

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

CITY CLERK DEPT.
10 MAY 26 PM 1:35

DEPARTMENT: Environmental Services

AGENDA DATE: June 1, 2010

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

DISTRICT(S) AFFECTED: All districts

SUBJECT:

Discussion and Action on proposed amendments to the Solid Waste Management Regulations in Title 9.04 incorporating flow control, franchise fees and other related issues.

BACKGROUND / DISCUSSION:

Directed by the Environmental Legislative Review Committee (LRC) to bring this item to full council with proposed implementation plan. Revision of Title 9.04 is proposed to incorporate flow control rules and franchise fees for haulers collecting trash within the El Paso city limits.

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

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1. Staff Overview of Flow Control Policy:
 - A. History
 - B. Studies already completed
 - C. Current Direction from LRC and Council
 - D. Pending Issues

2. Discussion and Action on policy direction for Pending Issues regarding Flow Control:
 - A. Should the City require all residential & commercial trash, construction/ demolition debris and recyclable materials generated within the City, to be disposed of at a City designated disposal or recycling facility?
 - B. Should the City charge a franchise fee for both Solid Waste and Recyclable Materials or only Solid Waste generated within the City?
 - C. Should the City charge a franchise fee to Environmental Services Department, other haulers, and self-transporters?
 - D. Should the City require all Solid Waste and Recyclable Materials Haulers, with the exception of self-transporters, to obtain a City issued Hauler's permit?
 - E. Should the City allow Environmental Services Department or designated officials to request records from Haulers, to confirm that all applicable waste and recyclable materials are being disposed of at City designated facilities and to confirm the accuracy of quarterly fee payments?
 - F. Should a tiered fee schedule be implemented for acceptance of waste at a City-owned landfill, based on type of waste and type of transporter?
 - G. Should the City require Self-Transporters, excluding Residential Property Owners, to maintain documentation indicating where their waste materials are disposed of?

3. Discussion and Action on amendments to the Flow Control Regulations proposed in Title 9 (Health & Safety) to include the timeline for finalization of the proposed regulations (introduction and hearing).

4. Discussion and Action on policy direction for Related Pending Issues:
 - A. Should the City limit the customers for which the Environmental Services Department is required to provide services for to Single-Family Dwellings, Duplexes, and Mobile Home Properties?
 - B. Should the City limit the number of times that an occupant of a Residential Property may use the Citizens' collection stations to four per month?
 - C. For sidedoor collection, should the City require this status be renewed annually?

The City Council of the City of El Paso may retire into **EXECUTIVE SESSION** pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the City Council of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act.) The City Council will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

Section 551.071	CONSULTATION WITH ATTORNEY
Section 551.072	DELIBERATION REGARDING REAL PROPERTY
Section 551.073	DELIBERATION REGARDING PROSPECTIVE GIFTS
Section 551.074	PERSONNEL MATTERS
Section 551.076	DELIBERATION REGARDING SECURITY DEVICES
Section 551.087	DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

5. Adjournment.

Richarda Duffy Momsen, City Clerk

Sign language interpreters will be provided for this meeting upon request. Requests must be made to this department a minimum of 24 hours in advance.

Copies of this Notice will be provided in Braille, large print or audio tape upon request. Requests must be made a minimum of 48 hours prior to the date and time of meeting.

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CHAPTER 9.04 (SOLID WASTE MANAGEMENT)**ARTICLE I – GENERAL PROVISIONS****9.04.010 Definitions.**

As used in this Chapter the following words, terms, and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

1. **“Animal Waste”** means any Solid Waste, such as litter, feces, feathers and coat clippings, from the breeding, raising, containing, maintaining or grooming of animals at places of residence, stables, kennels, pet pens, chicken coops, or other places of a similar nature. Animal Waste shall not include waste generated from health care-related facilities such as veterinary establishments. Animal Waste shall not include dead animals.
2. **“Brush”** means as defined in 30 TAC § 330.3.
3. **“Bulk Waste”** means Municipal Solid Waste composed of materials not easily containerized in a Cart such as, but not limited to, appliances, Brush, carpet, furniture, pallets and other large items. Bulk Waste shall exclude Animal Waste, dead animals, Construction or Demolition Waste or Excluded Waste.
4. **“Cart”** means any watertight plastic receptacle approved by the Director for the purpose of containing Municipal Solid Waste or Recyclable Material, with a maximum capacity of approximately ninety-six (96) gallons, equipped with wheels and attached tight-fitting lid designed or intended to be mechanically or manually dumped into a garbage collection truck. Construction or Demolition Waste shall not be placed in Cart(s).
5. **“Citizen Collection Station”** means a site designated by the Director and recognized by the Texas Commission on Environmental Quality for the drop-off of Municipal Solid Waste and/or Recyclable Material, by Residential Property Occupants.
6. **“City”** means the City of El Paso or the area included within its established limits.
7. **“Collection”** means as defined in 30 TAC § 330.3.
8. **“Commercial Property”** means all Improved Property other than a Residential Property.
9. **“Composting”** means as defined in 30 TAC § 330.3.
10. **“Construction or Demolition Waste Collection”** means the collection of Construction or Demolition Waste generated within the City.
11. **“Container”** means a Dumpster or Compactor.
12. **“Construction or Demolition Waste”** means Solid Waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction or work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, plastic buckets and drums, gypsum board, wood, rebar, aluminum or vinyl siding, excelsior, rubber, plastics, concrete, asphalt, corrugated cardboard, roofing tiles, asphalt shingles, tar paper, and floor tiles.
13. **“Compactor”** means a watertight receptacle, regardless of its size, which has a compaction mechanism, whether stationary or mobile, equipped with closeable doors intended to be loaded onto a motor vehicle.
14. **“Curbside”** means the area located within three (3) feet of and parallel to the edge of the City street or alleyway that provides primary access to the Residential Property, as designated by the Department.

15. **“Department”** means the Environmental Services Department of the City of El Paso, or an equivalent department, regardless of name, designated by the City of El Paso City Council to administrate the process of Solid Waste management within the City.
16. **“Designated Municipal Solid Waste Facility”** means any Municipal Solid Waste Facility designated by the Director for processing, storing, or disposing of Municipal Solid Waste, including Construction or Demolition Waste, generated within the City.
17. **“Designated Recycling Facility”** means any Recycling Facility approved by the Director for recycling of Recyclable Materials, including Construction or Demolition Waste, generated within the City.
18. **“Director”** means the director of the Department or designee.
19. **“Discard”** means as defined in 30 TAC § 330.3.
20. **“Disposal”** or **“Dispose”** means the deposit of any Solid Waste at a Municipal Solid Waste Facility.
21. **“Dumpster”** means a watertight receptacle, with a capacity of approximately two (2) cubic yards up to approximately eight (8) cubic yards, equipped with tight-fitting lid designed or intended to be mechanically dumped into a loader-packer type truck.
22. **“Duplex”** means two (2) dwelling units within an Improved Property sharing at least one (1) common wall or included under the same roof structure which is arranged, designed or used residential occupancy and does not include Mobile Home.
23. **“Excluded Waste”** means Solid Waste not accepted by any Designated Municipal Solid Waste Facility(ies) as posted at such Designated Municipal Solid Waste Facility(ies).
24. **“Fill Material”** means inert material, such as sand, soil, clay, rock, brick, and concrete that has been removed from a construction site or demolished from a structure within the City that is re-used as fill material at a new site of construction, pursuant to a Waste and Borrow Grading Permit, issued by the appropriate City authority. Material where the Generator, Hauler or Self-Transporter compensates a third party for the acceptance of the material shall not be considered Fill Material.
25. **“Garbage”** means as defined in 30 TAC § 330.3.
26. **“Generator”** means as defined in 30 TAC § 330.3.
27. **“Handbill”** shall mean any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, newspaper with or without inserts or any other printed or otherwise reproduced original or copies of any matter of literature:
 - (i) Which advertises for sale any merchandise, product commodity, or thing; or
 - (ii) Which directs attention to any business or mercantile or commercial establishments or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
 - (iii) 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.
 - (iv) 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.
28. **“Hauler”** means a Person, other than a Self-transporter, who provides collection of Solid Waste and/or Recyclable Materials within the City.

29. **"Hauler Permit"** means the authorization of a Hauler by the Department for the privilege to provide collection of Solid Waste and/or Recyclable Materials within the City during the term of such permit and subject to all the terms and conditions imposed by this ordinance and related laws and other ordinances and resolutions of the City.
30. **"Hazardous Waste"** means as defined in means as defined in 30 TAC § 330.3.
31. **"Health Authority"** means the Department of Public Health for the City.
32. **"Illegal Dumping"** means the offense as defined by Texas Litter Abatement Act.
33. **"Industrial Solid Waste"** means as defined in 30 TAC § 330.3.
34. **"Improved Property"** means all properties located within the City which there is erected a structure intended for continuous or periodic habitation, occupancy or use by Person(s) that generate or are capable of generating Solid Waste.
35. **"Landfill"** means as defined in 30 TAC § 330.3.
36. **"Litter"** means as defined in Texas Litter Abatement Act; garbage, rubbish and refuse; decayable waste and non-decayable solid waste.
37. **"Medical Waste"** means as defined in 30 TAC § 330.3.
38. **"Mixed-use Property"** means an Improved Property containing both Residential Properties and Commercial Properties, where the Municipal Solid Waste generated at such Improved Property cannot be readily separated by source of generation.
39. **"Mobile Home"** means a structure transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site is three hundred and twenty (320) feet or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems.
40. **"Mobile Home Property"** means an Improved Property equipped or occupied by one Mobile Home.
41. **"Municipal Solid Waste"** means as defined in 30 TAC § 330.3. Municipal Solid Waste excludes Animal Waste and Excluded Waste.
42. **"Municipal Solid Waste Facility"** means as defined in 30 TAC § 330.3.
43. **"Nuisance"** means as defined in 30 TAC § 330.3.
44. **"Occupant"** means any Person occupying or having possession of an Improved Property or any portion thereof.
45. **"Owner"** means any Person who, alone or with others, has title or interest in a Improved Property with or without accompanying actual possession thereof, and including any Person who as agent, or as executor, administrator, trustee or guardian of an estate, has charge, care or control of any Improved Property.
46. **"Permitted Hauler"** means Hauler holding a valid Hauler Permit.
47. **"Permitted Vehicle"** means a vehicle or trailer used by a Permitted Hauler within the City for the purpose of collecting Solid Waste and/or Recyclable Materials generated within the City.
48. **"Person"** means any Person, firm, partnership, association, corporation, company or organization of any kind.
49. **"Processing"** or **"Processed"** means as defined by 30 TAC § 330.3.
50. **"Program Recyclable Materials"** means Recyclable Materials defined by the Department as part of the Residential Recycling Program.
51. **"Recyclable Material"** means as defined by 30 TAC § 330.3.

