum standards for the generation, storage, collection, transportation and disposal of solid waste and related matter, by providing for the issuance of licenses of various classes to persons engaging in those activities, by providing for the payment of fees, and by providing for enforcement techniques, including inspections of premises and equipment, the revocation of licenses and the issuance of citations. The Department of Environmental Services was created to carry out this purpose as well as to oversee and perform duties and services relating to areas of environmental concerns as to be determined by the City Manager. In partial furtherance of the purpose discussed herein, curbside recycling reduces the amount of refuse sent to landfills.

9.04.020 Responsibility for Compliance.

- A.** The owner, agent and occupant of any residence, business establishment, industry, institution or other premises shall be jointly and severally responsible for the sanitary condition of and for proper storage, containment and provision for collection of solid waste generated on or by or accumulating on or at such residence, business establishment, industry, institution or other premises, in accordance with the provisions of this chapter.
- B.** Any person, company or corporation who undertakes to collect, transport or dispose of solid waste shall be responsible for compliance with the sections of this chapter.

9.04.030 Definitions.

As used in this chapter the following terms shall have the following meanings:

- 1. "Brush"** means the cuttings or trimmings from trees, shrubs or lawns and similar materials.
- 2. "Citizen Collection Station (CCS)"** means a facility established for the convenience and exclusive use of residents (not commercial or industrial users or collection vehicles).
- 3. "Collection"** means the act of removing solid waste, or materials which have been separated for the purpose of recycling, for transport elsewhere.

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4. **“Commercial Handbill”** means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:
 - (A) which advertises for sale any merchandise, product, commodity or thing; or
 - (B) which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
 - (C) which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or
 - (D) which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
5. **“Compacted waste”** means waste that has been compressed or reduced into a smaller volume by any mechanical means.
6. **“Construction debris”** means waste building materials resulting from construction, remodeling, repair or demolition operations.
7. **“Department”** means the department of Environmental Services.
8. **“Director”** means the director of the Department.
9. **“Disposal facility”** means a duly permitted landfill or transfer station.
10. **“Dwelling Unit”** means:
 - (A) A single unit providing independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation, or
 - (B) One or more rooms within a building arranged, designed or used for residential purposes for one or more persons and containing independent sanitary and cooking facilities.
11. **“Garbage”** means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products.
12. **“Generator”** means any person, by site or location, whose act or process produces solid waste.
13. **“Hard-surfaced path”** means a surface of asphalt paving, brick, brick pavers, concrete, concrete pavers or firmly compacted gravel or other comparable surfaces.
14. **“Hazardous waste”** means any solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the

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Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, as amended, or any successor federal statute or implementing regulation.

15. **“Household hazardous waste”** means household materials such as paints, pesticides, oils, cleaners, solvents, batteries, polishes and similar products that could be hazardous to the environment if used, stored, or disposed of improperly. If placed in the trash, these wastes may injure sanitation workers; if poured onto the ground or into waterways, they may contaminate drinking-water supplies.
16. **“Industrial solid waste”** means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, classified as class I, class II or class III in accordance with regulations of the state or federal government.
17. **“Inert material”** means a naturally occurring nonputrescible material which is essentially insoluble, such as soil, dirt, clay, sand, gravel and rock.
18. **“Infectious waste”** means waste containing pathogens or biologically active material which because of its type, concentration and quantity is capable of transmitting disease to persons exposed to the waste. “Infectious waste” includes human or animal tissue, bandages and other materials used in health care which are contaminated by pathogenic materials.
19. **“Landfill”** means a solid waste management unit where solid waste is placed in or on land and which is not a pile, a land treatment unit, a surface impoundment, an injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.
20. **“Litter”** means “garbage,” “refuse” and “rubbish” as defined herein and all other waste material.
21. **“Municipal solid waste”** means solid waste resulting from or incidental to municipal, community, commercial, institutional and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals and all other solid waste other than industrial solid waste.
22. **“Newspaper”** means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
23. **“Noncommercial Handbill”** means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
24. **“Park”** means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.
25. **“Parkway”** means the area from the property line to the curb or to the beginning of the street, excluding the sidewalk, if any.
26. **“Person”** means any person, firm, partnership, association, corporation, company or organization of any kind.

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27. **“Private Premises”** means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
28. **“Putrescible waste”** means solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or are capable of providing food for or attracting birds, animals and disease vectors.
29. **“Recyclables”** mean material that has been recovered or diverted from the nonhazardous solid waste stream for purposes of reuse, recycling, or reclamation, and a substantial portion of which is consistently used in the manufacture of products, which may otherwise be produced using raw or virgin materials. Recyclables are not solid waste. Recyclables are newspapers, magazines, corrugated containers, household office paper and mail, steel food cans, aluminum cans and plastics #1 and #2. Recyclables do not include radioactive, volatile, highly flammable, explosive, biomedical, infectious, toxic or hazardous waste, yard waste, or tree limbs.
30. **“Residence”** means a dwelling place occupied by a person or a group of persons as a place of habitation such as a house, house trailer, condominium, apartment, but not including a hotel or motel.
31. **“Rubbish”** and **“Refuse”** mean nonputrescible solid wastes (excluding ashes), consisting of both combustible and noncombustible waste materials, such as paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).
32. **“Sludge”** means any solid, semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effect, exclusive of the treated effluent from a wastewater treatment plant.
33. **“Solid waste”** means garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:
 - (A) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code, Chapter 26;
 - (B) Soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements;
 - (C) Waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous

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waste as defined by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended; or

(D) Recyclables.

34. **“Solid waste management unit”** means a landfill, surface impoundment, waste pile, furnace, incinerator, kiln, injection well, container, drum, salt dome waste containment cavern, land treatment unit, tank, container storage area, or any other structure, vessel, appurtenance, or other improvement on land used to manage solid waste.
35. **“Special waste”** means any solid waste or combination of solid waste that because of its quantity, concentration, physical or chemical characteristics or biological properties requires special handling and disposal to protect the human health or the environment.
36. **“Storage”** means the holding of solid waste for a temporary period, at the end of which the solid waste is processed, disposed of or stored elsewhere.
37. **“Storage container”** means a manually or mechanically emptied container used for the temporary storage of solid waste between collections as further described in this chapter as type A or type C.
38. **“Transfer station”** means a fixed facility used for transferring solid waste from collection vehicles to long-haul vehicles (one transportation unit to another transportation unit). It is not a storage facility such as one where individual residents can dispose of their wastes in bulk storage containers that are serviced by collection vehicles.
39. **“Triple rinse”** means to rinse a container three times using a volume of solvent equal to ten percent of the volume of the container or liner for each rinse.
40. **“Type A container”** means an approved wheeled rollout plastic cart with a nominal capacity of 96 gallons and having a lid that closes.
41. **“Type C-1 container”** means an approved container with closeable doors and lids, including the common overhead dump container or the enclosed compactor container.
42. **“Type C-2 container”** means an approved open-top container commonly referred to as roll-off.
43. **“Type R container”** means:
 - (1) An approved wheeled rollout plastic container owned by the City, having a lid that closes, and made available to residents participating in the City’s curbside effort; and
 - (2) A receptacle used exclusively for the storage of recyclables until they are collected.
44. **“Uncompacted waste”** means waste in a loose, natural state.
45. **“Vector”** means an agent, such as an insect, snake, rodent or animal capable of mechanically or biologically transferring a pathogen from one organism to another.
46. **“Wastewater treatment facility”** means a facility such as a sewage treatment plant, permitted by the appropriate state authority.

ARTICLE II - GENERATORS

9.04.040 Generators.

Generators of solid waste and recyclables are classified as follows:

- A. **Class A.** Detached single-family, duplex, triplex, townhomes and other single-family residences, and mobile home subdivisions (as referred to in Title 20). For purposes of this Chapter 9.04, a duplex means two attached or detached living units within a site, a

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triplex means three attached or detached units within a site, and a mobile home subdivision means one or more single-family manufactured homes placed on separate mobile home subdivision lots.

- B. **Class B.** Multifamily residential structures and complexes of ten or fewer dwelling units and mobile home parks (as referred to in Title 20). Class B also includes licensed day care facilities, foster homes and adult day care facilities, as well as all institutional and commercial establishments generating no more than six hundred forty gallons of waste weekly.
- C. **Class C.** Multifamily residential structures or complexes of eleven or more dwelling units, and all other solid waste generators not included in class A or class B.

