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

DEPARTMENT: Environmental Services Department

AGENDA DATE: CCA Introduction 8/17/10; Public Hearing 8/24/10

CONTACT PERSON/PHONE: Ellen Smyth, 621-6719

DISTRICT(S) AFFECTED: Citywide

SUBJECT: **ORDINANCE**

An Ordinance amending Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management) in its entirety relating to all provisions including Solid Waste and Recyclables Storage and Collections, including commercial recyclables; Distribution of handbills, weeds and vegetation; and storage and disposition of construction or demolition waste; To clarify waste haulers requirements; To define terms; To add City emergency powers; To add flow control for municipal solid waste and franchising requirements; To add litter and shopping cart control requirements for retail and service establishments; To clarify the establishment and charging of fees; and to clarify enforcement officials and procedures; The penalty being as provided in Section 9.04.630 of the El Paso City Code.

BACKGROUND / DISCUSSION:
The Environmental Services Department is requesting an ordinance be revised in its entirety in order to update many of the sections and to incorporate flow control, franchising requirements, shopping cart control requirements, and other related issues for solid waste.

PRIOR COUNCIL ACTION:
June 1, 2010

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 _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT) IN ITS ENTIRETY RELATING TO ALL PROVISIONS INCLUDING SOLID WASTE AND RECYCLABLES STORAGE AND COLLECTION, INCLUDING COMMERCIAL RECYCLABLES; DISTRIBUTION OF HANDBILLS, WEEDS AND VEGETATION; AND STORAGE AND DISPOSITION OF CONSTRUCTION OR DEMOLITION WASTE; TO CLARIFY WASTE HAULERS REQUIREMENTS; TO DEFINE TERMS; TO ADD CITY EMERGENCY POWERS; TO ADD FLOW CONTROL FOR MUNICIPAL SOLID WASTE AND FRANCHISING REQUIREMENTS; TO ADD LITTER AND SHOPPING CART CONTROL REQUIREMENTS FOR RETAIL AND SERVICE ESTABLISHMENTS; TO CLARIFY THE ESTABLISHMENT AND CHARGING OF FEES; AND TO CLARIFY ENFORCEMENT OFFICIALS AND PROCEDURES; THE PENALTY BEING AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE

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

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

ARTICLE I – GENERAL PROVISIONS

9.04.010 Creation and Purpose of Department.

The city is responsible for public health, cleanliness and sanitation in El Paso. The purpose of this chapter is to provide for protection of the health, safety and welfare of the residents of the city by prescribing minimum standards for the generation, storage, collection, transportation and disposal of solid waste and related matter, by providing for the issuance of permits 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 permits and the issuance of citations. The Department of Environmental Services was created to carry out this purpose as well as to oversee and perform duties and services relating to areas of environmental concerns, including ordinance, statutory and other regulatory enforcement by the Director and his designees and by the employees in the code enforcement division of the Department, who shall also have enforcement authority as authorized and provided in this code; and to generally perform duties and services relating to areas of public health, cleanliness and sanitation concerns as to be determined by the City Manager. In partial furtherance of the purpose discussed herein, curbside recycling reduces the amount of refuse sent to landfills.

9.04.020 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, and Excluded Waste.
4. **"Cart"** means any watertight plastic receptacle approved by the Department for the purpose of containing Municipal Solid Waste or Program Recyclable Materials that is equipped with wheels and an attached tight-fitting lid designed or intended to be mechanically or manually dumped into a garbage collection truck.
5. **"Citizen Collection Station"** means a site designated by the Department for the drop-off of Municipal Solid Waste and/or Recyclable Material, by Residential Property Occupants.
6. **"Collection"** means as defined in 30 TAC § 330.3.
7. **"Commercial Property"** means all Improved Property other than a Residential Property.
8. **"Composting"** means as defined in 30 TAC § 330.3.
9. **"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.
10. **"Construction or Demolition Waste Manifest"** means a form offered for sale by the Department to Permitted Haulers and Self-transporters for the purpose of tracking the transportation of Construction or Demolition Waste from the point of generation to the location of delivery for disposal of said waste.
11. "**Container**" means a Dumpster or Compactor.
12. "**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.
13. "**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, or designated by the Department.
14. "**Department**" means the Department of Environmental Services.
15. "**Designated or Authorized Municipal Solid Waste Facility**" means any Municipal Solid Waste Facility designated by the City Manager in the case of a Designated Municipal Solid Waste Facility, or by the Environmental Protection Agency in the case of an Authorized Municipal Solid Waste Facility, for processing, storing, or disposing of Municipal Solid Waste, including Construction or Demolition Waste, generated within the City.
16. "**Director**" means the Director of the Department of Environmental Services or his designee or other designees of the City Manager.
17. "**Discard**" means as defined in 30 TAC § 330.3.
18. "**Disposal**" or "**Dispose**" means the deposit of any Solid Waste at a Municipal Solid Waste Facility.