52. **“Recycling”** means as defined by 30 TAC 330.3.
53. **“Recycling Facility”** means a facility that either (i) has the required notification with Texas Commission on Environmental Quality, or equivalent state agency, for processing of Recyclable Materials and is in compliance with or local, state, and federal law or (ii) recovers a minimum of seventy (70) percent of the incoming materials for recycling. Recycling Facilities shall include Composting facilities.
54. **“Residential Property”** means all Improved Property which is used, or is capable to be used as a Single-Family Dwelling, Duplex, or Mobile Home Property, and does not include Improved Property used primarily as a Commercial Property or Mixed-use Buildings.
55. **“Residential Recycling Program”** means the collection of Recyclable Materials, as defined by the Department, from Residential Properties.
56. **“Roll-off”** means any watertight receptacle, with a capacity of approximately ten (10) cubic yards up to approximately forty (40) cubic yards, intended to be loaded onto a motor vehicle.
57. **“Rubbish”** means as defined by 30 TAC 330.3.
58. **“Self-transporter”** means the following:
- (i) Generator who directly, without the use of a Hauler, transports his or her own Solid Waste to a Municipal Solid Waste Facility and/or Recyclable Materials to a Recycling Facility or
 - (ii) Person conducting services on behalf of a third party, such as building contractors, home repairmen/handyman, landscapers or roofers, at that party’s location of business or residence, who directly, without the use of a Hauler, transports Solid Waste to a Municipal Solid Waste Facility and/or Recyclable Materials to a Recycling Facility generated as a result of that service.
- Self-transporter shall exclude the above Generators or Persons utilizing the following vehicle(s) for transporting of Solid Waste and/or Recyclable Materials within the City:
- (i) A vehicle with a truck class 4 or higher, based on US DOT Federal Highway Administration Vehicle Inventory and Use Survey standards;
 - (ii) A vehicle with two (2) or more rear axles; and/or
 - (iii) A vehicle with an attached trailer with two (2) or more axles.
59. **“Sidedoor”** means a collection location for a Municipal Solid Waste and/or Program Recyclable Materials Cart other than Curbside. Sidedoor can be at the front, side or rear of a Residential Property for collection of Municipal Solid Waste and Program Recyclable Materials. The Department shall designate the location for Sidedoor collection of Municipal Solid Waste and/or Program Recyclable Materials.
60. **“Single-Family Dwelling”** means a single dwelling unit within an Improved Property designed for residential occupancy which is arranged, designed or used as living quarters.
61. **“Sludge”** means as defined by 30 TAC 330.3
62. **“Solid Waste”** means as defined by 30 TAC 330.3.
63. **“Special Waste”** means as defined by 30 TAC 330.3.
64. **“Storage”** means as defined by 30 TAC 330.3.
65. **“Wastewater Treatment Facility”** means a facility such as a sewage treatment plant, permitted by the appropriate state authority.
66. **“Weeds and Rank Vegetation”** means weeds or other vegetation that is on average greater than twelve inches height.

9.04.020 Applicability.

Except where expressly provided otherwise in this Chapter, this Chapter shall apply to the Solid Waste and Recyclable Materials generated, collected, disposed, processed, and/or otherwise found in the area under jurisdiction of the City as presently or hereafter established.

9.04.030 Purpose.

The purposes of this Chapter include, but are not necessarily limited to, the following:

- A. To protect the health, safety, and general welfare of the City and the City residents;
- B. To provide environmentally sound, cost-efficient Solid Waste management;
- C. To provide for the safe and proper handling of Solid Waste generated, stored, collected, and/or disposed of within the City;
- D. To develop data to ensure sufficient disposal capacity and/or recycling programs for Solid Waste and Recyclable Materials generated, stored, collected, disposed, processed, and otherwise found within the City;
- E. To deter Illegal Dumping;
- F. To facilitate conservation of vital natural resources;
- G. To protect against risk that present Municipal Solid Waste Facilities become unable to accept Municipal Solid Waste generated within the City;
- H. To encourage, finance, and enforce Recycling programs throughout the City; and
- I. To provide a convenient and effective means of financing the City's Solid Waste services.

ARTICLE II – MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS GENERATED AT RESIDENTIAL PROPERTIES

9.04.040 Applicability.

This article shall apply to:

- A. Owners of Residential Properties in the City, where an Owner is also the Occupant;
- B. Owners of Residential Properties in the City, where the Residential Property is vacant;
- C. Occupants of Residential Properties in the City, where an Owner(s) is not an occupant;
- D. Self-transporters of Solid Waste and Recyclable Materials generated at Residential Properties; and
- E. Haulers of Solid Waste, other than Municipal Solid Waste, generated at Residential Properties.

9.04.050 Accumulation and storage.

Municipal Solid Waste and Recyclable Materials generated at Residential Properties applicable to this Article shall be accumulated and stored in compliance with the following provisions:

- A. **Municipal Solid Waste.**

Excluding Bulk Waste, Municipal Solid Waste shall be contained in secured, odor and vector-tight plastic bags, and stored in Cart(s). Municipal Solid Waste shall not be accumulated or stored outside of Cart(s), and Cart lid(s) shall remain closed at all times when not adding Municipal Solid Waste to Cart(s). No large quantities of bricks, sand, or soil shall be placed in Cart(s).

B. Recyclable Materials.

Program Recyclable Materials shall be stored, uncontainerized (with the exception of shredded paper), in Cart(s) designated by the City for collection of Program Recyclable Materials. Program Recyclable Materials shall not be accumulated or stored outside of Cart(s), and Cart lid(s) must remain closed at all times when not adding Program Recyclable Materials to Cart(s). Recyclable Materials other than Program Recyclable Materials shall be accumulated and stored at the Residential Property in accordance with Federal, State and local laws.

9.04.060 Collection provider.

Department shall be the exclusive Hauler of Municipal Solid Waste and Program Recyclable Materials generated at Residential Properties. Solid Waste other than Municipal Solid Waste and Recyclable Materials other than Program Recyclable Materials shall be collected by Permitted Hauler(s), in accordance with this Chapter.

9.04.070 Disposal and Recycling provider.

The Self-Transporter or the Permitted Hauler shall be responsible for ensuring Solid Waste is delivered to a Designated Municipal Solid Waste Facility. The Self-Transporter or the Permitted Hauler shall be responsible for ensuring Recyclable Materials are delivered to a Designated Recycling Facility.

9.04.080 Schedule for collection.

Occupant(s) of Residential Properties shall, at a minimum, receive the following collections, on day(s) designated by the Department:

- A. Collection once per week of one (1) Municipal Solid Waste Cart;
- B. Collection on a frequency to be designated by Director for one (1) Program Recyclable Materials Cart; and
- C. On-call collection of Bulk Waste, upon notification and payment of applicable fees to the Department.

Cart(s) and Bulk Waste shall be placed at the location for collection, as specified in Section 9.04.090, after 6:00 p.m., on the day proceeding the designated collection day and prior to 5:00 a.m., on the designated collection day. Cart(s) shall not be left in the pick-up area after 7:00 p.m. on the designated collection day.

9.04.090 Location for collection.

Municipal Solid Waste and Program Recyclable Materials Cart(s) and Bulk Waste shall be placed for collection in accordance with Section 9.04.060 and the following requirements:

A. Location for collection at the Residential Properties.

Cart(s) approved by the Department for collection of Municipal Solid Waste and Program Recyclable Materials shall be placed for collection in accordance with the following rules:

- (i) Only Municipal Solid Waste shall be placed in Cart(s) designated for collection of Municipal Solid Waste;
- (ii) Only Program Recyclable Materials shall be placed in Cart(s) designated for collection of Program Recyclable Materials;
- (iii) Only Municipal Solid Waste generated at a Residential Property shall be placed in Municipal Solid Waste Cart(s) assigned to such Residential Property;
- (iv) Only Program Recyclable Materials generated at a Residential Property shall be placed in Program Recyclable Materials Cart(s) assigned to such Residential Property;
- (v) Occupant(s) shall securely close the lid for each Cart after discarding material in such Cart;
- (vi) Each Cart including contents shall not exceed one hundred and fifty (150) pounds; and
- (vii) Municipal Solid Waste and/or Program Recyclable Materials Cart(s) shall conform to any and all other acceptance policy(ies) established by the Department.