ARTICLE III - STORAGE

9.04.050 Container Types.

Generators of solid waste and recyclables shall provide or utilize storage containers of the sizes, type and number specified in this chapter. Except as otherwise provided in this chapter, all storage containers shall be reasonably waterproof, leak proof and secure from spillage or escape of litter and safe for handling by the appropriate collection agency. The Director may refuse to collect waste from any container that does not meet these requirements.

A. **Class A.** Class A generators shall provide or utilize storage containers of the following types:

1. **Type A Containers.**

2. **Type C-1 Containers.**

Type C-1 containers may be used for the storage of equine, bovine and other domesticated animal waste when allowed by the Director.

3. **Type C-1 and Type C-2 Containers.**

Type C-1 and Type C-2 containers may be used to store construction debris at residential construction sites having a valid building permit, if the containers are located in accordance with Section 9.04.060 of this chapter.

4. **Type R Recyclables Containers.**

B. **Class B.** Class B generators shall provide storage containers as follows:

1. Class B generators authorized to use the City automated collection service shall utilize Type A storage containers of the type and size prescribed for Class A generators. The storage containers shall be located in accordance with Section 9.04.060 of this chapter.

2. When requested by the owner, agent or occupant of the premises, the Director shall authorize the use of Type C containers upon determining the following:

a. The premises served have adequate area for the number and size containers required;

b. The container location allows adequate access for the collection vehicle; and,

c. The container will be in an unobstructive location and screened to minimize visibility from public streets, sidewalks and adjacent property.

3. Class B generators authorized to use central container type collection shall have containers of the type, size and minimum number prescribed for Class C generators.

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4. Type C containers may be placed into service prior to approval, but shall be subject to removal or relocation at the Director's direction. If a container is so placed, the collection service supplying the container shall notify the city, within three (3) days of the container's placement, and shall request an inspection. Such container location and service shall be allowed temporarily until an inspection is made and approval is either denied or granted, either with or without conditions.
- C. **Class C.** Class C generators shall use mechanically handled storage containers of the following types:
1. Type C-1;
 2. Type C-2 containers may be used at construction sites for storage of construction debris and by commercial and industrial generators for nonputrescible wastes that will not readily become wind-borne.

9.04.060 Container Location.

A. Type A and Type R Containers.

On days of collection and on routes not serviced from alleys, Type A and Type R containers must be placed in the parkway, if existing, adjacent to the curblin on the owner's, agent's, or occupant's premises in a manner which does not obstruct sidewalks, pedestrian or vehicular traffic and shall not constitute a hazard. Placement on the day of collection shall be at least by five a.m. but not earlier than six p.m. the night before the day of collection. Containers shall not be left in the pick-up area after seven p.m. on the day of collection.

1. Containers shall be placed with arrow on top of the lid facing towards the street. Containers shall have at least two (2) feet distance between them.
2. Containers shall not be placed more than three (3) feet from the curb and not closer than four (4) feet from a mailbox, tree, cable, electrical, telephone box or a parked vehicle.
3. Curbside Exemption Policy:
 - a. Persons approved by the Department may continue to place containers at the side yard such that the container shall not obstruct sidewalks or pedestrians. Placement on collection day shall be outside any gated or fenced area.
 - b. Persons eligible for an exemption are as follows:
 - i. Persons who are the primary water account holder and meet the criteria for the one hundred percent (100%) disabled discount, pursuant to Section 9.04.400.
 - ii. Eligible persons are those living alone (or with another in the same condition) who are elderly, ill or disabled and are incapable of transporting their solid waste or recycling container to the curblin.
 - iii. Personnel of the Department shall not enter dwelling units to retrieve containers. No carryout service shall be performed if, in the opinion of the Director, the terrain presents a safety hazard for equipment operators or collection vehicles.
 - iv. Curbside exemption service is limited to one Type A and one Type R container.

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- v. Persons receiving the curbside exemption service are not entitled to a discount under Section 9.04.400.
 - vi. The Director shall have the authority to investigate and verify, from time to time, either by personal contact by a Department official or by mailout verification, that applicants continue to be eligible for the curbside exemption.
4. On collection routes serviced from alleys, containers shall be placed in the alley adjacent to the premises, in a readily accessible location which does not interfere with vehicular or pedestrian traffic. In any case where the containers constitute a nuisance or eyesore to persons in the immediate vicinity, the Director may give written notice that the containers must be kept on private property and placed in the alley only on days of collection.

B. Type C Container.

- 1. All type C containers shall be located on the premises serviced, except when the City Engineer and the Director both determine:
 - a. Placement on the premises is not reasonable and practical; and
 - b. Placement on public right-of-way will not unreasonably interfere with pedestrian or vehicular traffic and will not constitute a hazard or be a visual or other public nuisance, or placement in public right-of-way is necessary during a construction project.
- 2. When placement of a type C container in a public right-of-way other than an alley is authorized, the generator or commercial hauler shall pay a fee for use of such right-of-way as prescribed by City Council Resolution.

C. El Paso Downtown Management District. If the container assigned to an account located within the boundaries of the El Paso Downtown Management District, as defined in Resolution dated September 3, 1996, does not fit on the curb in front of the residence or business establishment, then the container shall be placed in the alley. The Director shall determine the appropriate location for such container if neither the curb nor the alley is adequate for placement of the container to be accessible for collection by the Department.

9.04.070 Number and Size of Containers.

- A. Class A generators, which shall include generators of recyclables, are required to have at least one (1) Type A and one Type R container per site being served.
- B. Class B and class C residential generators other than hotels and motels, authorized to use type C-1 containers shall provide a storage capacity in cubic yards equal to 0.2 multiplied by the number of bedrooms at the site being served and divided by the number of times the containers are emptied per week.
- C. Mobile homes shall be deemed to have two and one-half bedrooms each.
- D. There is no set formula for other class B and class C generators.

9.04.080 Adequacy of Containers.

Regardless of the minimum number of containers specified in this chapter, all generators must use containers of adequate size, in adequate number and collected with sufficient frequency so that all solid waste is properly and securely stored between collections and no waste spills from containers or accumulates on the premises.

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9.04.090 Placing Refuse and Recyclables in Containers.

- A. Except as required in Sections 9.04.110, 9.04.160 and 9.04.170, all solid waste shall be placed in approved containers and recyclables shall be placed in Type R containers or other containers used solely and exclusively for storage of recyclables prior to placing recyclables in Type R containers for curbside service or except as provided for herein.
 - 1. No person shall place solid waste or recyclables outside or on top of containers for collection and shall not overflow said containers.
- B. No person shall place any solid waste or recyclables in the container of another, unless permitted to do so by the owner or licensee of that container.
- C. All household solid waste, leaves, weeds and grass cuttings shall be bagged and securely tied before being placed in solid waste containers. Solid waste shall be drained of all liquids and placed in closed bags before being placed in solid waste containers.
- D. Hazardous waste shall not be collected, transported or disposed of unless in full compliance with local, state and federal regulations regarding transportation and disposal of such material. Hazardous waste shall not be placed in containers for regular solid waste or recyclables collection and disposal.

9.04.100 Animal Waste and Dead Animals.

- A. Waste from animals kept as pets must be placed in plastic bags securely tied and then placed in the container used for regular waste collection.
- B. Waste from equine, bovine and other animals that are permitted to be kept in residential occupancies may be placed in Type C-1 containers, when allowed by the Director.
- C. Waste from animals kept or boarded for commercial or institutional purposes may be placed in a Type C-1 container, when allowed by the Director. Such container shall be kept tightly closed and collected as often as necessary to prevent occurrence of a public nuisance or health hazard, but not less often than once weekly.
- D. The Director may authorize use of a Type C-2 container for storage of animal wastes generated by commercial or institutional animal husbandry in a volume of more than fifteen (15) cubic yards per collection. Such containers must be located in such a place, and collected as often as necessary to prevent occurrence of a public nuisance or health hazard. Collection frequency shall be not less than once weekly.
- E. Dead animals shall not be placed in collection containers but shall be subject to special collection as provided in Section 9.04.210 of this chapter.

9.04.110 Bulky Materials.

At locations authorized to use Type A containers, bulky materials may be placed for special collection as provided in Section 9.04.210.

9.04.120 Cleanliness of Container Area.

The owner, agent and occupant of any premises where containers are located are responsible for maintaining the area around such containers in a clean and sanitary condition, free of litter or any other accumulation of solid waste.

9.04.130 Maintenance of Container.

The customer using the container shall be responsible for maintaining the container in a serviceable and nuisance free condition. In the event a container becomes damaged, the

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Department shall be contacted for repairs or replacement of the container. The Department may assess a fee, set by City Council Resolution, for replacement of damaged containers.

