

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

DEPARTMENT: City Manager

AGENDA DATE: August 16, 2005

CONTACT PERSON/PHONE: Joyce Wilson/541-4109

DISTRICT(S) AFFECTED: N/A

SUBJECT:

Approve an ordinance amending Title 9 to remove the fee schedules and establish criteria and guidelines for the setting of fees, including the new environmental fee and a surcharge for spillage at the landfills and transfer stations.

BACKGROUND / DISCUSSION:

The City has reorganized the Solid Waste Management Department by moving it into the Environmental Services Department. The ordinance moves those function and responsibilities. The fee provisions are also revised to reflect the movement of fee amounts to the budget resolution. A new method for the calculation for the seniors and disabled discount is included along with the criteria for the creation of an environmental fee. Lastly, as TCEQ requires the City to clean spillage from the roads near the landfills and transfer stations, a new surcharge is being implemented for those who spill waste.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

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

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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (ENVIRONMENTAL SERVICES); TO RENAME THE CHAPTER; TO AMEND SECTION 9.04.010 (PURPOSE AND CREATION OF DEPARTMENT); SECTION 9.04.030 6, 7 (DEFINITIONS); SECTION 9.04.400 (COLLECTION, SERVICE AND TRANSPORTATION FEES), SECTION 9.04.410 (PERMIT FEES); SECTION 9.04.420 (DISPOSAL FEES); SECTION 9.04.430 (NONPAYMENT OF FEES); AND SECTION 9.04.450 (SOLID WASTE MANAGEMENT FUND AND EQUIPMENT SUBFUND); TO ESTABLISH THE ENVIRONMENTAL SERVICES DEPARTMENT; TO REVISE DEFINITIONS; TO REVISE THE CALCULATION OF THE SENIOR AND DISABLED CITIZENS DISCOUNT; THE CREATE AN ENVIRONMENTAL SERVICE FEE AND LANDFILL SPILLAGE FEE; AND TO REMOVE THE FEE SCHEDULES AND ESTABLISH CRITERIA AND GUIDELINES FOR THE SETTING OF FEES; THE PENALTY BEING AS PROVIDED IN AS PROVIDED IN SECTION 9.04.390 OF THE CITY CODE.

WHEREAS, for purposes of economy and efficiency, the City has reorganized the structure of the Solid Waste Management Department; to include the re-naming of the department and the re-aligning of functions and responsibilities of the Department; and

WHEREAS, the citizens and the City will be better served by re-defining the manner in which the senior and disabled citizens discount is provided; and

WHEREAS, for the improvement in public health, safety and welfare, the City desires to provide modern environmental services to the community at large, and based on the enterprise fund structure of the Environmental Services Department, it is appropriate to assess a fee for these user services.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

Section 1. That Chapter 9.04 of the El Paso City Code be renamed as Environmental Services.

Section 2. That Section 9.04.010 (Purpose and Creation of Department) of the El Paso City Code be amended as follows:

Section 9.04.010. Creation and Purpose of Department.

- A. The city is responsible for public health, cleanliness and sanitation in El Paso. The purpose of this chapter is to provide for protection of the health, safety and welfare of the residents of the city by prescribing minimum standards for the generation, storage, collection, transportation and disposal of solid waste and related matter, by providing for the issuance of licenses of various classes to persons engaging in those activities, by providing for the payment of fees, and by providing for enforcement techniques, including inspections of premises and equipment, the revocation of licenses and the issuance of citations. The Department of Environmental Services is created to carry out this purpose as well as to oversee and perform duties and services relating to areas of environmental concerns as to be determined by the City Manager.
- B. As used herein, “department” shall mean the Department of Environmental Services and “director” shall mean the director of that department.

Section 2. That Section 9.04.030, subsections 5 and 6, (Definitions) of the El Paso City Code be amended as follows:

Section 9.04.030 Definitions.

5. “Department” means the department of environmental services.

6 “Director” or “deputy director” means the director of the department.

Section 3. That Section 9.04.400 (Fees) of the El Paso City Code be amended as follows:

Section 9.04.400 Fees.

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

A. Refuse Collection Service

- 1. Residential. Each residential dwelling unit or manufactured home for which refuse collection service has been initiated shall be assessed a monthly fee in the amount set by resolution of the City Council.
- 2. Senior and Disabled Citizens Discount. The monthly charge for residential refuse service to any dwelling unit or manufactured home which is owned and occupied, or rented and occupied by a person sixty-five or more years of age, or by a person who presents proof of disability in accordance with this section will be discounted by twenty-percent (20%) under the following circumstances. The discount shall only apply to first container. No fee discount shall be applied to additional containers. No fee discount shall be granted or remain in effect unless the following conditions are met:
 - a. The person claiming such discount must be sixty-five or more years of age, or must present proof of disability when the discount is requested.