Bulk Waste shall be placed for collection in accordance with the following rules:

- (i) Brush that is individually or bundled for collection, shall be neither more than five (5) feet in length nor sixty (60) pounds in weight; and
- (ii) Bulk Waste shall be placed for collection conform to any and all other acceptance policy(ies) established by the Department.

Excluding collection locations approved for Sidedoor collection, Cart(s) and Bulk Waste shall be placed at the Curbside in accordance with the following rules:

- (i) Cart(s) shall be placed at the Curbside of the Residential Property with the lids opening toward the street; the placing of Cart(s) on neighboring property is prohibited;
- (ii) Cart(s) and Bulk Waste shall be placed no closer than three (3) feet from other Cart(s) and Bulk Waste along the Curbside;
- (iii) Cart(s) and Bulk Waste shall not be placed within three (3) feet from street light poles, mail boxes, parked cars, utility boxes, cable television boxes, and other public or private property;
- (iv) Cart(s) and Bulk Waste shall not be placed in such a manner as to create a pedestrian hazard, impair the use of the sidewalk or interfere with vehicular traffic; and
- (v) Where a Residential Property is located on a street corner, Cart(s) and Bulk Waste shall only be placed along the Curbside of the street address of the Residential

Property; the placing of Cart(s) and Bulk Waste along the Curbside perpendicular to the Residential Property's street address is prohibited.

Occupant(s) of Residential Properties may request Sidedoor collection from the Department. The written request must be renewed annually. The request must conform to an administrative process designated by the Department, and its review, approval and continued eligibility is subject to the following rules:

- (i) An applicant is eligible for Sidedoor collection if he/she is the primary water account holder and who has provided written documentation of one of the following:
 - (a) Certification from the Social Security Administration that the applicant for Sidedoor collection is the recipient of a social security or supplemental security income disability pension;
 - (b) Certification from the proper administrative officer that the applicant for Sidedoor collection is the recipient of a public disability pension and classified one hundred percent (100%) disabled; or
 - (c) Certification from the Veterans Administration that the applicant for Sidedoor collection is the recipient of the Veterans Administration disability payments and classified one hundred percent (100%) disabled.
- (ii) An applicant is eligible for Sidedoor collection if he/she lives alone and is incapable of transporting his/her Municipal Solid Waste or Program Recyclable Materials Cart to the Curbside.
- (iii) No more than one (1) Municipal Solid Waste Cart and one (1) Program Recyclable Materials Cart at any time will be assigned to a Residential Property receiving Sidedoor collection.
- (iv) Director shall have the authority to investigate and verify, by personal contact, Department official or mailed form that recipients of Sidedoor collection have continued eligibility for Sidedoor collection.

B. Location for collection at the Citizen Collection Station.

Occupant(s) of Residential Properties may utilize Citizen Collection Station(s) provided by the Department subject to the following rules:

- (i) An occupant is eligible for utilizing Citizen Collection Station(s) who is the primary water account holder and who has provided written documentation of the following:
 - (a) Current City water bill; and
 - (b) Photo identification of Occupant with same address as City water bill.
- (ii) Occupant(s) who have met the required conditions in this section, may not utilize any Citizen Collection Station more than four (4) times in any one calendar month.
- (iii) Occupant(s) who have met the required conditions in this section must conform to the Citizen Collection Station waste acceptance policy established by the Department and posted at such Citizen Collection Station.

- (iv) Director shall have the authority to investigate and verify, by personal contact, Department official or mailed form that occupants utilizing Citizen Collection Station(s) have continued eligibility for this service.
- (v) Occupant(s) who have met the required conditions of this section are prohibited from utilizing Citizen Collection Station(s) for the disposal of any waste or material not generated solely from the Occupant(s) dwelling and residential activities at that Residential Property.

9.04.100 Storage, maintenance, replacement, and ownership of Carts.

A. Storage of Carts.

Cart(s) shall be removed from the Curbside by end of designated collection day, as specified in Section 9.04.080. Upon removal of Cart(s) from the Curbside, Cart(s) shall be secured at the Residential Property in as inconspicuous a location as possible, including, but not limited to:

- (i) In a garage;
- (ii) In an outdoor storage building;
- (iii) On the side of a structure on the property; or
- (iv) At the back of a structure on the property.

Between designated collection days, carts shall be stored in such a manner that they are not readily susceptible to theft or vandalism. Carts shall not be stored in a manner that constitutes a Nuisance.

B. Ownership of Carts.

City owns all Carts. Owner(s) of Residential Properties shall maintain all Cart(s) at the Residential Property after the Residential Property is sold or new Occupant(s) move in.

C. Maintenance of Carts.

For properties occupied or possessed by Occupant(s), Cart(s) shall be maintained by Occupant(s) of such Residential Properties in a serviceable and nuisance-free condition. For all other Residential Properties, Cart(s) shall be maintained by Owner(s) of such Residential Properties in a serviceable and nuisance-free condition.

D. Replacement of Carts.

In the event a Cart becomes unserviceable or missing, the Owner shall notify the Department that a replacement Cart is required, in a manner conforming to the administrative process. The Department may assess a fee as established by Article IX.

E. Repossession of Recycling Carts.

The City may repossess a Recycling Cart(s) if the Occupant does not comply with policies established for the Recycling program. The Department may assess a fee, established by Article IX.

**ARTICLE III – MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS
GENERATED AT COMMERCIAL PROPERTIES AND MIXED-USE PROPERTIES**

9.04.110 Applicability.

This article shall apply to:

- A. Owners of Commercial Property or Mixed-Use Property in the City,
- B. Self-transporters of Solid Waste and Recyclable Materials in the City; and
- C. Haulers of Solid Waste and Recyclable Materials in the City.

9.04.120 Accumulation and Storage.

Municipal Solid Waste and Recyclable Materials generated at Commercial Property and Mixed-Use Property within the City shall be accumulated and stored in compliance with the following provisions:

A. Municipal Solid Waste.

Excluding Bulk Waste, Municipal Solid Waste shall be contained in Cart(s) and/or Container(s). Cart or Container(s) lid(s) shall remain closed at all times when not adding Municipal Solid Waste to Cart(s). Municipal Solid Waste, including Bulk Waste, shall not be stored in a manner that constitutes a Nuisance.

B. Recyclable Materials.

Commercial Property and Mixed-Use Property Occupants are encouraged to participate in Recycling. Commercial Property and Mixed-Use Property Occupants who elect to participate in Recycling shall accumulate and store such Recyclable Materials in accordance with Federal, State and local laws.

9.04.130 Collection provider.

Excluding Self-transporters, Owner(s) of Commercial Properties and Multi-Use Properties shall be responsible for ensuring Municipal Solid Waste, Recyclable Materials, and Bulk Waste generated at such Commercial Properties and Multi-Use Properties shall be collected by the Department or a Permitted Hauler in accordance with this Chapter. This Article shall not be construed to require the Department to provide collection of Municipal Solid Waste, Recyclable Materials, Bulk Waste, and/or Solid Waste collection for Commercial Properties and/or Multi-Use Properties.

9.04.140 Disposal and Recycling provider.

Self-Transporters and Permitted Haulers shall be responsible for ensuring Solid Waste is delivered to a Designated Municipal Solid Waste Facility. Self-Transporters and Permitted Haulers shall be responsible for ensuring Recyclable Materials are delivered to a Designated Recycling Facility.

9.04.150 Schedule for collection.

Owner(s) or Occupant(s) shall enter into a written agreement with a Permitted Hauler for collection as according to the following minimum schedule:

- A. Once per week collection of one (1) Municipal Solid Waste Container; and
- B. On-call collection of Bulk Waste.

Commercial Property and Mixed-Use Property shall enter into a written agreement for collection of Municipal Solid Waste. Commercial Property and Mixed-Use Property shall ensure that Municipal Solid Waste does not become a nuisance such as overflowing the Cart(s) and/or Container(s).

9.04.160 Authority to mandate collection.

A. Overflowing Container.

Excluding Bulk Waste, Municipal Solid Waste shall be contained in secured, odor- and vector-tight plastic bags, and stored in Cart(s) designated by the Department for the collection of Municipal Solid Waste. Municipal Solid Waste shall not be accumulated or stored outside of Cart(s), and Cart lid(s) must remain closed at all times when not adding MSW to Cart(s). Public officials authorized to issue citation pursuant to this Chapter may issue citations for overflowing Containers and Carts. Upon issuance of a warning or citation by the public official authorized to issue citation pursuant to this Chapter to the Owner(s) and/or Occupant(s) of a Commercial Property or Mixed-Use Property as to overflowing Container(s) or accumulation of Solid Waste at the collection location, the Person upon whom the warning or citation was issued shall correct such condition within twenty-four (24) hours of receiving such warning or citation.

B. Harborage of Vectors or other health hazards..

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(s) and/or Occupant(s) of such Commercial Property or Mixed-Use Property 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 Person upon which the Director ordered to have a Container emptied or replaced fails to empty or replace such 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 Person upon which the Director ordered to have a Container emptied or replaced for such service in accordance with the procedure and the rates established by this Chapter.

9.04.170 Collection location.

Commercial Properties and Multi-Use Properties shall be responsible for ensuring that the collection location for Municipal Solid Waste, Recyclable Materials and other waste is on the Commercial Property or Multi-Use Property unless an exception is granted by the Director. The Director may grant an exception to a Commercial Property and Mixed-Use Property upon the Director's determination that:

- A. Placement of the collection location on the Improved Property is neither reasonable nor practical; and
- B. Placement of the collection location 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.

When placement of a Container in a public right-of-way other than an alley is authorized, the Permitted Hauler for the Commercial Property or Mixed-Use Property shall pay a fee for use of such right-of-way as prescribed by City Council Resolution authorized by Article IX.