9.04.140 Closure of Containers.

All containers, except for Type C-2 containers, must be kept closed at all times, except when being filled or emptied.

9.04.150 Identification of Containers.

All Type C containers must be identified with the name of the owner or agency providing such containers, or by a paint scheme or decal which is distinctive to the owner or providing agency.

A. Additionally, the address(es) of service of all containers, regardless of type, assigned to a site located within the boundaries of the El Paso Downtown Management District, as defined in Resolution dated September 3, 1996, shall be identified on each container.

9.04.160 Storage of Salvageable Materials.

Salvageable materials, including cardboard, newsprint, aluminum cans and computer paper, may be stored in the approved Type R container, but need not be stored in approved containers as previously specified. The materials must, however, be stored on the premises in a manner that is not a public nuisance or which constitutes littering.

9.04.170 Medical and Infectious Waste Management.

Medical and infectious waste shall be managed in accordance with the regulations of the State and other applicable laws.

ARTICLE IV – COLLECTION AND TRANSPORTATION

9.04.180 Authorized Collection Agencies.

All solid waste shall be collected by an agency authorized to collect and transport solid waste in accordance with this chapter. Authorized agencies are required to have all State and local permits, licenses and registrations as required by law. Authorized agencies shall include:

- A.** The Department;
- B.** A person, business, institution or agency holding a valid solid waste operation permit, including but not limited to the following:
 - 1.** Persons, businesses, institutions or agencies engaging in the collection, transportation and disposal of solid waste, for a fee, including but not limited to:
 - a.** Commercial refuse collection,
 - b.** Septic tank cleaning,
 - c.** Special waste handling;
 - 2.** Persons, businesses, institutions or agencies engaging in the collection, transportation and disposal of solid waste incidental to their primary business or institutional purpose, including but not limited to:
 - a.** Construction contractors,
 - b.** Landscape maintenance contractors,
 - c.** Apartment owners,
 - d.** Commercial businesses,
 - e.** Industrial plant operators.

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- C. Any person, business or institution holding a special disposal permit issued by the Director or designee;
- D. Private homeowners, when collecting and transporting their own construction debris, discarded appliances, tree limbs, grass clippings and other municipal solid waste generated on their own residential premises. However, this does not authorize any private homeowner to cease receiving collection service from the Department or to collect and transport any waste for which a permit is required in accordance with Section 9.04.250 of this chapter.

9.04.190 Collection Services.

- A. **Class A.** Class A generators, which includes generators of recyclables, shall receive collection services from the Department.
- B. **Class B.** Class B generators shall receive collection service from the Department, unless they are properly configured to utilize type C containers, as determined by the Director. If authorized to utilize Type C containers, such generators may receive service from any agency authorized to service Class C generators. Prior configuration shall mean that the site complies with Section 9.04.050 of this chapter.
- C. **Class C.** Class C generators shall be serviced by the Department or by any holder of a valid solid waste operators permit or liquid waste/sludge permit of the owner's, agent's or occupant's choice.
- D. **Nonconforming Service.** If an authorized collection agency is providing a collection service to a Class B or C generator at the time of the passage of the ordinance codified in this chapter, which service is made nonconforming by the provisions of this chapter, such collection agency shall be permitted to continue servicing such generator, and such generator shall be permitted to continue receiving such service from that collection agency or a similar service from another collection agency of the generator's choice, provided there is no lapse of such service exceeding one hundred twenty (120) continuous days. Premises receiving such service must be registered with the Director within sixty (60) days after the ordinance codified in this chapter is passed. Nonconforming service shall not be construed to include defective or deficient containers. However, the Director shall have the authority to cause such containers to be relocated on the premises where necessary to reduce visibility of the containers from public streets, sidewalks and adjacent properties, providing the relocated containers still have adequate accessibility for collection.
- E. **Collection Service for Downtown Management District.** All classes of generators located within the boundaries of the El Paso Downtown Management District, as defined in Resolution dated September 3, 1996, shall receive collection services from the Department; however, generators in a currently pending contract with a holder of a valid solid waste operator's permit or liquid waste/sludge permit, other than the Department, may continue with that service until the latter of the effective date of this ordinance or the current contract term's expiration.
 1. The non-City collection service shall provide to the City the address of each of its accounts located within the boundaries of the El Paso Downtown Management District, as defined in Resolution dated September 3, 1996, serviced by the non-City collection service thirty (30) days prior to the termination of the current term of the collection service contract pending for each such account.

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9.04.200 Unauthorized Collection and Transportation Prohibited.

It shall be unlawful for any person not authorized by the responsible party to remove, collect or disturb the solid waste and recyclables stored in any solid waste or Type R container or to remove from a solid waste or Type R container any solid waste or recyclables set out for collection and disposal by the City or agents of the City or authorized collection agencies. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.

9.04.210 Special Collections.

- A. **Bulky Waste.** Bulky waste, such as mattresses, or materials that will not fit in a regular city refuse collection vehicle will be placed in the parkway immediately adjacent to the curbline, providing the material does not obstruct sidewalks or vehicular and pedestrian traffic and at such times as are designated for special collection by the Director. Tree limbs, individually or bundled, must be neither more than five (5) feet in length nor sixty (60) pounds in weight.
- B. **Medical and Infectious Wastes.** Medical and infectious waste shall be collected in accordance with Section 9.04.170 of this chapter.
- C. **Dead Animals.** Dead animals will be collected in accordance with the following:
 - 1. Small animals shall be placed by the owner in securely tied plastic bags.
 - 2. Provision for the removal of a dead animal shall be made within twenty-four (24) hours of the discovery of its death.
 - 3. If in the opinion of the Director, the dead animal has become so decomposed as to make its removal impractical using the existing equipment of the Department, the Director shall arrange for an alternative method of disposal and assess the cost thereof against the owner of the animal or the property where the animal is found.
 - 4. Nothing in this chapter shall be construed to prevent the Director or his agents from picking up dead animals that have come to their attention, whether by citizen complaint or otherwise; provided, however, that if the dead animal was found on private property, the owner of the dead animal or of the property where the dead animal was found, may be given the opportunity to bury the animal on his own premises. If the collection is made, the usual fee for such collections shall apply, notwithstanding that the service was not requested by the owner of the dead animal or of the property where the dead animal was found.
- D. **Recyclable Materials.** The Director is authorized to promulgate reasonable regulations to implement the collection of recyclables from Class B and Class C generators. All such participants shall separate all designated recyclables from other solid waste in accordance with the regulations promulgated by the Director. The materials designated for recycling shall be placed in city-provided recycling receptacles. Recycling receptacles shall be placed at locations and on days specified by the Director.

Recyclables deposited in city recycling receptacles are city property. It is a violation for any person not authorized by the city to collect or pick up or cause to be collected or picked up any such recyclables or receptacles. Nothing in this section is intended to prevent any owner, agent or occupant of any premises from donating or selling recyclables from its own refuse.

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9.04.215 Curbside Recycling.

- A. Residents are provided a Type R container in which to place specified items defined herein as recyclables. Collection days are designated by the Director.
- B. Recyclables collected from Type R containers are taken to a materials recovery facility where they are separated into the various categories of recyclables, weighed and sold to end processors. To that end, recyclables placed in a recycling container shall not be bagged or bundled.
- C. The following acts shall constitute a violation of this chapter:
 - 1. Contamination of the Type R container by depositing non-recyclable or putrescible solid waste in such container.
 - 2. Placement of household hazardous waste in the Type R container.
 - 3. Placement of recyclables in the Type A container.
- D. Residents may be removed from curbside recycling pick-up for the following, nonexclusive reasons:
 - 1. Contamination of the Type R container by depositing non-recyclables or putrescible solid waste.
 - 2. Placement of household hazardous waste in the Type R container.
 - 3. Placement of recyclables in the Type A container.
- E. Residents that have been removed from curbside recycling pick-up will be notified in writing when the Type R container is removed and a monthly fee will be assessed on the water bill of the non-participant following removal from the curbside service.
- F. Residents who have been removed from curbside recycling may apply to the Director for re-instatement to curbside recycling upon the payment of the Type R container re-delivery fee stated herein in Article IX.
- G. Residents who have been removed from curbside recycling will not be in violation of this chapter by placing recyclables in a Type A container.