- b. A written request for such discount may be filed with the director at any time when the applicant reaches eligibility and will take effect at the first billing cycle which starts thirty days thereafter, remaining in effect until eligibility lapses. Such request shall give the street address, dwelling unit number, if any, and the water utilities account number of the property being served, the name and addresses of the owner-occupant or renter-occupant, the day and year of his birth in the case of a person sixty-five or more years of age, and a substantiating document in the case of a disabled person. The request shall be signed by the person seeking the discount or someone authorized by him and having personal knowledge of the facts.
- c. The person claiming such discount shall place his solid waste at the side yard as required by the ordinance codified herein.
- d. A request in the case of a person sixty-five years or more of age need not be verified:
 - i. If the person seeking the discount presents a valid driver's license or state-issued identification card showing the day and year of birth;
 - ii. If the person seeking the discount currently holds a Sun Metro citizens reduced fare card;
 - iii. If such person has been granted a residence partial tax exemption under this code; or
 - iv. If the request is signed by the director of a city senior citizen center or nutrition center or other agency approved by the Director.

All other requests shall be verified by the affidavit of the person seeking the discount or someone authorized by him and having personal knowledge of the facts.
- e. The person claiming a discount must be the same person who is billed by the water utilities for water service to the residence to which such discount applies.
- f. When a person to whom a discount is granted ceases to occupy the applicable residence, the discount shall be withdrawn as of the month immediately following such cessation of occupancy, unless another eligible resident continues to occupy the location, and the Director is so advised.
- g. If a discount has been granted, the person to whom the discount is granted may transfer such discount to another eligible residence to which he has moved, by obtaining approval for such transfer from the Director.
- h. No person shall be entitled to a discount for more than one residence at the same time, nor shall any person be entitled to claim both a sixty-five years and over discount and a disabled discount at the same time.
- i. Proof of disability shall consist of one of the following:
 - i. Certification from the Social Security Administration that the applicant is the recipient of a social security or supplemental security income disability pension;

- ii. Certification from the proper administrative officer that the applicant is the recipient of a public disability pension and classified one hundred percent disabled; or
 - iii. Certification from the Veterans Administration that the applicant is the recipient of the Veterans Administration disability payments and classified one hundred percent disabled.
 - j. In all cases, the director shall have the right to investigate the information given on requests for discount, and to make reasonable requirements for supporting evidence.
 - k. The discount provided in this section shall not apply to charges for special collections, collection of solid waste from institutional or commercial establishments, or from any location of any type utilizing Type C containers.
 - l. Any change which results in loss of eligibility for reduced charges for a residence will be reported to the Director within thirty days, and full charges will be restored during the next billing cycle.
 - m. Eligibility for the senior and disabled citizens' discount shall lapse on the death of the applicant, or recovery from the claimed disability.
 - n. The Director shall have the authority to investigate and verify, from time to time, either by personal contact by a department official or by mailout verification, that applicants continue to be eligible for this discount.
3. Institutional, Commercial and Multifamily Residential Class B Generators with Centralized Refuse Storage Areas. A monthly fee for refuse collection from institutional and commercial establishments generating no more than six hundred forty gallons of waste weekly and multifamily residential structures and complexes of ten or fewer dwelling units, trailer parks and manufactured-home subdivisions, with centralized waste storage areas shall be assessed as the commercial collection fees in the amounts set by resolution of the City Council.
4. Class C, Mechanical and Construction Collection Service. A fee for refuse collection from Class C containers and construction containers shall be assessed in the amount or amounts set by resolution of the City Council.

B. Service Charges and Movement of Containers.

- 1. Each person or entity requesting or needing the delivery or relocation of a container including a construction container, each person or entity who cancels container service, and each person or entity who requests special services such as the collection and disposal of bulky waste, infection waste, dead animals, or an extra collection shall assessed service charges and special collection fees as set by resolution of the City Council.
- 2. The service charges shall be imposed each time a container is delivered, moved or relocated by the department or recovered by the department due to cancellation of service
- 3. The special collection service fees shall be imposed for extra collections, unscheduled collections, collections for bulky waste as defined in Section 9.04.210A of this chapter, collection of infectious waste as defined in Section 9.04.030(14) of this chapter and collections of dead animals.

4. A container replacement fee shall be assessed in the amount set by resolution of the City Council for the replacement of containers that are lost, containers that are burned, damaged or destroyed by the customer and the customer requests replacement or the director or designee determines that the container is no longer serviceable by the department.
5. It shall be unlawful for any person, other than an employee of the department to move a construction container from one location to another.

C. Environmental Services. Each person or entity receiving service from the El Paso water utility shall be assessed a monthly user service fee in the amount set by resolution of the City Council. Such fee shall relate to the provision of environmental services by the city and is intended to defray city expense necessary to cleaning up illegally dumped waste, compliance with environmental laws, collecting and disposing of dead animals from public rights of way and equitably sharing costs for business and neighborhood area cleanups and graffiti removal, benefiting residents and businesses in the city.

