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

DEPARTMENT: Environmental Services

AGENDA DATE: CCA Introduction 03/02/10; Public Hearing 03/09/10

CONTACT PERSON NAME AND PHONE NUMBER: Ellen A. Smyth, P.E., Director (915) 621-6719

DISTRICT(S) AFFECTED: Citywide

SUBJECT: **ORDINANCE**

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT) TO DELETE REFERENCES TO THE EL PASO DOWNTOWN MANAGEMENT DISTRICT AND TO ADDRESS SOLID WASTE COLLECTION AND RELATED SERVICE IN A DESIGNATED REQUIRED COMMERCIAL COLLECTION ZONE; TO CLARIFY CLASS B GENERATORS IN SECTION 9.04.040; ADDING REQUIREMENTS FOR THE USE OF CLASS C-1 CONTAINERS IN SECTION 9.04.050; ADDING REQUIREMENTS FOR CERTAIN TEMPORARY EVENTS AND ACTIVITIES IN SECTION 9.04.190; TO CLARIFY THE FREQUENCY OF COLLECTION SERVICES IN SECTION 9.02.220, THE PENALTY IN SECTION 9.04.390 AND THE ADOPTION OF FEES IN SECTION 9.04.400A AND 9.04.400C; THE PENALTY AS PROVIDED IN SECTION 9.04.390 OF THE EL PASO CITY CODE.

BACKGROUND / DISCUSSION:

The Environmental Services Department is requesting a revision to Title 9.04 to require that all the commercial waste generators within areas of the City designated as Required Commercial Collection Zones receive comprehensive waste collection services from the City. This ordinance change is needed in order to preserve the health and safety of the zone and to avoid the unmanageable accumulation of waste attributable to the businesses operating in the zone.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
N/A

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

DEPARTMENT HEAD:

_____

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT) TO DELETE REFERENCES TO THE EL PASO DOWNTOWN MANAGEMENT DISTRICT AND TO ADDRESS SOLID WASTE COLLECTION AND RELATED SERVICE IN A DESIGNATED REQUIRED COMMERCIAL COLLECTION ZONE; TO CLARIFY CLASS B GENERATORS IN SECTION 9.04.040; ADDING REQUIREMENTS FOR THE USE OF CLASS C-1 CONTAINERS IN SECTION 9.04.050; ADDING REQUIREMENTS FOR CERTAIN TEMPORARY EVENTS AND ACTIVITIES IN SECTION 9.04.190; TO CLARIFY THE FREQUENCY OF COLLECTION SERVICES IN SECTION 9.02.220, THE PENALTY IN SECTION 9.04.390 AND THE ADOPTION OF FEES IN SECTIONS 9.04.400A AND 9.04.400C; THE PENALTY AS PROVIDED IN SECTION 9.04.390 OF THE EL PASO CITY CODE

WHEREAS, the City Council of the City of El Paso finds that urban areas consisting of higher density foot traffic attributable to the business operating in the area during certain hours, results in a greater volume of waste than would be found in other areas of the City; and

WHEREAS, the City Council of the City of El Paso finds that certain mixed use and primarily commercial areas possess a physical layout that is not conducive to state of the art, efficient waste collection systems; and

WHEREAS, the City Council of the City of El Paso finds that high density urban areas consisting of large numbers of commercial parcels are more open and subject to waste strewn about than are residential areas of the City which are generally enclosed by rock walls; and

WHEREAS, the City Council of the City of El Paso finds that requiring that all the commercial waste generators within areas of the City designated as Required Commercial Collection Zones, receive comprehensive waste collection services from the City, preserves the health and safety of the zone and avoids a scenario of unmanageable accumulation of waste attributable to the businesses operating in the zone.

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

Section 1. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.030 (Definitions), Subsection 30 (Recycled Commercial Collection Zone) be amended as follows to add a new definition under Subsection 30 and that all subsequent Subsections be re-numbered accordingly:

9.04.030 Definitions.

30. Required Commercial Collection Zone means any zone established pursuant to Subsection 9.04.190E.

Section 2. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.040 (Generators) amending Subsection B. (Class B) as follows:

9.04.040 Generators.
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 institutional and commercial establishments generating no more than three (3) cubic yards of waste weekly.

Section 3. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.050 (Container Types), adding Subsection B.5. (Class B) and amending Subsection C.1 (Class C) as follows:

9.04.050 Container Types.
B.5. Type C-1 containers may not be used for storage or disposal of construction waste and debris as described in Article X – Construction Debris of this Chapter.

C.1. Type C-1, which may not be used for storage or disposal of construction waste and debris as described in Article X – Construction Debris of this Chapter.