9.04.220 Frequency of City Collection Services.

- A. **Class A and Class B Generators.**
Solid waste from Class A and Class B generators, other than wastes subject to special collection, and recyclables shall be collected once weekly.
- B. **Class C Generators.** Solid waste from Class C generators shall be collected at the following frequencies:
 - 1. Containers of solid waste containing putrescible materials shall be collected not less often than once weekly;
 - 2. Containers with only rubbish and other nonputrescible solid waste may be collected as needed by the generator, but shall be collected as often as required to ensure that accumulation of such material does not become a nuisance.
- C. **Exceptions.** Whenever the Health Authority finds that more frequent collection is needed at any site or premises due to circumstances creating significant potential for breeding or harborage of vectors, or other health hazards, the Director is authorized to order the owner, agent or occupant of such premises to provide such frequency of collection.
- D. The frequency of collection of those accounts located within the boundaries of the El Paso Downtown Management District shall be as determined by the Director.

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1. **Enhanced Service.** In order to preserve the health and safety of the downtown area, an enhanced service shall be available to those accounts located within the boundaries of the El Paso Downtown Management District, as defined in Resolution dated September 3, 1996. The enhanced service shall consist of the City providing, once in a twenty-four (24) hour period, a sweep to provide collection service of the City provided trash receptacles located in the downtown area and the central drop-off collection site designated by the City. There shall be a fee, determined by Council resolution, for this enhanced service.

9.04.230 Authority to Order Collection for Class C Generators.

- A. In any instance where an owner, agent or occupant of a premises using a Type C container has been warned or cited by the Director or his designated officials for overflowing or accumulation of litter at the container location, the owner, agent or occupant shall have such condition corrected within twenty-four (24) hours of receiving such warning or citation.
- B. In any instance where the Health Authority finds that a container requires immediate emptying or replacement due to breeding or harborage of vectors or circumstances creating significant potential for breeding or harborage of vectors, or other health hazards, the Director is authorized to order the owner, agent and/or occupant of such premises in writing to have such condition corrected within twenty-four (24) hours of such order. Such order shall serve as notice that the container must be emptied or replaced within twenty-four (24) hours of such notice. In any instance where the owner, agent, occupant or collection agency fails to empty or replace a container as ordered by the Director, and notice has been given, the Director is authorized to cause such container to be emptied or replaced and to bill the owner, agent and/or occupant for such service in accordance with the procedure and the rates established by this chapter.

9.04.240 Operation of Vehicles.

The owner or operator of any vehicle used for the collection and transportation of solid waste shall prevent any solid waste from spilling or becoming wind-borne from such vehicle.

ARTICLE V - PERMITS

9.04.250 Types of Permits.

No person, business, institution or agency shall collect, remove, transport or dispose of any solid waste without obtaining one of the following permits from the Director, with the exception of private homeowners when acting in accordance with Section 9.04.180 of this chapter.

- A. **Solid Waste Operations Permit.** A solid waste operations permit entitles the holder to collect, remove and transport solid waste, other than liquid and semisolid waste and sludge, generated by the permittee or those businesses, institutional or industrial operations using the services of the permittee.
- B. **Liquid Waste/Sludge Permit.** A liquid waste/sludge permit entitles the holder to collect, transport and dispose of liquid and semisolid waste and sludge in accordance with this chapter and the regulations of the Texas Department of Health.

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- C. **Special Disposal Permit.** A special disposal permit entitles persons, businesses, institutions or agencies, which are not the holders of other valid permits, to transport solid waste to approved landfills. Special disposal permits including the following:
 - 1. **Scheduled Special Disposal Permit.** Issued by the Director or designee, no less than (24) twenty-four hours prior to the time when the waste is to be delivered to an approved landfill.
 - 2. **Emergency Disposal Permit.** Issued by the Director less than (24) twenty-four hours prior to the time when the waste is to be delivered to an approved landfill.
- D. **Incinerator Permit.** An incinerator permit entitles the holder to operate an incinerator.

9.04.260 Application for Permits.

- A. **Solid Waste Operations Permit.**
 - 1. Applicants for solid waste operator permit shall furnish an application, accompanied by proof of prepayment of the permit fee, to the Director at the Department offices.
 - 2. All holders of valid permits as of the effective date of this ordinance may continue to operate under such permits until the permits expire.
 - 3. Applicants for permits shall furnish the following information with their application:
 - a. Name of the applicant and the name under which doing business;
 - b. The types of solid waste to be collected, transported and disposed, categorized as:
 - i. Putrescible materials (garbage) or mixed putrescible and rubbish;
 - ii. Nonputrescible materials only, (i.e., rubbish, construction debris, etc.);
 - iii. Vegetation (i.e., tree limbs, grass clippings, etc.);
 - iv. Septic tank pumpings, sanitary sewer, catchbasin, grease, sand and grit trap wastes; or
 - v. Other wastes (specifying the character of each type waste);
 - c. Whether waste is to be collected incidental to the applicant's business or institutional purpose or whether it is to be collected from other parties for a fee;
 - d. The mailing and street address and telephone number of the applicant's business office and hours;
 - e. Name and telephone number of applicant's emergency after-hours contact;
 - f. The number and net carrying capacity (in tons) of each vehicle to be used for collection and transportation of solid waste and the location where such vehicles are stored when not in use. In any case where a vehicle is rated in cubic yards capacity rather than tons, three (3) cubic yards shall be considered equal to one (1) ton of capacity;
 - i. A valid standard certificate of public liability and property damage insurance, executed by a company authorized to do business in the state and performable in the county, insuring the general public against loss or damage that may result to any person or property from the operation of the refuse collection service. Such insurance policy shall insure each vehicle and piece of equipment operated

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by the refuse collection service and shall have limits of not less than one hundred thousand dollars (\$100,000.00) for injury or death to one (1) person; not less than three hundred thousand dollars (\$300,000.00) for injuries or death to two (2) or more persons resulting from any one accident; and not less than one hundred thousand dollars (\$100,000.00) for damage or destruction to property resulting from any one (1) accident,

- ii. A statement from the insurance company that in the event the policy or policies are canceled, the insurer shall furnish to the city written notice of intention to cancel at least ten (10) days before the liability of the insurer expires;
- iii. A statement listing all claims, suits or other actions pending against him for personal injuries or property damage arising out of the operation of the vehicles and equipment the applicant proposes to use, together with the amount of such claim and the status thereof,
- iv. In lieu of the certificate of insurance required in this section, a firm desiring to self-insure shall submit a financial statement certified by a certified public accountant showing a net worth of not less than five hundred thousand dollars (\$500,000.00).

g. Vehicle registration.

- B. **Liquid Waste/Sludge Permit.** Applicants for liquid waste/sludge permit shall furnish all information required by subsection (A)(3) of this section and shall also furnish a list of the types of such waste to be collected, detailed by source of each type of waste, the estimated monthly volume of each type of waste and the intended method and site for its disposal.
- C. **Special Disposal Permits.** Applicants for a special disposal permit shall furnish all information required in subsections (A)(3)(a) through (e) of this section, plus the quantity of material to be disposed of under the permit.

9.04.270 Vehicle Standards and Markings.

- A. Vehicles used by permittees for collection and transportation of solid waste must have cargo beds fully enclosed or must be enclosed at the bottom and all sides, and equipped with a tarpaulin or other cover and method of fastening that will reasonably prevent spillage or wind transport of waste.
- B. Each vehicle of any size used by permittees for collection or transportation of solid waste must be inspected and the vehicle capacity established by the Director or designee prior to being used for solid waste collection or transportation. The Director may conduct random inspections to verify continued compliance.
- C. Each vehicle used by permittees for collection or transportation of solid waste must display the assigned number on both sides and rear of each vehicle in numbers and letters not less than three (3) inches high.
- D. Vehicles used for collection and transportation of liquid and semisolid waste and sludge must have completely watertight tanks or containers. Piping and valving systems shall not leak.

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- E. No person, business or institution shall paint or identify vehicles or equipment in a manner which may lead an ordinarily observant person to confuse such equipment with equipment of the Department.

9.04.280 Term of Permit.

All permits, other than special disposal permits, shall be valid for twelve (12) months from the date of issuance. There shall be no permits issued for a shorter term.

9.04.290 Permit Transferability.

No permit issued under this chapter may be transferred.