9.04.180 Storage, maintenance, replacement, and ownership of Carts.

A. Maintenance of Containers.

Hauler(s) of Containers from Commercial Property(ies) and Multi-Use Property(ies) shall maintain the Container(s) in a serviceable and nuisance free condition. Owner(s) of Commercial Property and Mixed-Use Property shall maintain the area surrounding the Container(s) in a clean and sanitary condition, free of Litter or any other accumulation of Solid Waste.

B. Replacement of Containers.

In the event a Container becomes damaged or stolen, the Owner of such Commercial Property(ies) and Multi-Use Property(ies) shall replace such Container if such Container is owned by the Owner. For Containers not owned by the Owner, the Owner of such Commercial Property(ies) and Multi-Use Property(ies) shall notify the Permitted Hauler for replacement of the Container.

C. Container Identification.

All Containers must be identified with the name of the Owner or Permitted Hauler providing such Containers, or by a paint scheme or decal which is distinctive to the Owner or Permitted Hauler.

ARTICLE IV – CONSTRUCTION AND DEMOLITION WASTE

9.04.190 Applicability.

This article shall apply to:

- A. Generators of Construction or Demolition Waste in the City;
- B. City building permit holder(s) for a property(ies) generating Construction or Demolition Waste;
- C. Haulers of Construction or Demolition Waste in the City; and
- D. Self-Transporters of Construction and Demolition Waste in the City.

9.04.200 Accumulation and Storage.

Construction and Demolition Waste generated within the City shall be accumulated and stored in compliance with the following provisions:

A. Construction or Demolition Waste.

Generator(s) shall accumulate Construction or Demolition Waste in Roll-offs with the following exceptions:

- (i) Construction waste produced by demolition that is so large in volume that it cannot reasonably be placed in a Roll-off 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 must be approved by the Director.
- (ii) Rock, concrete, mortar, brick, cinder block, and similar construction wastes generated by a single property, including an Improved Property or other properties located within the City, are not required to be containerized but shall be collected into piles on the ground of the property such material was generated and removed to a Designated Municipal Solid Waste Facility or Designated Recycling Facility 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.
- (iii) 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 Designated Municipal Solid Waste Facility or Designated Recycling Facility.

B. Recyclable Materials.

Generator(s) of Construction or Demolition Waste in the City are encouraged to recycle. Generator(s) of Construction or Demolition Waste in the City who elect to participate in Recycling shall accumulate and store such Recyclable Materials in accordance with Federal, State and local laws.

9.04.210 Collection provider.

Generator(s) and City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall be responsible for ensuring Construction or Demolition Waste and Recyclable Materials generated at such property(ies) shall be collected by the Department or a Permitted Hauler. The Permitted Hauler shall provide the Generator or the City building permit holder a copy of the Hauler Permit, prior to transporting waste.

9.04.220 Manifest Requirement

Generator(s) and City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall be required to execute a Construction or Demolition Waste manifest in accordance with policy(ies) established by the Department.

9.04.230 Disposal and Recycling provider.

Self-Transporters and Permitted Haulers shall be responsible for ensuring Construction or Demolition Waste is delivered to a Designated Municipal Solid Waste Facility in accordance

with this Chapter. The Permitted Hauler shall be responsible for ensuring Recyclable Materials delivered to a Designated Recycling Facility in accordance with this Chapter.

9.04.240 Schedule for collection.

Generator(s) and City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall enter into a written agreement for collection which provides for:

- A. A minimum of (1) Roll-off for each property which generates Construction or Demolition Waste in quantities equal to or greater than eight (8) cubic yards every other week;
- B. A sufficient quantity of Roll-offs as to ensure that Construction or Demolition Waste does not become a nuisance or overflow roll-offs; and
- C. Every other week collection of each Roll-off.

9.04.250 Location for collection.

Generator(s) and City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall place the Roll-off for collection of Construction or Demolition Waste on the property unless an exception is granted by the Director. The Director may grant an exception to the City building permit holder(s) for a property(ies) generating Construction or Demolition Waste upon the Director's determination that:

- A. Placement of the collection location on the Construction Property is not safe and feasible; and
- B. Roll-off is equipped with adequate reflectors and placed as close to curb as reasonably possible.

When placement of a Roll-off in a public right-of-way is authorized, the Department shall not require the Generator(s), City building permit holder(s), or the Permitted Hauler for the Roll-off to pay a fee for use of such right-of-way during the construction period.

9.04.260 Storage, maintenance, replacement, and ownership of Roll-offs.

A. Maintenance of Roll-offs.

Hauler(s) of Roll-offs from property(ies) generating Construction or Demolition Waste shall maintain the Roll-off(s) in a serviceable and nuisance free condition. Generator(s) and City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall maintain the area surrounding the Roll-off(s) in a clean and sanitary condition, free of Litter or any other accumulation of Solid Waste.

B. Replacement of Roll-offs.

In the event a Roll-off becomes damaged or stolen, the City building permit holder(s) for a property(ies) generating Construction or Demolition Waste shall contact the Permitted Hauler for replacement of the Roll-off.

ARTICLE V – OTHER WASTE

9.04.270 Animal Waste.

Occupant(s) of Residential Property(ies) and/or Commercial Property(ies) who generate Animal Waste from domestic animals may discard Animal Waste in the Residential Property's assigned Cart designated for Municipal Solid Waste to the extent that it does not create a nuisance. Occupant(s) of Residential Property(ies) and/or Commercial Property(ies) who generate quantities of Animal Waste that will create a nuisance may discard of Animal Waste in either:

- A. Dumpster collected as often as necessary to prevent occurrence of a public nuisance or health hazard, but not less than once per week; or
- B. Roll-off with a maximum capacity of fifteen (15) cubic yards collected as often as necessary to prevent occurrence of a public nuisance or health hazard, but not less than once per week.

9.04.280 Dead animals.

In accordance with the fees established in Article IX of this Chapter, the City may charge a fee for the collection and disposal of dead animal(s) regardless of whether the service was or was not requested, to the owner(s) of the dead animal(s) or the Owner of Improved Property where the dead animal(s) was found. Owner(s) or Occupant(s) of Improved Property where a dead animal(s) is located shall contact the Department for collection and disposal of the dead animal(s) within twenty-four (24) hours of the discovery of the dead animal(s). For dead animals less than forty (40) pounds, owner(s) of the dead animal(s) or Owner(s) or Occupant(s) of Improved Property where the dead animal(s) is located shall place the dead animal in a securely tied plastic bag. For dead animals equal to or greater than forty (40) pounds, owner(s) of the dead animal(s) or Owner(s) or Occupant(s) of Improved Property where the dead animal(s) is located shall place the dead animal in accordance with the instructions of the Department. City shall collect dead animals in accordance with the following:

- A. For dead animals less than forty (40) pounds and placed in a securely tied plastic bag, City shall collect with existing equipment if practical.
- B. If in the opinion of the Director, the dead animal has become so decomposed or due to other reasons the removal of the dead animal using the existing equipment of the Department is impractical or the dead animal(s) is greater than forty (40) pounds, 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.
- C. Nothing in this Chapter shall be construed to prevent the Director 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.

9.04.290 Other Waste.

Generators of waste, other than waste described in Article II, III, IV, and V (A) and (B) above, shall be solely responsible for the accumulation and storage, collection, processing, and disposal of such waste in full compliance with Federal, State, and local laws regarding such waste. Generators of waste, other than waste described in Article II, III, and IV above, shall not place

such waste in Carts, Containers, or Roll-offs for Municipal Solid Waste, Recyclable Materials, and/or Construction or Demolition Waste.

ARTICLE VI – HAULERS

9.04.300 Hauler Permit required.

No Hauler shall collect, pick up, remove, or cause to be collected, picked up, or removed Solid Waste and/or Recyclable Materials generated or otherwise found within the City without holding a valid Hauler Permit for such activity, granted in accordance with this Chapter. A Hauler Permit issued pursuant to the provisions of this Chapter shall be a mere grant or privilege to collect Solid Waste and/or Recyclable Materials during the term of such permit and subject to all terms and conditions imposed by this Chapter and related laws and other ordinances and resolutions of the City. This Chapter shall not be construed to require a Hauler Permit for the transportation of waste through the City, provided that such waste was not generated within the City.

9.04.310 Hauler Permit term.

Upon the effective date of this ordinance, City may grant Hauler Permit(s) for a term commencing on the date of the issuance of the Hauler Permit, as set forth in Section 9.04.320, and expiring on December 31st of each calendar year.

9.04.320 Hauler Permit application, issuance, and appeal procedures.

A. Hauler Permit application.

To acquire a valid Hauler Permit for the first time or prior to the expiration of a valid Hauler Permit, each Hauler must submit an application to the Department for a Hauler Permit a minimum of sixty (60) calendar days prior to the proposed commencement of collection within the City or the expiration of the valid Hauler Permit. Haulers shall submit a Hauler Permit application in accordance with City procedures. The Hauler shall, under penalty of perjury, certify that all information contained in the Hauler Permit application and all information submitted in connection with the Hauler Permit application is true and correct. At a minimum, the application for a Hauler Permit shall require a Hauler to provide the following information:

- (i) The name, address and telephone number of the applicant.
- (ii) The name under which the applicant is doing business or has done business under in the last three (3) calendar years.
- (iii) A list of all vehicles and trailers, referred to as Permitted Vehicles, proposed to be used within the City for the purpose of collecting Solid Waste and/or Recyclable Materials including the following information for each vehicle:
 - a. The state motor vehicle registration number;
 - b. Description of chassis by year and manufacturer;
 - c. Description of the body by year and manufacturer;
 - d. The legal weight limit;
 - e. The volume of the body of the vehicle in cubic yards; and
 - f. Copy of insurance coverage for each vehicle in an amount not less than the minimum coverage required by Texas law.