D. Initiation of Refuse Collection Service. The director is authorized to initiate refuse collection services to any class of generator at the request of the owner, occupant or agent representing the property owner and to bill for all fees in this section through the El Paso water utilities at the rates established by resolution of the City Council. Once residential refuse service for class A and B generators is initiated in the customer's name, the fees established in this chapter shall be charged to the customer during such time as they, or the building in which they are situated, are connected to an active water meter unless the customer is granted a written waiver from the director upon meeting the following criteria to demonstrate the vacancy of the premises.

Section 4. That Section 9.04.410 (Permit Fees) of the El Paso City Code be amended as follows:

Section 9.04.410 Permit Fees.

A. Solid Waste Operations Permit. An annual permit fee shall be assessed in proportion to the number and size of vehicles used by the permittee for the collection of solid waste fee in the amount set by resolution of the City Council.

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

C. Additional Vehicle Registration Fee. The fee for registration of an additional vehicle under a current permit or substituting a vehicle for one already registered shall be one hundred percent of the annual fee for the vehicle to be added or substituted.

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

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

1. Suspended Permit. Fifty percent of total annual fee for all vehicles registered under the permit.

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

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

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

H. Marking and Signage for Traffic and Parking Restriction. The actual cost of marking and signage for container placement, where required to insure access for collection vehicle, shall be assessed to the generator.

Section 5. That Section 9.04.420 (Disposal Fees) of the El Paso City Code be amended as follows:

Section 9.04.420 Disposal Fees.

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

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

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

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

E. Surcharge for Spilled Loads. In conjunction with the department's enforcement of Section 9.04.240 of this code and Texas Commission on Environmental Quality rules, landfill and transfer station attendants are authorized to assess a six dollar (\$6.00) surcharge per spillage to the person or company hauling waste to the facility when the attendant observes or otherwise acquires credible information that the hauler has spilled waste materials along and within the right-of-way of the public access roads serving the facility within a two-mile distance in either direction from the facility entrance.

F. Transfer Fees.

1. Fees for disposal of solid waste at city transfer station shall be assessed based on compacted or uncompacted cubic yard and shall in the amounts set by resolution of the City Council.
2. City vehicles shall at all times have priority over other vehicles which may be required to wait while city vehicles are emptied.
3. When, in the opinion of the director, the full capacity of a transfer station is required to accept solid waste from city vehicles only, or when city transfer equipment or city vehicles are out of service for maintenance or repair, the director is authorized to close the transfer station to all but city vehicles.
4. Loads containing rubbish, large limbs, large metal objects, construction debris, sludge and any other material which, in the opinion of the director, might damage the transfer compactor or transfer trailer, will not be accepted at the transfer station.

Section 6. That Section 9.04.430 (Nonpayment of Fees) of the El Paso City Code be amended as follows:

Section 9.04.430 Nonpayment of Fees.

- A. All fees established in accordance with this chapter and set by resolution of the City Council shall be paid promptly by the person, business or institution to which the service has been provided. Payment of such fees issue upon receipt of billing for the service and shall be paid within the time period specified within the appropriate subsections of this chapter.
- B. If the holder of any city permit for collection, transportation or disposal of solid waste, issued pursuant to this chapter becomes delinquent in the payment of fees, the director is authorized, upon ten calendar days notification to the permittee, to refuse access to city disposal facilities. The director may further, upon thirty calendar days notification, cancel such permits.
- C. If the holder of any permit has a history of delinquency in payment of fees as evidenced by having been issued more than one notice from the director, such permittee shall be required to establish an account with the department and shall pay the estimated monthly amount of such fees in advance each month. The estimated monthly amount shall be as established by the director.

Section 7. That Section 9.04.450 (Solid waste management fund and equipment subfund) of the El Paso City Code be amended as follows:

Section 9.04.420 Solid waste management fund and equipment subfund.

Each year, all fees collected for the solid waste management services provided by the department under this chapter shall be deposited into a solid waste management fund. Payment for the operations of the department attributable to its solid waste management services function shall be made from this fund. The comptroller shall establish a subfund under the solid waste management fund, entitled the solid waste management equipment subfund, to be used only for the acquisition and maintenance of solid waste management equipment. Revenues shall be deposited to the solid waste management equipment

subfund as directed by the city council and as provided for by this chapter including the fees set by resolution of the City Council. No transfer of revenue from the solid waste management equipment subfund for other operating expenses shall be made without prior approval of the city council. The annual budget for the department shall show the solid waste management equipment subfund as a separate item, indicating anticipated revenues and proposed expenses.

Section 8. This ordinance shall take effect on September 1, 2005.

ADOPTED this 30th day of August 2005.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Elaine S. Hengen
Assistant City Attorney

Ellen Smyth, P.E.
Director for Environmental Services