9.04.300 Violation of Permit.

- A. **Compliance with Laws and Regulations.** Permit holders shall comply with local, state and federal laws regulating the collection, transportation and disposal of waste.
- B. **Warning.** The Director shall issue a notice of violation to any permittee who violates any of the provisions of Article V of this chapter. The permittee shall correct any such violation within seven (7) calendar days of receipt of such notice.
- C. **Vehicles in Violation.** In any instance where the violation is due to a failure of a vehicle to meet the minimum standards prescribed in Section 9.04.270 of this article, such vehicle shall no longer be used for collection or transportation of solid waste until such violations have been corrected and verified by reinspection of the vehicle.
- D. **Suspension--Revocation.** In any instance where a permittee fails to correct violations of which notice has been given by the Director, or where there have been more than three (3) violations recorded in a period of twelve (12) months or where any violation constitutes a significant hazard to public health, the Director shall give the permittee at least ten (10) days written notice that on a specified date and at a specified time and location, the Director will determine whether the permit should be suspended or revoked. The permittee shall have the right to appear and explain why the permit should not be suspended or revoked. The Director's decision shall be final unless appealed as provided for in Section 9.04.310 of this article.

9.04.310 Appeal from Denial, Suspension, Revocation.

- A. If the Director denies an application for a permit, or suspends or revokes the permit of permittee, the Director shall prepare a report within ten (10) business days of taking such action, indicating the reasons for the denial, revocation or suspension. The Director's decision is final unless, within ten (10) calendar days from the date of receiving the Director's notice of the action, the appealing party files with the city clerk a written appeal to the City Manager specifying reasons for the appeal. Said appeal shall also include a written rebuttal to the Director's report.
- B. The City Manager shall review the Director's report and the appellant's rebuttal. The City Manager or his designated Deputy City Manager shall make a ruling on the appeal within a reasonable period of time after the appeal has been filed.
- C. The City Manager shall sustain, reverse or modify the action of the Director. The decision of the City Manager is final.

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ARTICLE VI - DISPOSAL

9.04.320 Method of Disposal.

- A. Municipal Solid Waste.** All municipal solid waste shall be disposed of at a permitted landfill or transfer station.
- B. Industrial Solid Waste.**
1. **Class I and Class II.** Class I and Class II industrial solid waste must be disposed of as prescribed by regulations of the state and other applicable law. Certain waste in these classes may be disposed of at approved landfills as special waste.
 2. **Class III (Nonhazardous).** Class III nonhazardous industrial solid waste shall be disposed of in the same manner as municipal solid waste except that rubber vehicle tires shall be cut into quarters by cutting around the entire circumference of each tire and then cutting each half across its diameter before delivery to city disposal facilities.
- C. Hazardous Waste.** Hazardous waste, except asbestos as provided for in subsection (E)(5) of this section, shall not be disposed of at any city disposal facility. Such wastes shall be disposed of in accordance with regulations of the state and other applicable law.
- D. Medical and Infectious Waste.**
Medical and infectious waste shall be disposed of in accordance with state and federal regulations and applicable laws.
- E. Special Waste.** Special waste shall be disposed of in the following manner:
1. Empty containers which have been used for pesticide, herbicide, fungicide and rodenticide shall be triple-rinsed and rendered unusable by breaking, cutting or punching holes, prior to disposal and shall be disposed of at a city disposal facility.
 2. Drugs, contaminated food and drink products shall be disposed of at an approved landfill when such disposal is authorized by the Texas Department of Health and when a special disposal permit has been issued by the Director.
 3. Septic tank waste shall be disposed of only at a state approved wastewater treatment facility.
 4. Vacuum truck waste, (other than septic tank wastes), and grease, sand and grit trap residue may be disposed of at an approved landfill. Such waste and residue shall be well drained and contain no free liquid.
 5. Asbestos will be accepted for disposal at approved landfills as follows:
 - i. Friable asbestos, which is asbestos or materials containing asbestos that may be easily broken or crumbled, will not be accepted at the City owned landfills.
 - ii. Non-friable asbestos: the following asbestos-containing materials is considered non-friable and will be accepted at the City landfills without a special disposal permit, provided they have not been subjected to sanding, grinding, cutting, or abrading, or that they have a high probability of being reduced to powder in the course of demolition or renovation:
 - a. Asbestos-containing roofing products;
 - b. Asbestos-containing cement pipe;
 - c. Asbestos-containing resilient floor covering.

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- F. **Household Hazardous Waste.** Household hazardous waste (HHW) may be accepted at the Citizen Collection Station (CCS) for proper collection and disposal.
- G. **Unauthorized Disposal Prohibited.** It is unlawful for any citizen to dispose of solid waste by any method other than provided for in this chapter.

9.04.330 Operation of City-Owned Disposal Facilities.

- A. **Authority of the Director.** The operation of city-owned disposal facilities shall be under the supervision of the Director and designees. All persons entering such facilities shall be subject to the direction of the Director and designees.
- B. **Acceptance of Waste.** The Director shall accept solid waste from those authorized collection agencies specified in Section 9.04.180 of this chapter at city-owned disposal facilities in accordance with the state permits for operation of such facilities and the provisions of this chapter.
- C. **Hours of Operation.**
 - 1. The regular hours of operation of city-owned disposal facilities shall be established and published by the Director.
 - 2. In any instance where in the judgment either of the Director or of the City Manager, an immediate temporary change in disposal facility hours is necessary to provide for protection of public health or to conform to or accommodate the operations or requirements of other public health agencies, the City Manager is authorized to order such temporary change in the hours previously established by the Director.
- D. **Scavenging Prohibited.** No person shall enter any city-owned disposal facility and remove anything therefrom without specific authorization from the Director.
- E. **Fees.** Fees shall be recommended by the Director and established upon approval by the City Council.

ARTICLE VII – WEEDS, TRASH, RUBBISH AND OTHER MATTERS

9.04.340 Littering, and Accumulations of Waste.

- A. **Throwing or Depositing Litter in Public Places Prohibited.** No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
 - 1. **Throwing or Depositing Litter From Vehicles Prohibited.** No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property.
 - a. **Presumption.** In any prosecution charging a violation of subsections A of this section, proof that an operator or occupant of the vehicle described in the complaint violated subsections A or B of this section, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of such vehicle, shall constitute in evidence a rebuttable presumption that the defendant violated subsection A of this section. The foregoing stated presumption shall apply only when the vehicle license plate number, make and model are set forth in the complaint.

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2. **Removal of Injurious Material from Streets.** A person who drops or throws or allows to be dropped or thrown upon a street any injurious material, shall immediately cause the material to be removed. Injurious material includes, but is not limited to materials which are hazardous waste, infectious waste, highly flammable or combustible, explosive or corrosive.
 3. **Litter in Parks.** No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.
 4. **Litter in Fountains, Lakes, etc.** No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the City.
- B. Handing out or Distributing Handbills in Public Places.** No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city; nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, a person on any sidewalk, street or other public place within the city may hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.
1. **Placing Handbills in or upon Vehicles.** No person shall hand out or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, a person may hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
 2. **Depositing Handbills on Private Premises.** No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises except by handing such handbill directly to the owner, occupant or other person then present in or upon such private premises. In case of private premises which are not posted, as provided in this article, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used.
 3. **Distribution of Handbills Where Posted or Indicated as Prohibited.** No person shall handout, throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Soliciting"," No Advertisement," or any similar notice indicating in any manner that the occupants of such premises do not desire to have their right of privacy disturbed.

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- a. Exemption for mail and newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except, that newspapers shall be placed on private property in such manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
- 4. **Dropping Litter etc., from Aircraft Prohibited.** No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.
- 5. **Throwing or Depositing Litter on Public or Private Premises.** A person commits an offense if he throws or deposits litter on any public or private premises within the city, whether owned by the person or not, or in or on any gutter, parkway, sidewalk, or alley adjacent to the premises; except, that the owner, occupant, or person in control of private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, gutter, parkway, sidewalk, alley, or other public place or upon any private premises.
- C. **Dumping.** No person shall throw, dump, deposit or scatter any garbage, rubbish, junk, ashes, filth, waste paper, advertising material, circulars, cards, weeds, brush, grass cuttings or other waste matter on any property within the limits of the city.
- D. **Accumulations.** It is unlawful for the owner, or any person having the right of possession of any property within the City, or outside the City but within the extraterritorial jurisdiction of the City, to accumulate or to permit the accumulation of garbage, rubbish, junk, ashes, filth, waste paper, discarded handbills or advertising material, weeds, brush, grass cuttings or other objectionable, unsightly or unsanitary matter of any nature, nor shall such person accumulate or permit the accumulation of such matter on the sidewalks, parkways, street gutters or alleys abutting such property. Any such accumulation is declared to be a public nuisance, the prompt abatement of which is deemed to be a public necessity.
- E. **Solid Waste and Recycling Storage Areas.** It is unlawful for the owner or any person having the right of possession of any property to permit the spillage, scattering or accumulation of improperly contained litter, recyclables or other solid waste, on or around that location on the premises where solid waste or recycling containers are stored while awaiting collection or removal. Such accumulation, spillage or scattering is declared to be a public nuisance, the prompt abatement of which is deemed to be a public necessity.