- (iv) The types of Solid Waste and/or Recyclable Materials to be collected, transported, processed, and/or disposed.
- (v) A list of the area or areas served by the vehicles listed in the Hauler Permit application.
- (vi) Upon request, a list of all contracts and agreements covering the collection of Solid Waste and Recyclable Materials generated within the City. This list shall include the name(s) of the parties to the contract or agreement, the term of the contract or agreement and the termination date of the contract or agreement, and the name(s) of any disposal location(s) specified in the contract or agreement.
- (vii) Any additional data and information deemed necessary by the City, the Department, and/or the Director in order to verify the accuracy of information contained in the permit application forms and attendant documents.

B. Hauler Permit application fee.

The Hauler Permit application fee shall be in accordance with the applicable fee schedule, as determined by the Director, per Hauler, payable to the City at the time the initial permit application is filed and at the time each renewal application is filed thereafter. City Council shall be authorized to increase the Hauler Permit fee when it shall determine that such an increase is necessary to offset increasing costs of operation, provided, however, that there shall be at least thirty (30) calendar days' notice of any increase in the Hauler Permit fee.

C. Review, issuance, and appeal of Hauler Permit application.

An application for an initial or renewed Hauler Permit submitted pursuant to this Article may be granted or denied by the Director. Such application may be denied for one or more of the following reasons:

- (i) The applicant has failed to provide some or all of the information required by Section 9.04.320(A) above.
- (ii) The applicant has failed to provide the Hauler Permit application fee required by Section 9.04.320(B) above.
- (iii) The applicant has supplied false information to the City or any other employee, officer, or official of any agency, department, or authority of the City, El Paso County, the State of Texas, or the United States.
- (iv) The applicant has failed to pay all or any portion of the Hauler Permit application fee, franchise fees, other fees, penalties, or interest required or imposed pursuant to this Article or other Federal, State, and local regulations.
- (v) The applicant has otherwise failed to comply with any of the provisions contained in this Article.
- (vi) The applicant has failed to comply with any applicable legal or procedural requirements imposed by State law.

The Director shall grant or deny a Hauler Permit application within sixty (60) calendar days of the applicant's submission of a completed application. If the Hauler Permit application is denied, the applicant may appeal such denial by filing a written appeal with the Director within fourteen (14) calendar days of the denial. A hearing shall then be set

before the City Manager and prior written notice of such hearing shall be sent to the applicant. The City Manager shall provide the applicant fourteen (14) calendar days' written notice unless deemed by the City Manager that a shorter or longer period of notice may be justified by the circumstances. Unless all parties consent otherwise, the hearing shall be held within thirty (30) calendar days of the filing of the appeal. The City Manager may affirm, reverse, or modify the Director's decision.

9.04.330 Permitted Hauler vehicle requirements.

A. Permitted Hauler vehicle(s) ownership, identification, and appearance.

Permitted Hauler shall submit any changes to the information provided in the Hauler Permit to the Director within fourteen (14) calendar days of such change. Permitted Hauler shall use only vehicle(s) identified on the Hauler Permit application to collect Solid Waste and Recyclable Materials within the City. Hauler shall solely utilize collection vehicle(s) within the City that are:

- (i) Owned or leased by the Hauler;
- (ii) Listed in the Hauler Permit application as a collection vehicle;
- (iii) Cleaned regularly and upon the request of the Department as to maintain collection vehicles in a clean manner; and
- (iv) Affixed with the City Permitted Hauler sticker to the windshield as designated by the Department.

B. Permitted Hauler vehicle(s) construction and maintenance.

Permitted Haulers shall use only vehicle(s) identified on the Hauler Permit application to collect Solid Waste and Recyclable Materials that meet the following minimum requirements, both prior to and after the issuance of a Hauler Permit:

- (i) The collection vehicle body shall be capable of being readily emptied;
- (ii) The collection vehicle shall be kept in a sanitary condition;
- (iii) The collection vehicle shall be so equipped that all loading openings on the bodies have tightly fitting doors or covers which latch, clamp or fasten to keep them closed and rubber or other suitable gasket to render them leak proof, spill proof, dust proof, and odor proof to the maximum extent practicable;
- (iv) The collection vehicle shall be equipped with heavy-duty front hooks, loops or shackles, good and serviceable tires and other accessories as necessary for operation and/or navigation in or about any Designated Municipal Solid Waste Facility and Designated Recycling Facility; and
- (v) The collection vehicle shall meet all other requirements as determined by the Department to protect the health, safety, and general welfare of the City and the City residents.

C. Inspection and documentation of Permitted Vehicles.

Department may inspect a Permitted Vehicle used or proposed for use by a Permitted Hauler together with the contents of any Permitted Vehicle. Haulers shall maintain

accurate documents in each Permitted Vehicle which identify the contents as Solid Waste, or Recyclable Materials and the city, county, and state of origin of the Solid Waste or Recyclable Materials.

9.04.340 Cart, Container, and Roll-off requirements.

Permitted Haulers shall provide Collection of Solid Waste and Recyclable Materials with Carts, Containers, and Roll-offs that meet the following minimum requirements:

- A. Carts, Containers, and Roll-offs are owned or leased by the Hauler;
- B. Carts, Containers, and Roll-offs are painted, or securely affixed, with the business name, business address, and telephone number, and identification number in letters not less than six (6) inches high on two opposite sides of the respective Cart, Container, and Roll-off.
- C. Containers and Roll-offs are painted, or securely affixed, with the tare weight on two opposite sides of the respective Container and Roll-off; and
- D. Containers and Roll-offs are cleaned regularly and upon the request of the Department as to maintain collection vehicles in a clean manner.

9.04.350 Transporting waste.

Each Permitted Hauler shall comply with the following requirements for transporting Solid Waste and Recyclable Materials generated within the City:

- A. Permitted Hauler(s) shall suitably enclose or cover Solid Waste and Recyclable Materials prior to transportation to a Designated Municipal Solid Waste Facility or Designated Recycling Facility to prevent Littering, spillage of materials or fluids, and/or infiltration of rainwater. Tarpaulins must be used to cover compactor box openings, Roll-off tops, or other openings. Tarpaulins must be kept in good repair at all times.
- B. Permitted Hauler(s) shall immediately clean and remove any spillage of Solid Waste and/or Recyclable Materials upon the roads leading to or upon any Designated Municipal Solid Waste Facility or Designated Recycling Facility caused by the Permitted Hauler or the Permitted Hauler's Permitted Vehicle(s). Permitted Hauler shall immediately remit payment to City for any and all costs incurred by the City related to any such removal or spillage caused by the Permitted Hauler or the Permitted Hauler's Permitted Vehicle(s). This provision shall be in addition to any penalties authorized elsewhere by any other provision of law.

9.04.360 Disposal of Solid Waste.

Except as otherwise specifically provided in this Article, Permitted Haulers who collect Solid Waste generated within the City shall deliver such Solid Waste, other than Excluded Waste, to a Designated Municipal Solid Waste Facility. For Excluded Waste, Permitted Haulers shall dispose of such Solid Waste in accordance with Federal, State and local laws. This section shall not be construed to prohibit the source separation of Recyclable Materials from Solid Waste prior to collection of such Solid Waste for disposal.

9.04.370 Recycling of Recyclable Materials.

Except as otherwise specifically provided in this Article, Permitted Haulers whom collect Recyclable Materials generated within the City shall deliver such Recyclable Materials to a Designated Recycling Facility.

9.04.380 Hauler records.

Each Permitted Hauler shall maintain current customer records, including customer name, address, service level information, and other information as required by the Department, and routing records, including Permitted Vehicle number, collection day, driving route, and other information required by the Department, on file with the City Clerk. In addition, each Permitted Hauler shall keep such records, including scale house tickets, receipts, invoices, manifests, and other pertinent papers, in such form as the Department may require and for a period no less than three (3) consecutive calendar years. Such records shall include, but not be limited to, documents evidencing the collection of Solid Waste and Recyclable Materials provided within the City and the Municipal Solid Waste Facility and Recycling Facility where such Solid Waste and Recyclable Material was delivered. The City, City Council, or the Department, or any of their designees may examine the books, papers, records, financial reports, equipment, and other facilities of any Permitted Hauler in order to verify compliance with this Chapter.

9.04.390 Ownership of Solid Waste and Recyclable Materials.

Title to all Solid Waste and Recyclable Materials placed for collection shall be vested in the Hauler, either the Department or Permitted Hauler, upon placement in a cart or container by the Person disposing of such Solid Waste and Recyclable Materials at the collection location. This section does not apply to Solid Waste and Recyclable Materials that may not be placed for collection under this Chapter and Solid Waste and Recyclable Materials that the Designated Municipal Solid Waste Facility or Recycling Facility is prohibited by law or permit from processing or disposing. For Solid Waste and Recyclable Materials that the Designated Municipal Solid Waste Facility and Recycling Facility is prohibited by law or permit from processing or disposing, the responsibility for properly disposing of such Solid Waste and/or Recyclable Materials shall remain with the Person disposing of such waste and transfer to the Hauler upon collection of such waste by Hauler.

9.04.400 - Emergency powers; right to assume collection.

- A. The City, City Council, and/or Department or any of their designees reserve the right to assume responsibility for all or part of the collection of Solid Waste within the City should the City determine it to be in the best interest of the health and welfare of the citizens of the City. Such action shall be on a temporary basis within which time a hearing before the City Council is held to determine whether to continue this emergency action.
- B. Prior to any hearing described in subsection (a) of this Section notice to all affected Permitted Haulers setting forth the time, place, and purpose of such hearing shall be given to the last known addresses of such Haulers. Three (3) business days' written notice shall be deemed reasonable, but a shorter or longer period of notice may be authorized by the City Council.