19. "**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 and designed or intended to be mechanically dumped into a loader-packer type truck.
20. "**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 as residential occupancy and does not include Mobile Home.
21. "**Established Fee**" means the fee that is authorized in this Chapter which is set in the amount identified in the adopted budget resolution for the current fiscal year or by other duly adopted resolution of the City Council.
22. "**Excluded Waste**" means Solid Waste not accepted by any Designated or Authorized Municipal Solid Waste Facility as posted at such Designated or Authorized Municipal Solid Waste Facility.
23. "**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 Department. Material where a Person compensates a third party for the acceptance of the material shall not be considered Fill Material.
24. **"Garbage"** means as defined in 30 TAC § 330.3.
25. **"Generator"** means as defined in 30 TAC § 330.3.
26. **"Handbill"** means 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:

    a. Which advertises for sale any merchandise, product commodity, or thing;
    b. 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;
    c. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; or
    d. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any Person so engaged as advertiser or distributor.

27. **"Hauler"** means a Person other than a Self-transporter who provides collection of Solid Waste or Recyclable Materials within the City.
28. **"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 and/or delivery of Solid Waste to a Designated or Authorized Municipal Solid Waste Facility 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.
29. **"Hazardous Waste"** means as defined in 30 TAC § 330.3.
30. **"Household Hazardous Waste"** means as defined by 30 TAC § 330.402.

31. **"Illegal Dumping"** means the offense as defined by Texas Litter Abatement Act.
32. **"Industrial Solid Waste"** means as defined in 30 TAC § 330.3.
33. **"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 Persons that generate or are capable of generating Solid Waste.
34. **"Landfill"** means as defined in 30 TAC § 330.3.
35. **"Litter"** means as defined in Texas Litter Abatement Act; garbage, rubbish and refuse; decayable waste and non-decayable solid waste.
36. "**Medical Waste**" means as defined in 30 TAC § 330.3.
37. "**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.
38. "**Mobile Home**" means living quarters equipped and designed for sleeping and eating and which may be moved from one place to another over a public roadway by being pulled behind a motor vehicle.
39. "**Mobile Home Property**" means an Improved Property equipped or occupied by one (1) Mobile Home.
40. **"Municipal Solid Waste"** means as defined in 30 TAC § 330.3 excluding Animal Waste and Excluded Waste.
41. **"Municipal Solid Waste Facility"** means as defined in 30 TAC § 330.3.
42. **"Nuisance"** means as defined in 30 TAC § 330.3.
43. **"Occupant"** means any Person occupying or having possession of an Improved Property or any portion thereof.
44. "**Owner**" means any Person who, alone or with others, has title or interest in an 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.
45. "**Parking Lot**" means any area at a Commercial or Mixed-use Property intended to allow space for vehicle parking, regardless of size or location. The area may be graded, leveled, paved, and/or graveled, and may or may not be demarcated to identify individual parking spaces. This definition does not include metered parking operated by the City and does not include parking areas part of a City street or right-of way.
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. **"Permitted Hauler Vehicle Log"** means a form provided by the Department to record deliveries of Solid Waste regulated by this Chapter by Permitted Haulers to a Designated or Authorized Municipal Solid Waste Facility.
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 has the required authorization from Texas Commission on Environmental Quality, or equivalent state agency, for processing of Recyclable Materials and is in compliance with local, state, and federal laws**.**
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 Property.
55. "**Residential Recycling Program**" means the collection of Recyclable Materials, as defined by the Department, from Residential Properties.
56. "**Retail or Service Establishment**" means a business operation located on an Improved Property that has as its primary purpose the selling of goods, merchandise and/or providing a services to members of the public from a fixed location, such as a shop, store or building complex. Examples of Retail or Service Establishments include, but are not limited to restaurants and bars, gas stations, convenience stores, and shopping centers.
57. "**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.
58. **"Rubbish"** means as defined by 30 TAC § 330.3.
59. **"Scavenging"** means as defined by 30 TAC § 330.3.
60. **"Self-transporter"** means the following:

    a. Generator, who directly, without use of a Hauler, transports Solid Waste generated by the Generator to a Municipal Solid Waste Facility or Recyclable Materials generated by the Generator to a Recycling Facility; utilizing the following methods of transport:

        1. A factory-unmodified Class 1, 2, or 3 truck, based on US DOT Federal Highway Administration Vehicle Inventory and Use Survey standards; or
        2. A vehicle as described in 1. above, with an attached single axle trailer.

    b. A person conducting services on behalf of a Generator, including, but not limited to building contractors, home repairmen/handymen, landscapers, or roofers, at that Generator's location of business or residence, may be considered a Self-transporter of Solid Waste or Recyclable Materials generated as a result of such service, provided the vehicle limitations specified in Part 1 of this definition are met.

61. **"Shopping Cart"** means any mobile, wheeled receptacle provided by a Retail or Service Establishment to its customers to use while customers are conducting business at said establishment.
62. **"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, or side 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 Program Recyclable Materials.

63. **"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.
64. "**Solid Waste**" means as defined by 30 TAC § 330.3.
65. "**Special Waste**" means as defined by 30 TAC § 330.3.
66. "**Storage**" means as defined by 30 TAC § 330.3.
67. **"Weeds and Vegetation"** means grass, weeds, or uncultivated plants that are on average greater than twelve inches in height.

9.04.030 Applicability.

A. 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.

B. The following sections will not apply to Municipal Solid Waste and Recyclable Materials delivered to a Designated or Authorized Municipal Solid Waste Facility by a Permitted Hauler who is subject to a franchise agreement with an alternate fee arrangement: 9.04.080, 9.04.180, 9.04.290, 9.04.450 and 9.04.520A.

9.04.040 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 current Municipal Solid Waste Facilities become unable to accept Municipal Solid Waste generated within the City;

H. To encourage and enforce Recycling programs, including source separation at point of generation, 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

9.04.050 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 is not an Occupant;

D. Self-transporters of Municipal Solid Waste and Recyclable Materials generated at Residential Properties in the City; and

E. Haulers of Municipal Solid Waste generated at Residential Properties in the City.

9.04.060 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 Carts. Municipal Solid Waste shall not be accumulated or stored outside of Carts, and Cart lids shall remain closed at all times when not adding Municipal Solid Waste to Carts.

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

C. **Prohibited Waste**
The following waste and materials are prohibited from being placed for collection in Carts:

1. Household Hazardous Waste; and
2. High-density waste or material, including, but not limited to sand, gravel, bricks, rock, concrete and tree stumps.

9.04.070 Collection Provider.

Excluding Self-transporters, the City shall be the exclusive Hauler of Municipal Solid Waste and Program Recyclable Materials generated at Residential Properties.

9.04.080 Disposal Provider.
The Self-transporter or the Permitted Hauler shall deliver Municipal Solid Waste to a Designated or Authorized Municipal Solid Waste Facility.

9.04.090 Schedule for Collection.
Occupants of Residential Properties shall, at a minimum, receive the following collections, on the day designated by the Director:

A. Collection once per week of one (1) Municipal Solid Waste Cart;

B. Collection on a frequency to be designated by the Director for one (1) Program Recyclable Materials Cart; and

C. On-call collection of Bulk Waste upon notification and payment of applicable established fees to the Department.

Carts 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 preceding the designated collection day and prior to 5:00 a.m. on the designated collection day. Carts shall not be left in the Curbside area after 7:00 p.m. on the designated collection day.