9.04.350 Obligation of Property Owners and Possessors.

- A. It shall be the duty of each owner or person having the right of possession of any property within the city to keep and maintain their properties and abutting sidewalks, parkways, alleys and street gutters free of accumulations of waste, to prevent such accumulations and to promptly remove such waste from the property.
- B. All trash, rubbish, waste paper, floor sweepings or other wastes originating on any property or accumulating on abutting sidewalks, parkways or alleyways shall be collected by the owner of the property or person having right of possession, and stored in authorized containers for removal by an authorized solid waste collection agency. No

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such materials may be swept or discarded into abutting streets, alleys, street gutters or other property.

C. Sweeping Litter into Gutters, etc. Prohibited; Sidewalks to be Kept Free of Litter by Abutting Property Owners.

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

D. Duty of Merchants and Contractors as to Litter in Abutting Sidewalks, etc.

1. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.
2. A person doing construction work within the city shall at all times keep the sidewalk, street, alley and public or private property abutting the construction site free of construction trash, litter and debris.

9.04.360 Vegetation and Weeds.

A. All grass, weeds or uncultivated plants that are permitted to grow to an average height greater than twelve (12) inches on any individual lot, tract of land smaller than two (2) acres, or for tracts of lands two (2) acres or greater within one-hundred (100) feet of the curb line of adjacent streets, and where no curb exists to the edge of the street or road surface, or within one-hundred (100) feet of any public or private property line or to grow in rank profusion upon the premises in any number whatsoever, or any abutting parkways or alleys, are deemed to be deleterious to the public health, comfort and welfare, and a public nuisance. It is unlawful for any owner or person having the right of possession of any property within the city to cause or permit such public nuisance on the property or any abutting parkways or alleys. The following shall be exempt:

1. Regularly cultivated ornamental, fruit bearing, vegetable bearing or flowering plants, bushes or trees;
2. Regularly cultivated crops grown on property that is classified as agriculture exempt according to the tax rolls;
3. Pasture lands on property that is classified as agriculture exempt according to the tax rolls;
4. Property that the Director determines should be exempted because of the lack of harm to the public health, safety, and welfare (e.g., steep slopes, undeveloped properties, wet ponding areas or areas far removed from population centers and similar areas).

B. Any accumulation or growth of such vegetation or plants is declared to be a public nuisance, the prompt abatement of which is a public necessity.

C. The owner or person in possession of any property shall have the duty to prevent the growth of such vegetation and plants and to promptly remove such vegetation and plants from their properties and from any abutting parkways and alleys.

D. The City may provide a notice to inform the owner, by regular mail or a posting on the property, or by personal delivery, that if the owner commits another violation of the same

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kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the violation noted in item A above, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by item A above occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action as provided by Chapter 342 of the Texas Health and Safety Code and assess its expenses as provided by Section 342.007.

ARTICLE VIII - ENFORCEMENT

9.04.370 Authority to Issue Citations.

- A. The following public officials are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter:
1. The Director or any duly authorized representative or Inspector or other designee;
 2. The Director of the El Paso City-County Health and Environmental District or their Inspector;
 3. Police;
 4. Fire chief or designees;
 5. Parking enforcement controllers; or,
 6. The Development Services Director or any duly authorized representative or Inspector.
- B. The public officials designated in subsection A of this section are authorized to make inspections of any property necessary to enforce the provisions of this chapter. If the owner or person in possession of any property refuses to allow the public officials permission to enter the property, at any reasonable time, those officials shall have recourse to every remedy provided by law to secure entry including obtaining the proper judicial warrants.

9.04.380 Abatement.

- A. As an additional means of enforcing Article VII, and regardless of whether or not any person is convicted of a misdemeanor for the violation of this article, the Director is authorized to notify the owner that the condition of the owner's land constitutes a public nuisance because of the accumulation of trash, vegetation and weeds or other objectionable, unsightly or unsanitary matter in violation of this article and that such trash, vegetation, weeds or other matter must be removed within seven (7) days after receipt of such notice. Such notice shall state further that if the condition is not corrected within seven (7) days from the service of such notice, the city may, without further notice, abate this public nuisance by cleaning the property, and charge the cost of expense incurred in doing such work to the owner of such property and fix a lien thereon as provided by this article.
- B. Such notice shall be in writing and be delivered in person or sent by certified mail with return receipt requested to the owner, or to any one or more of the owners if the land be

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owned jointly or in common, or to any agency having authority to lease, rent, sell, manage or take care of the land. If personal service cannot be obtained or the owner's address as recorded in the appraisal district records is unknown, notice may be given by publication at least once in a newspaper of general circulation, by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property which the violation relates, if the property contains no buildings.

- C. The person given such notice, or any person having an interest in the property shall, if he so requests within ten (10) days of receipt of the notice, be given a hearing before the Director to show cause, if there be any, why the order should not be enforced.
- D. If the owner or agent fails to remove the objectionable, unsightly or unsanitary matter within seven (7) days after receipt of notice, or within seven (7) days after constructive service of notice, the Director shall arrange to have the cleaning or disposal of the trash, vegetation, weeds or rubbish done by any satisfactory means and assess the cost of such disposal or removal against the property owner. Notice, service of which shall be as provided for in subsection B of this section, stating the cost to the city or other person or entity to clean the property, including labor costs, administrative costs of inspection and reinspection, transportation expenses, publication costs, and expenses for use of equipment and materials, shall be sent in writing to the owner by the Director, or the City Comptroller. The notice shall request payment to the city within thirty (30) days of receipt by the owner, and council shall be requested to pass a resolution declaring the cost to clean, plus the cost of recording the resolution, to be a lien on the property payable within ten (10) days after adoption of the resolution, and thereafter bearing ten percent (10%) interest per annum until the debt is paid.
- E. The City Council may by resolution determine the actual cost of cleaning the property and abating the public nuisance, and declare the amount, plus the cost of recording the resolution and any publication costs, to be a lien on the property, payable within ten (10) days after adoption of the resolution, and thereafter bearing ten percent (10%) interest per annum until paid. A copy of the resolution, authenticated by the acknowledgement of the city clerk, shall be filed for record in the office of the county clerk. The city tax assessor and collector also shall send a bill for the amount with all tax bills on the property until the debt is paid.

9.04.390 Penalties.

Any persons violating any provision of this chapter shall be punished by a fine not to exceed two thousand dollars (\$2,000.00).

If any such violations of this chapter are continuous, each day's violation shall constitute a separate offense. Any persons violating any provisions of this chapter shall be deemed guilty of a class C misdemeanor. In addition to any penalties provided for in this chapter, this chapter is enforceable by injunction.

ARTICLE IX - FEES

9.04.400 Fees.

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Fees for solid waste collection, transportation, permits and environmental services provided by the Department shall be in such amounts as set by the City Council through its budget resolution or other duly adopted resolution, in accordance with the following guidelines and criteria.

A. Collection Service

1. Residential.

Each residential dwelling unit or manufactured home for which collection service has been initiated shall be assessed a monthly fee in the amount set by resolution of the City Council.