- C. The proceeding shall be conducted informally, but consistent with due process. All interested parties, including the Director or its designee, shall be allowed to present any evidence, documents, or statements in support of their position. The City Council shall then determine whether the action described in subsection (a) of this Section should be made permanent or whether any other action by the City Council is justified under the circumstances.
- D. Any Person adversely affected by any decision made by the City Council pursuant to this section and desiring to appeal further must do so within thirty (30) calendar days of such adverse decision. There shall be no intermediate appeal to any other body.

ARTICLE VII – DESIGNATED MUNICIPAL SOLID WASTE FACILITY(IES) AND DESIGNATED RECYCLING FACILITY(IES)

The Department shall develop policies and procedures for the determination of a Designated Municipal Solid Waste Facility and Designated Recycling Facility. The policies and procedures for determination of Designated Municipal Solid Waste Facility(ies) and Designated Recycling Facility(ies) shall be on file with the City Clerk. Generators, Haulers, and Self-transporters shall ensure Solid Waste and Recyclable Materials shall be delivered to the Designated Municipal Solid Waste Facility(ies) and Designated Recycling Facility(ies).

ARTICLE VIII – CITY MUNICIPAL SOLID WASTE FACILITY(IES)

The Department shall develop policies and procedures for the acceptance of Solid Waste at City Municipal Solid Waste Facility(ies). The policies and procedures for acceptance of Solid Waste at City Municipal Solid Waste Facility(ies) shall be consistent with the permits for such Municipal Solid Waste Facility(ies) and shall be on file with the City Clerk.

ARTICLE IX – FRANCHISE FEES.

Commencing on April 28, 2014 at 12:01, AM, any Person, including Self-transporters, Haulers, Permitted Haulers, Department, and all other persons, providing collection and/or transportation of Solid Waste and/or Recyclable Materials generated within the City shall be liable for franchise fees as approved by City Council for each ton of Solid Waste and Recyclable Materials collected and/or transported by such Person. As provided in this Chapter, the City, City Council, or the Department, or any of their designees may examine the books, papers, records, financial reports, equipment, and other facilities of any Hauler to verify compliance with this Article.

ARTICLE X – RATES, CHARGES, FEES, AND PAYMENTS PROCEDURES

The City Council by resolution may adopt, set or amend the rates, charges, and payment procedures related to this Article, which resolution shall be on file with the City Clerk. In addition, the City Council, by resolution, may adopt, set or amend fees, including an environmental fee, related to this Article, which resolution shall be on file with the City Clerk. As to rates, charges, fees, and payments, the following provisions shall apply:

- A. When the Department makes Municipal Solid Waste and Program Recyclable Materials collection available to a Residential Property(ies), a charge shall be imposed upon such Residential Property(ies) in accordance with the City resolution plus any

additional fees, taxes, or charges, regardless of how they are designated, that are or may be imposed by the state or federal government, or by a regional authority, in respect to either individual or municipal action relating to this Article. Except as provided in subsection D below, the basic monthly charges as described herein shall apply regardless of the nature and extent of services actually provided to a Residential Property by the City.

- B. All charges incurred pursuant to the provisions of this Article for collection provided by the Department shall become due and payable when a bill is prepared by the City and shall become a personal debt of the Person named on the bill. Except when specific payment arrangements have been made in advance of the delinquent date, all charges levied pursuant to the provisions of this Article shall become delinquent if unpaid twenty (20) calendar days after the bill is sent.
- C. It is the responsibility of the Person or Persons in whose name or names is on an account has been established to pay all charges in full and on a timely basis. Failure to receive a bill will not excuse the account holder or holders from full and timely payment for the services.
- D. Charges for first and final bills with billing periods more or less than one (1) month shall be prorated.
- E. The City may discontinue monthly service charges to a Residential Property(ies) if the City receives notice from the Owner(s) of the Residential Property(ies), in writing, that the Residential Property(ies) have been permanently abandoned, or receives notice from the City that the Residential Property(ies) have been condemned as not habitable, or unsanitary and dangerous to human life.
- F. All payments due to the City by Permitted Haulers shall become delinquent if unpaid twenty (20) calendar days after payment is due.

ARTICLE XI – ENFORCEMENT

9.04.410 General authority.

The Department may initiate an action to enforce the provisions of this Chapter, including legal proceedings to compel compliance.

9.04.420 Authority to Issue Citations.

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:

- A. Director;
- B. Inspector for the Department;
- C. Police;
- D. Fire chief or designees; or

E. Parking enforcement controllers.

The public officials designated above are authorized to make inspections of any property necessary to enforce the provisions of this Chapter. If the Occupant(s) 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.

9.04.430 Notice of violation.

A public official authorized to enforce the provisions of this Chapter as set forth in this Article shall issue a written notice of the violation to any Person(s) who violates any of the provisions of this Chapter. The Person(s) shall correct any such violation within seven (7) calendar days of receipt of such notice.

9.04.440 Carts repossession.

In addition to any other actions or remedies the City and/or Department may pursue, the Department has the authority to repossess City owned Carts from Person(s) who fail to comply with the requirements of this Article.

9.04.450 Suspension and revocation of Hauler Permit

A. **Determination of suspension or revocation.**

In any instance where one of the following occur:

- (i) Permitted Hauler fails to correct violations within seven (7) calendar days after notice has been given by the public official,
- (ii) Permitted Hauler has received three (3) or more violations in a period of twelve (12) months; or
- (iii) Permitted Hauler's violation(s) constituted a significant hazard to public health.

The Director shall give the permittee at least ten (10) calendar days written notice that on a specified date and at a specified time and location, the Director will determine whether the Hauler's Hauler Permit should be suspended or revoked. The Permitted Hauler shall have the right to appear before the Director and explain why the Hauler Permit should not be suspended or revoked. The Director's decision shall be final unless appealed as provided for in Section 9.04.460(B) of this Chapter.

B. **Appeal from suspension or revocation.**

If the Director 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 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. 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. The City Manager shall

sustain, reverse or modify the action of the Director. The decision of the City Manager is final.

9.04.460 Other Penalties.

Any Persons violating any provision of this Chapter shall be punished by a minimum fine of fifty dollars (\$50.00) up to a maximum fine of 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.

9.04.470 Other Authority.

Nothing contained in this Chapter shall be construed to limit or constrain any federal or state agency or authority from enforcing federal or state laws and regulations, including but not limited to those laws and regulations regarding the generation, collection, transportation, and/or disposal of Solid Waste or Hazardous Waste in the City of El Paso.

ARTICLE XII – EXCLUSIVE FRANCHISE

City reserves the right to enter into an exclusive franchise agreement for the collection of Solid Waste and/or Recyclable Materials within the City.

ARTICLE XIII – EXCLUSIVE HAULER

City reserves the right to become the sole collection, processing, or disposal provider for any or all Solid Waste and Recyclable Materials generated within the City.

ARTICLE XIV – LITTER AND ILLEGAL DUMPING

9.04.480 Applicability.

This article shall apply to:

- A. Persons in the City;
- B. Owners of Improved Properties in the City, where the Residential Property is vacant; and
- C. Occupants of Improved Properties in the City, where an Owner(s) is not an occupant.

9.04.490 Litter and Illegal Dumping prohibited.

No Person shall dump, throw, drop, discard or otherwise dispose of Litter or commit the offense of Illegal Dumping on any public or private property, including Improved Property and properties not defined as Improved Properties, within the City. This prohibition shall not be construed to limit Persons placing Litter in public receptacles or in authorized private receptacles in such a manner as to prevent it from being carried or deposited by the elements upon public or private property.

9.04.500 Sweeping Litter and Illegal Dumping prohibited.

No Person shall sweep into or deposit in any gutter, street or other public property or onto another private property within the City the accumulation of Litter or Illegal Dumping from a property.

9.04.510 Property Owner Responsibility.

Owners of properties, Improved Properties and all other properties, in the City shall ensure properties are maintained free of Litter and Illegal Dumping. Owners of properties which abut City sidewalks, street, parkways, drainage ditches, or curbs and gutter, shall ensure such property is maintained free of Litter and Illegal Dumping.

9.04.520 Presumptions for Litter and Illegal Dumping from vehicles.

If Litter or Illegal Dumping occurs from a vehicle, proof that the material originated from the vehicle 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 this Article. The foregoing stated presumption shall apply only when the vehicle license plate number, make and model are set forth in the complaint.

9.04.530 Clean Construction Sites

Any person performing 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 debris, trash or Litter.

ARTICLE XV – DISTRIBUTION OF HANDBILLS AND OTHER MATERIALS.

9.04.540 Applicability.

This article shall apply to all Persons in the City.

9.04.550 Handbills in Public Places.

No Person shall throw, post, or deposit any Handbill within the City. Nor shall any Person hand out or distribute or sell any Handbill in any public place in the City. 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 Handbill to any Person willing to accept it.

9.04.560 Placing Handbills in or upon vehicles.

No Person shall throw, post, deposit, hand out or distribute any Handbills 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.

9.04.570 Depositing Handbills on properties.

No Person shall throw or deposit any Handbill in or upon any property except by handing such Handbill directly to the Owner, occupant or other Person then present in or upon such property. In case properties which Handbills are prohibited in accordance with this Article, such Person, unless requested by anyone upon such property not to do so, may place or deposit any such Handbill in or upon such inhabited property, if such Handbill is so placed or deposited as to secure or prevent such Handbill from being blown or drifted about such property or sidewalks, streets or other public places and except that mailboxes may not be so used.