Section 4. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.060 (Container Location), Subsection C (El Paso Downtown Management District) be amended as follows:

9.04.060 Container Location.
C. Required Commercial Collection Zone. The Director shall determine the appropriate location for a container assigned to an account located within the boundaries of an area designated by resolution of the city council as a Required Commercial Collection Zone.

Section 5. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.070 (Number and Size of Containers), Subsection B be amended as follows and Subsections C and D be deleted:

9.04.070 Number and Size of Containers.
B. Class B and class C generators authorized to use type C-1 containers shall provide sufficient storage capacity such that the accumulation of waste material does not become a nuisance or does not overflow the container. This provision does not apply to Class C generators in a Required Commercial Collection Zone using Type C-1 containers provided by the City.

Section 6. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.150 (Identification of Containers), Subsection A be deleted.

Section 7. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.190 (Collection Services), Subsection E be amended and Subsection F be added as follows:

9.04.190 Collection Services.

E. The City Council may by resolution identify one or more areas of the city that meet each of the following criteria for a Required Commercial Collection Zone and shall designate and declare those areas as Required Commercial Collection Zones.

1. A compact, high density area normally found in urban districts;
2. An area whose pedestrian population dramatically increases during the hours of operation of business in the area;
3. A mixed use area that is primarily commercial; and
4. An area with public waste receptacles within public right-of-way which are insufficient to service the area for private disposal purposes.

F. Collection Service for Required Commercial Collection Zone. All commercial properties using C-1 containers, whether such property is purely commercial or mixed use (commercial and residential) located within the boundaries of an area designated by the City Council as a Required Commercial Collection Zone shall receive collection services from the Department. Each commercial property located within the boundaries of a Required Commercial Collection Zone shall be assessed a fee based on criteria or a formula for calculating the fee for such zone identified in the adopted budget resolution for the current year or other appropriately adopted resolution by the City Council and the Director shall determine the proper billing for each property, to include the property owner, occupant or agent.

1. Enhanced Service. In order to preserve the health and safety within a Required Commercial Collection Zone, an enhanced service shall be provided on a regular and routine basis as determined to be appropriate by the Director for those commercial accounts located within the boundaries of such zone. The enhanced service shall consist of the City providing collection service of the City-provided trash receptacles located in the Required Commercial Collection Zone and the central drop-off collection site designated for that zone by the City as well as street sweeping and other cleaning of the rights-of-way as determined necessary by the Director of the Streets Department. Use of a C-2 container by a commercial account in a Required Commercial Collection Zone shall be subject to the regulation described in "Article X - Construction Debris" of this Chapter, and is not contemplated as part of the C-1 waste collection associated with the enhanced service.

2. Temporary Events and Activities. Accounts located within the boundaries of a Required Commercial Collection Zone that have acquired a special privilege permit or another permit pursuant to 15.08.120 of the El Paso City Code for a temporary event or single activity to which the public will be invited to attend shall be responsible for the collection of all waste and debris generated from the event or activity to which said special privilege or other permit applies. The permitee shall hire all necessary services and be responsible for paying separately for the collection of said waste and debris which shall not be considered part of the enhanced service provided by the City.

Section 8. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.220 (Frequency of City Collection Services), Subsection D. be amended as follows:

9.04.220 Frequency of City Collection Services.
D. The frequency of collection of the accounts located within the boundaries of a Required Commercial Collection Zone shall be as determined by the Director but no less than once per week.

Section 9. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.390 (Penalties) be amended in its entirety as follows:

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 misdemeanor. In addition to any penalties provided for in this chapter, this chapter is enforceable by injunction.

Section 10. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.400 (Fees), Subsection A.1. and 3. and C. be amended as follows:

9.04.400 Fees.
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 as identified in the adopted budget resolution for the current year or other appropriately adopted resolution by the City Council.

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 three (3) cubic yards of waste weekly and multifamily residential structures and complexes of ten or fewer dwelling units, trailer parks and manufactured-home subdivisions, with centralized waste storage areas shall be assessed the commercial collection fees in the amounts identified in the adopted budget resolution for the current year or other appropriately adopted resolution by the City Council. If the institutional, commercial and multifamily residential Class B generator is located in a required commercial collection zone, the fee in the amount identified in the adopted budget resolution for the current year or other appropriately adopted resolution by the City Council for the required commercial collection zone shall apply.

C. Environmental Services.
Except for those commercial properties located in a Required Commercial Collection Zone, 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.

Section 11. Except as expressly herein amended, Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management) of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2010.

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

ORDINANCE NO._____