2. Senior and Disabled Citizens Discount.

The monthly charge for residential refuse service to any dwelling unit or manufactured home which is owned and occupied, or rented and occupied by a person sixty-five or more years of age or by a person who presents proof of disability in accordance with this section will be discounted by twenty-percent (20%) under the following circumstances. The discount shall only apply to the first container and shall not apply to the Type R container. No fee discount shall be applied to additional containers. No fee discount shall be granted or remain in effect unless the following conditions are met:

- a. The person claiming such discount must be sixty-five or more years of age, or must present proof of disability when the discount is requested and must file a notarized application on a form provided by the Director with the Department.
- b. A written request for such discount may be filed with the Director at any time when the applicant reaches eligibility and will take effect at the first billing cycle which starts thirty days thereafter, remaining in effect until eligibility lapses. Such request shall give the street address, dwelling unit number, if any, and the water utilities account number of the property being served, the name and addresses of the owner-occupant or renter-occupant, the day and year of his birth in the case of a person sixty-five or more years of age, and a substantiating document in the case of a disabled person. The request shall be signed by the person seeking the discount or someone authorized by him and having personal knowledge of the facts.
- c. The person claiming such discount shall place the container as required in Section 9.04.060.
- d. Proof of age shall consist of one of the following:
 - i. If the person seeking the discount presents a valid driver's license or state-issued identification card showing the day and year of birth;
 - ii. If the person seeking the discount currently holds a Sun Metro Senior Citizen reduced fare card;
 - iii. If the request is signed by the director of a city senior citizen center or nutrition center or other agency approved by the Director.
 - iv. All other requests shall be verified by the signed and sworn affidavit of the person seeking the discount or someone authorized by him and having personal knowledge of the facts.
- e. Proof of disability shall consist of one of the following:

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- i. Certification from the Social Security Administration that the applicant is the recipient of a social security or supplemental security income disability pension;
 - ii. Certification from the proper administrative officer that the applicant is the recipient of a public disability pension and classified one hundred percent disabled; or
 - iii. Certification from the Veterans Administration that the applicant is the recipient of the Veterans Administration disability payments and classified one hundred percent disabled.
- f. The person claiming a discount must be the same person who is billed by the water utilities for water service to the residence to which such discount applies.
 - g. When a person to whom a discount is granted ceases to occupy the applicable residence, the discount shall be withdrawn as of the month immediately following such cessation of occupancy.
 - h. Approved discounts are not transferable to another person or address.
 - i. No person shall be entitled to a discount for more than one residence at the same time, nor shall any person be entitled to claim both a sixty-five years and over discount and a disabled discount at the same time.
 - j. In all cases, the Director shall have the right to investigate the information given on requests for discount, and to make reasonable requirements for supporting evidence.
 - k. The discount provided in this section shall not apply to charges for special collections, collection of solid waste from institutional or commercial establishments, or from any location of any type utilizing Type C containers.
 - l. Any change which results in loss of eligibility for reduced charges for a residence will be reported to the Director within thirty days, and full charges will be restored during the next billing cycle.
 - m. Eligibility for the senior and disabled citizens' discount shall lapse on the death of the applicant, or recovery from the claimed disability.
 - n. The Director shall have the authority to investigate and verify, from time to time, either by personal contact by a Department official or by mailout verification, that applicants continue to be eligible for this discount.
 - o. The discount shall in no way be considered as approval of an exemption under Section 9.04.060A. Such exemption must be separately requested pursuant to that provision.
 - p. Persons receiving the Curbside Exemption of Section 9.04.060 are not eligible for the discount.

3. **Institutional, Commercial and Multifamily Residential Class B Generators with Centralized Refuse Storage Areas.**

A monthly fee for refuse collection from institutional and commercial establishments generating no more than six hundred forty gallons of waste weekly and multifamily residential structures and complexes of ten or fewer dwelling units, trailer parks and manufactured-home subdivisions, with centralized waste

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storage areas shall be assessed or the commercial collection fees in the amounts set by resolution of the City Council.

4. Class C, Mechanical and Construction Collection Service.

A fee for refuse collection from Class C containers and construction containers shall be assessed in the amount or amounts set by resolution of the City Council.

B. Service Charges.

1. Each person or entity requesting or needing the delivery or relocation of a container including a construction container, each person or entity who cancels container service, and each person or entity who requests special services such as the collection and disposal of bulky waste, infectious waste, dead animals, or an extra collection shall be assessed service charges and special collection fees as set by resolution of the City Council.
2. The service charges shall be imposed each time a container is delivered, moved or relocated by the Department or recovered by the Department due to cancellation of service.
3. The special collection service fees shall be imposed for extra collections, unscheduled collections, collections for bulky waste as defined in Section 9.04.210A of this chapter, collection of infectious waste as defined in Section 9.04.030 of this chapter and collections of dead animals as defined in Section 9.04.210C of this chapter.
4. A container replacement fee shall be assessed in the amount set by resolution of the City Council for the replacement of containers that are lost, containers that are burned, damaged or destroyed by the customer and the customer requests replacement or the Director or designee determines that the container is no longer serviceable by the Department.
5. A container replacement fee shall be assessed in the amount set by resolution of the City Council for the replacement of any Type R container for any customer previously removed from curbside recycling by the Department, except that for the period from April 22, 2007 through September 30, 2007, that fee shall be TEN DOLLARS AND NO/100 (\$10.00).

C. Environmental Services.

The owner, agent or occupant of every residence, business, establishment, industrial, educational, institutional, religious or other premises shall be assessed a monthly user service fee in the amount set by resolution of the City Council. Such fee shall relate to the provision of environmental services by the city and is intended to defray city expense necessary to cleaning up illegally dumped waste, compliance with environmental laws, collecting and disposing of dead animals from public rights of way and equitably sharing costs for business and neighborhood area cleanups and graffiti removal, benefiting residents and businesses in the city.

D. Initiation of Collection Service.

The Director is authorized to initiate refuse collection services to any class of generator at the request of the owner, occupant or agent representing the property owner and to bill for all fees in this section through the El Paso Water Utilities at the rates established by

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resolution of the City Council. Once residential refuse service for class A and B generators is initiated in the customer's name, the fees established in this chapter shall be charged to the customer during such time as they, or the building in which they are situated, is occupied or is connected to an active water meter.

9.04.410 Permit Fees.

A. Solid Waste Operations Permit.

An annual permit fee shall be assessed for every vehicle in proportion to the capacity of the vehicle used by the permittee for the collection of solid waste in the amount set by resolution of the City Council.

B. Liquid Waste/Sludge Permit.

An annual permit fee shall be assessed for each vehicle used by the permittee for the collection and transportation of liquid waste and sludge in the amount set by resolution of the City Council.

C. Additional Vehicle Registration Fee.

The fee for either registering an additional or substituting a previously registered vehicle shall be one hundred percent of the annual fee for the vehicle to be added or substituted.

D. Reinspection Fee.

The reinspection fee for any vehicle that fails initial inspection or must be reinspected due to violation of vehicle standards shall be one hundred percent of the annual fee for that vehicle.

E. Reinstatement of Suspended or Revoked Permits.

In any instance where a permit is suspended or revoked in accordance with Section 9.04.310 (C) of this chapter, the fee for reinstatement of such permit shall be:

1. **Suspended Permit.** Fifty percent of total annual fee for all vehicles registered under the permit.
2. **Revoked Permit.** One hundred percent of total annual fee for all vehicles registered under the permit.

F. Special Disposal Permit Fees.

Special disposal permit fees shall be assessed for scheduled and unscheduled disposals in the amount set by resolution of the City Council, and such charges shall additionally include the regular per ton or per cubic yard disposal charge.

G. Container Location on Sidewalk or on Public Right-of-way.

When permitted under Section 9.04.060 B of this code, an annual fee in the amount set by the resolution of the City Council shall be paid by the generator or authorized collection agency for each container located on the public right-of-way. It shall be the commercial hauler's responsibility when placing a container on a public right-of-way to pay the annual fee to the Department. In those instances where the Department is the authorized collection agency, it shall be the responsibility of the generator to pay the annual fee to the Department. Failure to pay shall result in (1) having the container removed from the public right-of-way; and/or (2) imposing a fine assessed at the same amount as the fee to the generator or commercial hauler providing such services.

H. Marking and Signage for Traffic and Parking Restriction.

The actual cost of marking and signage for container placement, where required, to insure access for collection vehicles, shall be assessed to the generator.

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9.04.420 Disposal Fees.

A. Landfill Fees.

Landfill fees shall be assessed by both refuse and vehicle type in the amounts set by resolution of the City Council.

B. Fees Subject to Fraction.

All fees or rates established as landfill or disposal are subject to, "or any fraction thereof."

C. Vehicle Registration Required.

Compacted solid waste, sludge, dead animals or infectious waste will not be accepted from any vehicle not registered with the Department, nor will uncompacted solid waste be accepted from any vehicle over a five-ton capacity or a ten-cubic yard capacity not so registered.

D. Waste Tires.

Disposal fees for waste tires from residential users who have exceeded the eight tire per year limit or from commercial users shall be in the amounts set by resolution of the City Council.

E. Surcharge for Uncovered Loads.

In conjunction with the Department's enforcement of Section 9.04.240 of this code and Texas Commission on Environmental Quality rules, landfill and transfer station attendants are authorized to assess a surcharge fee for vehicles that are not provided with a tarpaulin, net, or other means to effectively secure the load in order to prevent the escape of any part of the load by blowing or spilling, set by resolution of the City Council, to the person or company hauling waste to the facility when the attendant observes or otherwise acquires credible information that the hauler has spilled waste materials along and within the right-of-way of the public access roads serving the facility within a two-mile distance in either direction from the facility entrance.