9.04.580 Handbills Prohibited.

No Person shall throw, post, deposit, hand out or distribute any Handbill upon or to any private property, if requested by any one thereon not to do so, or if there is placed on said property in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of said property do not desire to be molested or have their right of privacy disturbed, or to have any such Handbills left upon such property.

9.04.590 Posting or Affixing of Handbills and Other Material.

No Person shall post, place or affix or cause to be posted, placed or affixed any Handbill or other material including sign, notice, poster or other paper or device calculated to attract the attention of the public at any lamp post, public utility pole, street median, public right-of-way, or shade tree, or upon any public structure or building, except as may be authorized or required by law. This provision shall not apply to signs relating to matters of public health, safety and welfare posted, placed, or affixed by the City.

ARTICLE XVI – PROHIBITED ACCUMULATION OF SOLID WASTE, RECYCLABLE MATERIALS, OR OTHER WASTE.

9.04.600 Applicability.

This article shall apply to:

- A. Persons in the City;
- B. Owners of Improved Properties in the City, where the Residential Property is vacant; and
- C. Occupants of Improved Properties in the City, where an Owner(s) is not an occupant.

9.04.610 Responsibility for Prohibiting Accumulation of Solid Waste, Recyclable Materials, or other waste.

It is unlawful for the Owner, or any Person having the right of possession of any property within the City to accumulate or to permit the accumulation of Solid Waste, Recyclable Materials, or other waste on such property or 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.

ARTICLE XVII – UNSECURED LOADS.

9.04.620 Applicability.

This article shall apply to all Persons in the City.

9.04.630 Unsecured Loads Prohibited.

No Person shall transport material, including Solid Waste, Recyclable Materials, or other waste unless such material is completely enclosed, covered, and/or secured as to prevent the load or any part of the load from being carried or deposited by the elements upon public or private property.

ARTICLE XVIII – WEEDS AND RANK VEGETATION.

9.04.640 Applicability.

This article shall apply to Owners of properties, including Improved Property and properties not defined as Improved Properties, within the City.

9.04.650 Weeds and Rank Vegetation Prohibited.

Excluding Weeds and Vegetation specifically identified in Section 9.04.670 Exceptions, Owners shall maintain properties as to prevent the following conditions:

- A. Any individual lot or tract of land smaller than three acres upon which Weeds and Rank Vegetation exceed an average height greater than twelve inches.
- B. Any individual lot or tract of land three acres or greater upon which Weeds and Rank Vegetation exceed an average height greater than twelve inches and are within one hundred fifty (150) 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 fifty (150) feet of any public or private property line.
- C. Regardless of lot size, any abutting parkways or alleys upon which Weeds or Rank Vegetation exceed an average height greater than twelve inches.

Any accumulation or growth of such Weeds and Rank Vegetation on properties covered by this Section is declared to be a public nuisance, the prompt abatement of which is a public necessity.

9.04.660 Exceptions.

The following Weeds and Rank Vegetation in the City shall be exempt from the requirements of this Section:

- D. Regularly cultivated ornamental, fruit bearing, vegetable bearing or flowering plants, bushes or trees, or native desert vegetation;
- E. Regularly cultivated crops grown on property that is classified as agriculture exempt according to the tax rolls;
- F. Pasture lands on property that is classified as agriculture exempt according to the tax rolls; and
- G. 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).

9.04.670 City Notification to Property Owner

The City may provide a notice to inform the Owner as listed at the Central Appraisal District, by certified mail, posting on the property, or by personal delivery of correction notice, that if the owner commits another violation of the same nature that poses a danger to the public health and safety within a twelve (12) calendar month period from the date of the violation noted in Section 9.04.660, the City without further notice may correct the violation (s) at the owner's expense and assess the clean up expense against the property. If there is a change of ownership on the property, and a similar violation occurs at the property, but the City has not been verified to the property owner receipt of ownership change, then the City without further 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.

9.04.680 City Abatement

- A. The Director is authorized to notify the property owner about the condition of the land constituting a public nuisance due to accumulation of trash, vegetation, weeds or any other unacceptable, unsightly or unsanitary matter in violation of this article. Such trash, vegetation, weeds, or any other matter must be removed within seven calendar (7) days after the receipt of such notice. Such notice will further state that if the current property condition is not corrected within the seven calendar (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 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 is owned jointly or in common, or to any agency having the authority to lease, rent, sell, manage or take care of the land. If the correction notice cannot be hand delivered at the time of the investigation, or the owner's address recorded in the central appraisal district 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 onto the ground on the property which the violation relates, if the property contains no buildings.
- C. If the city mails a notice to a property owner in accordance with this section, and the United States Postal Services returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- D. The person given such a notice or their representative, may request a hearing with the Director within seven (7) calendar days after the receipt of the notice, to present their reason(s) for which this Municipal Code/Ordinance should not be enforced.
- E. If the property owner or their representative fails to remove accumulation of trash, vegetation, weeds or any other unacceptable, unsightly or unsanitary matter within seven calendar (7) days after the receipt or posting of notice, the Director shall arrange to have the cleaning or disposal of trash, vegetation, weeds, or rubbish done by any satisfactory means and assess the cost of such clean up, disposal or removal at the owner's expense to take any action as provided by Section 342.007. The notice shall state the cost to the City or other entity, to clean the property, including labor costs, administrative costs of inspection and re-inspection, transportation expenses, publication costs, and expenses for use of equipment, and materials. The notice shall be sent in writing by the Director or City Comptroller requesting payment to the city within thirty (30) calendar days of receipt by the property owner. Failure to pay the costs associated with the cleanup will result in a request to city council to pass a resolution declaring the cost to clean, plus the resolution recording costs, to be a lien on the property payable within ten (10) calendar days after adoption of the resolution, and thereafter bearing ten percent (10%) yearly

interest until the debt is paid in full. If passed, 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 shall send a bill for the amount with all tax bills on the property until debt is paid in full.

ARTICLE XIX – MISCELLANEOUS

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any section, paragraph, sentence, clause, or phrase shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases herein.

DAF



Environmental Services

Solid Waste Flow Control Implementation

Franchise Fees & other related issues



Objective

- Provide an update to the February LRC
- Receive approval to introduce the revised ordinance – Solid Waste Management: Title 9.04 – on the next Council Agenda



Presentation Overview

- Flow control overview
- On-going efforts to implement flow control update
- Overview of updated ordinance
 - Franchise Fees



Overview



What is Flow Control?

- Flow control is a legal approach for the City to protect an investment in the disposal system
- Local governments direct the flow of solid waste in their jurisdiction to a publicly owned landfill
 - Implemented via ordinance
- Based on 2007 U. S. Supreme Court case
 - Local “government’s important responsibilities” include protecting “the health, safety and welfare of its citizens”
 - Waste management is a public function, and local government has a “vital” role
 - Revenue generation is a recognized public benefit in the absence of discrimination
 - *United Haulers Association v. Oneida-Herkimer Solid Waste Management Authority*



Why Flow Control?

- Ensures that public health and the environment are protected through the proper disposal of waste
- Allows better planning to ensure sufficient landfill capacity
- Provides convenient access to disposal
- Provides cost effective disposal
- Ensures investment in landfills is recovered
- Increases revenue to Environmental Services' Enterprise Fund
- Reduces illegal dumping through reporting and enforcement provisions
- Increases success of environmental programs such as recycling, landfill-gas-to-energy and composting



Why Franchise Fees?

- Fees would pay for maintenance of roads, due to wear & tear from Haulers.



Financial Impact: Annual Incremental Revenue from Additional Tonnage

- City Council sets disposal fee
- Positive net revenue increase based on a cost of \$19 per ton for the 525,000 tons (source: 2009 R. W. Beck Flow Control Feasibility Report)

Disposal Fee Revenue per Ton	Incremental Revenue per Ton ¹	Total Annual Incremental Revenue	Basis
\$24	\$5	\$2,625,000	\$2 per ton lower than current gate rate
\$26	\$7	\$3,675,000	City's current gate rate
\$28	\$9	\$4,725,000	\$2 per ton higher than current gate rate
\$30 ²	\$11	\$5,775,000	10% discount from Camino Real gate rate ²
\$33 ²	\$14	\$7,350,000	Approximate gate rate at Camino Real

1. Disposal Fee-\$19 = Incremental Revenue per Ton

2. Current fee at Camino Real Landfill is based on gate rate of \$11 per cubic yard and a conversion factor of 667 pounds per cubic yard. The 10% discount from the gate rate is based on the assumed discount that large volume haulers may receive from Waste Connections



Sequence of Events

- | | |
|------------|---|
| July 2008 | Camino Real Landfill permitting creates uncertainty regarding disposal capacity for El Paso |
| Sept. 2008 | Council direction: evaluate flow control & municipalization of commercial waste |
| Nov. 2008 | Stakeholder meetings |
| Feb. 2009 | LRC presentation |
| July 2009 | Council direction: pursue flow control and franchise fees, and evaluate 3 rd party operations |
| Dec. 2009 | Council direction: Cease consideration of 3 rd party operations and continue flow control and franchise fees |
| Jan. 2010 | Begin drafting proposed revisions to Title 9.04 |
| Feb. 2010 | LRC requests plan, costs, dates |
| May 2010 | Public/Haulers meetings |