F. Materials Along the Route to the Site.

A facility owner or operator shall take steps to encourage that vehicles hauling waste to the facility are enclosed or provided with a tarpaulin, net, or other means to effectively secure the load in order to prevent the escape of any part of the load by blowing or spilling. The owner or operator shall take actions such as posting signs, reporting offenders to proper law enforcement officers, adding surcharges, or similar measures. On days when the facility is in operation, the owner or operator shall be responsible for at least once per day cleanup of waste materials spilled along and within the right-of way of public access roads serving the facility for a distance of two miles in either direction from any entrances used for the delivery of waste to the facility. The facility operator shall consult with the Texas Department of Transportation, county, and/or local governments with maintenance authority over the roads concerning cleanup of public access roads and rights-of-way.

G. Transfer Fees.

1. Fees for disposal of solid waste at city transfer station shall be assessed based on compacted or uncompacted cubic yard and shall be in the amounts set by resolution of the City Council.
2. City vehicles shall at all times have priority over other vehicles which may be required to wait while city vehicles are emptied.

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3. When, in the opinion of the Director, the full capacity of a transfer station is required to accept solid waste from city vehicles only, or when city transfer equipment or city vehicles are out of service for maintenance or repair, the Director is authorized to close the transfer station to all but city vehicles.
4. Loads containing rubbish, large limbs, large metal objects, construction debris, sludge and any other material which, in the opinion of the Director, might damage the transfer compactor or transfer trailer, will not be accepted at the transfer station.

9.04.430 Nonpayment of Fees.

A. Prompt Payment of Fees.

All fees established in accordance with this chapter and set by resolution of the City Council shall be paid promptly by the person, business or institution to which the service has been provided. Payment of such fees are due upon receipt of billing for the service and shall be paid within the time period specified within the appropriate subsections of this chapter.

B. Delinquent Fees.

If the holder of any city permit for collection, transportation or disposal of solid waste, issued pursuant to this chapter becomes delinquent in the payment of fees, the Director is authorized, upon ten calendar days notification to the permittee, to refuse access to city disposal facilities. The Director may further, upon thirty calendar days notification, cancel such permits.

C. History of Delinquency.

If the holder of any permit has a history of delinquency in payment of fees as evidenced by having been issued more than one notice from the Director, such permittee shall be required to establish an account with the Department and shall pay the estimated monthly amount of such fees in advance each month. The estimated monthly amount shall be as established by the Director.

Section 9.04.440 Solid Waste Management Fund.

Each year, all fees collected for the environmental and solid waste management services provided by the Department under this chapter shall be deposited into a solid waste management fund. Payment for the operations of the Department attributable to its solid waste management services function shall be made from this fund. Fund balance reserves shall be established as directed by the City Council and managed for these purposes by the Director. The annual budget for the Department shall show these reserves as a separate use of fund balance. Corresponding expenses will be incorporated into the annual operating budget.

ARTICLE X – CONSTRUCTION DEBRIS

9.04.500 Purpose.

The purpose of this Article is to provide for the protection of the Municipal Separate Storm Sewer System and the general health, safety and welfare of the citizens of the City of El Paso against the undesirable effects of the waste or debris generated as a result of construction activities.

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9.04.510 Waste and Debris Containment Required.

- A.** All construction sites where buildings or other structures are being constructed, remodeled, repaired, altered or demolished, and all adjoining properties, shall be kept free from non-contained accumulations of construction waste materials, new or used, including but not limited to: scrap or discarded pieces of wood, brick, sheetrock, shingles, insulation, tarpaper, cement concrete, cinder block and other building products and the containers and wrappers of such products. Accumulations shall be deemed contained when placed in approved storage containers appropriate for the type of waste; provided, however, that certain accumulations of construction waste shall be excepted from being placed in approved storage containers, as provided herein.
- B.** It shall be the duty of the general contractor or permit holder (as defined in the Building and Administrative Code, Chapter 18.02), of a permit for construction to provide one (1) or more approved storage containers of the appropriate type for the waste generated as a result of the construction, to have such waste placed therein and to have such containers emptied often enough to prevent their overflow and to remove these containers and their contents at the final completion of work at the construction site. It shall further be the duty of the general contractor or permit holder either to remove such waste to a permitted landfill or to contract for the services of a licensed solid waste transporter to remove such waste to a permitted landfill.
- C.** Construction waste capable of being wind borne shall be contained daily, except on windy days, when it shall be contained immediately and as often as necessary to prohibit a violation of this Article, but not less than once per day. Windy days shall be those days when waste is observed becoming wind borne. Construction waste observed littering a property adjacent to or near a construction site, shall be presumed to have been generated at the construction site and shall be deemed as inadequately contained.
- D.** Allowing construction waste of a particular nature observed to remain on-site more than two (2) weeks after the phase of work generating such waste has been completed, such as scraps of framing lumber on-site after the framing has been completed, shall be deemed to be an unlawful accumulation and a violation of this Article.
- E.** Construction waste produced by demolition that is so large in volume that it cannot reasonably be placed in approved containers shall be permitted to remain non-contained, provided potential wind borne waste or debris is controlled, and other waste or debris is not a hazard to the public because of its nature, or because of additional safety measures provided by the general contractor or permit holder. Such determinations and additional safety measures shall be subject to the approval of the Director. Construction waste generated by demolition shall comply with the remaining provisions of this Article.
- F.** Rock, concrete, mortar, brick, cinder block, and similar construction wastes are not required to be containerized for one (1) and two (2) family residential projects, but shall be collected into piles on the ground and removed to a permitted disposal site within seventy-two (72) hours of the completion of demolition work unless otherwise approved by the Director. Other types of construction waste shall not be commingled with permitted piles of these wastes.
- G.** Shingles, tarpaper and other waste from roofing jobs that is not capable of becoming wind borne are not required to be containerized, provided such waste is placed directly into a dump truck or similar truck for hauling to a permitted landfill. Roofing material waste capable of becoming wind borne shall comply with the provisions of this Article.

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9.04.520 Containers.

- A. Containers used for compliance with this Article shall comply with the following:
 - 1. **Type C-2 Containers**, commonly referred to as roll-off containers, are to be used for construction waste not capable of becoming wind borne and are acceptable for limited amounts of heavy items, such as earth, bricks, cement, shingles, sheetrock, drywall and plywood.
 - 2. **Type C-1 Containers**, having lids and at least three (3) cubic yards capacity, are to be used for lightweight construction waste only, including that capable of becoming wind borne, and shall not be used for earth, bricks, cement, shingles and other heavy materials.
 - 3. **Open top containers**, containing an additional compartment having one (1) or more lids and with at least three (3) cubic yards capacity, may be used in place of either a regular open top container or an overhead dump container.
- B. Containers having lids shall be kept closed at all times, except when being filled or emptied.
- C. Containers shall have a capacity of at least two (2) cubic yards. Containers shall be heavy enough to prevent being easily tipped over.
- D. Other types of container(s) chosen for use at construction sites to comply with this chapter shall be subject to the approval of the Director.
- E. Required containers shall be located not more than one hundred (100) feet from the construction site. Containers may be shared by more than one (1) construction site provided that they meet this distance requirement.
- F. At least one container is required at any construction site. The general contractor or permit holder shall be responsible for determining and providing the requisite number and type of containers to comply fully with the requirements of this chapter, taking in account the size of the construction project, the estimated types and quantities of construction waste to be generated, and the frequency of pickup service to be used.
- G. In general, containers shall not be placed in the street right-of-way or on other City property. On construction sites where no safe or otherwise feasible location for the required containers exists except for the street right-of-way, the Director may permit the containers to be placed in the street right-of-way. In such instances, the containers shall be located as close to the curb as reasonably possible. Such use of the street right-of-way shall be deemed a use having a beneficial public purpose and there shall be no charge for such use of the right-of-way during periods of construction. Containers placed in the street right-of-way shall be adequately reflectorized to make their location visible at night when illuminated by a vehicle's headlights.

2. Except as herein amended, Title 9 (Health and Safety), shall remain in full force and effect.

(All signatures follow on next page)

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PASSED AND APPROVED this _____ day of _____, 2007.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

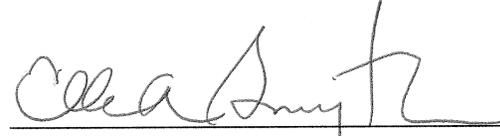
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Ellen A. Smyth, P.E., Director
Environmental Services Department

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