On-going Efforts to Implement Flow Control Update



Overview of Key Efforts

- Revised Title 9.04 (Solid Waste Management) to incorporate flow control and complete comprehensive update
- Developed budget & identified funding
- Conducted public meetings
- Developed flow control enforcement program concepts
- Implementing Landfill Improvements
 - Constructing new infrastructure at the Clint and McCombs landfills to provide capacity and improved access
 - Planning to purchase additional equipment for operating the Clint and McCombs landfills
 - Planning to hire new employees to support increased tonnages at the Clint and McCombs landfills



Anticipated Expenditures

- Costs for infrastructure, equipment, staffing and enforcement included in 2009 R. W. Beck financial analysis
- Funding: \$18 million, borrowed from closure reserves
- Cash funding reduces need for issuing debt and paying interest (estimated financial benefit of \$1.00 - 1.50 per ton)



Outreach and Comments Received

- Conducted two recent meetings with haulers and the public (May 19-20, 2010)
- Participants included solid waste companies, haulers and other landfill users



Developed Flow Control Enforcement Program

- Cost for 2 enforcement staff and vehicles included in 2009 feasibility report
- Efforts to promote compliance (consistent with ordinance) may include:
 - Monitor vehicles and landfill trips
 - Review Permitted Haulers records
 - Monitor tonnages at designated facilities
 - Random inspections
 - Scheduled inspections
 - Complaint initiated inspections
 - Penalties up to \$ 2,000 and suspension or revocation of Hauler Permit



Landfill Infrastructure Improvements

Description	McCombs	Clint
Develop Cells	X	X
Internal Road Improvements	X	X
Maintenance Facility	X	
New Entrance Road	X	X
Scales	X	X
Scale House	X	
Estimated Cost	\$10.8 million	\$9.5 million
Completion Date	September 2011	August 2011



New Equipment (Purchase 3rd Qtr FY11)

Equipment Type	McCombs	Clint
Bucket Loader	1	
Brush Chipper	1	
CAT D8 Dozer	1	
CAT 631 Scraper	2	
Compactor	2	1
Grader	1	
Pick-up Truck	3	
Roll-off Container	10	6
Roll-off Truck	1	1
Skid Steer (Bob Cat)	1	
Water Pumps	2	
Water Wagon	2	
Total Estimated Cost	\$5,410,000	\$870,000





New Personnel

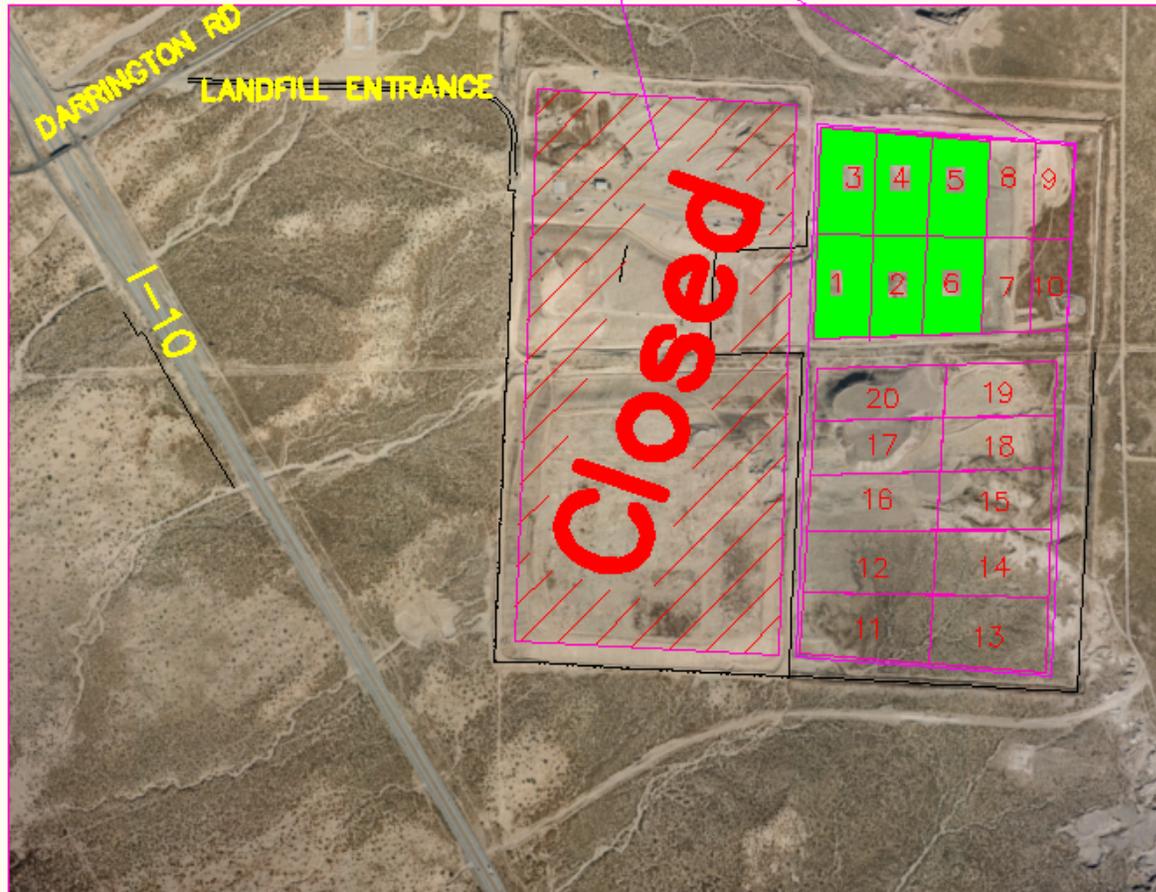
Personnel	McCombs	Clint
Cashier	3	1
Equipment Operator	1	1
Heavy Equipment Operator	8	2
General Services Worker	4	2
Landfill Supervisor	1	
Total	17	6
Annual Wages with fringe	\$743,452	
Hire Date	4 th Qtr. FY11	



CLINT LANDFILL

Permit# 1482
 Closed: 2007
 Volume : 9.4 million Cu.Yd
 Area: 155.0 Acres

Permit# 2284
 Volume: 21.4 million Cu.Yd
 Area: 217.4 Acres





McCombs Landfill

Permit# 729A



Area = 181.64 Acres
Volume = 18.27 million CY

Flare skid
10Ft X 36FT

Area = 95.00 Acres
Volume = 4.08 million CY
Full = 2003





Overview of Updated Ordinance



Comprehensive Rewrite of Chapter 9.04 – Solid Waste Management

Purpose

- Incorporate changes to ordinance:
 - Haulers
 - Flow Control
 - Franchise Fees
 - Construction & Demolition Waste
 - Enforcement

Methodology

- R. W. Beck drafted ordinance with key direction from City staff
- Legal review by Lloyd Gosselink and City Attorney



Chapter Organized into 18 Articles

- I. General Provisions
- II. MSW and Recyclable Materials Generated at Residential Properties
- III. MSW and Recyclable Materials Generated at Commercial Properties and Mixed-Use Properties
- IV. [Construction and Demolition Waste](#)
- V. Other Waste
- VI. [Haulers](#)
- VII. [Designated MSW Facility\(ies\) and Designated Recycling Facility\(ies\)](#)
- VIII. City MSW Facility(ies)
- IX. [Franchise Fees](#)
- X. Rates, Charges, Fees and Payment Procedures
- XI. [Enforcement](#)
- XII. Exclusive Franchise
- XIII. Exclusive Hauler



Chapter Organized into 18 Articles (contd.)

- XIV. Litter and Illegal Dumping
- XV. Distribution of Handbills and Other Materials
- XVI. Prohibited Accumulation of Solid Waste, Recyclable Materials or Other Waste
- XVII. Unsecured Loads
- XVIII. Weeds and Rank Vegetation
- XIX. Miscellaneous



Article IV – Construction and Demolition Waste

- Applies to Generators, City building permit holders, haulers, and self-transporters
- Requires C&D to be accumulated in Roll-offs except when:
 - C&D is so large in volume that it cannot reasonably be placed in Roll-off as long as meets requirements set forth in ordinance
 - Rock, concrete, mortar, brick, cinder block, and similar construction wastes generated by a single property
- Manifest requirement in accordance with Department policies
- Establishes minimum collection requirements



Article VI - Haulers

- Hauler Permit required to collect solid waste and recyclable materials in the City
- Permits must be renewed annually, ordinance describes process and requirements
- Permitted Hauler vehicle requirements
- Deliver solid waste to a Designated MSW Facility
- Deliver recyclable materials to a Designated Recycling Facility
- Permitted Hauler recordkeeping requirements



Article VII – Designated MSW Facility(ies) and Designated Recycling Facility(ies)

- Department to develop policies and procedures for the determination of a Designated Municipal Solid Waste Facility and Designated Recycling Facility
- Generators, Haulers, and Self-transporters required to ensure materials are delivered to designated facilities



Article IX – Franchise Fees

- Commence on April 28, 2014
- Franchise fees shall apply to Permitted Haulers
- Franchise Fee shall be a per ton fee approved by City Council (To General Fund)
- Reserves right to examine records and facilities of Haulers to confirm compliance



Article XI - Enforcement

- General Enforcement Provisions
 - Authorizes Department to enforce Chapter and to compel compliance
 - Describes authority to issue citations
 - Authority to repossess City owned Carts
 - Penalties for violations: \$50 up to \$2,000 fine per day and Class C misdemeanor
- Additional Provisions for Permitted Haulers
 - Suspension and revocation of Hauler Permit due to:
 - Failure to correct violation within 7 calendar days
 - Receipt of 3 violations in a period of 12 months
 - Violation(s) constitute a significant hazard to public health



Next Steps

- Answer questions from City Council
- Receive approval to introduce the revised ordinance – Solid Waste Management: Title 9.04 – on the next Council Agenda