9.04.100 Location for Collection.
Municipal Solid Waste and Program Recyclable Materials Carts and Bulk Waste shall be placed for collection with the following requirements:

A. **Requirements and Location of Collection at Residential Properties**
Carts approved by the Director for collection of Municipal Solid Waste and Program Recyclable Materials shall be placed for collection in accordance with the following rules:

1. Only Municipal Solid Waste generated at a Residential Property shall be placed in Municipal Solid Waste Carts assigned to such Residential Property;
2. Only Program Recyclable Materials generated at a Residential Property shall be placed in Program Recyclable Materials Carts assigned to such Residential Property;
3. Each Cart including contents shall not exceed one hundred and fifty (150) pounds;
4. Municipal Solid Waste shall be contained in secured, odor, and vector-tight plastic bags, and stored in Carts and/or Containers designated by the Director for the collection of Municipal Solid Waste. Municipal Solid Waste shall not be accumulated or stored outside of Carts and/or Containers, and Cart and/or Container lids must remain closed at all times when not adding Municipal Solid Waste to Carts and/or Containers. The City reserves the right to require

resolution of overflowing carts and/or containers within twenty-four (24) hours of written notice from a City official; and

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

   a. Brush that is individually placed or bundled for collection, shall not be more than five (5) feet in length or sixty (60) pounds in weight; and
   b. Bulk Waste placed for collection shall be in conformity with any and all other acceptance policies established by the Director.

6. Excluding collection locations approved for Sidedoor collection, Carts and Bulk Waste shall be placed at the Curbside in accordance with the following rules:

   a. Carts shall be placed at the Curbside of the Residential Property with the lids opening toward the street; the placing of Carts on neighboring property is prohibited;
   b. Carts and Bulk Waste shall be placed no closer than three (3) feet from other Carts and Bulk Waste along the Curbside;
   c. Carts and Bulk Waste shall not be placed within three (3) feet from any permanent, fixed objects, i.e., street light poles, mail boxes, utility boxes, cable television boxes, and other public or private property, and five (5) feet from any vehicles;
   d. Carts 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
   e. Where a Residential Property is located on a street corner, Carts and Bulk Waste shall only be placed along the Curbside of the street address of the Residential Property; the placing of Carts and Bulk Waste along the Curbside perpendicular to the Residential Property's street address is prohibited.

B. Occupants of Residential Properties may request Sidedoor collection from the Department. The written request must be submitted to the Department by July 31st, annually in conformance with the administrative process designated by the Director, and its review, approval and continued eligibility is subject to the following rules:

C. **Eligibility and Requirements for Sidedoor Collection**

1. An applicant is eligible to receive Sidedoor collection if he meets the following criteria:

   a. The applicant is the primary water account holder and has provided written documentation of one (1) of the following:

      i. 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;

ii. 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;

iii. 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; or

b. The applicant lives alone, has a medical condition, and is incapable of transporting his Municipal Solid Waste or Program Recyclable Materials Cart to the Curbside.

2. 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.
3. Approved Sidedoor customers must make carts accessible for collection by the Department at side or front of residence, and not behind an enclosed fence or gate. The Department will not collect carts placed in a back yard or within an enclosed fence. Following collection, cart will be replaced in the same or closely approximate location from where it was retrieved.
4. The Director shall have the authority to investigate and verify that recipients of Sidedoor collection have continued eligibility for Sidedoor collection.
5. A person receiving Sidedoor collection is not eligible for a discounted refuse fee.

D. **Location for Collection at the Citizen Collection Station**

Occupants of Residential Properties may utilize the Citizen Collection Stations provided by the Department subject to the following rules:

1. An Occupant who is the primary water account holder may utilize a Citizen Collection Station when the Occupant provides written documentation of the following:

a. Current City water bill; and
b. Photo identification of Occupant with same address as City water bill.

2. Occupants may utilize any Citizen Collection Station at a frequency not to exceed the monthly limit set by the Director or his designee, as posted at each Citizen Collection Station.
3. Occupants must comply with the Citizen Collection Station waste acceptance policy established by the Department and comply with all posted rules at the station.
4. The Director shall have the authority to investigate and verify that Occupants utilizing Citizen Collection Stations have continued eligibility for this service.
5. Occupants are prohibited from utilizing Citizen Collection Stations for the disposal of any waste or material not generated solely from the Occupant's dwelling and residential activities at their Residential Property.

9.04.110 Storage, Maintenance, Replacement, and Ownership of Carts.

A. **Storage of Carts**

Carts shall be removed from the Curbside by end of designated collection day, as specified in Section 9.04.090. Upon removal of Carts from the Curbside, Carts shall be secured at the Residential Property in an unobtrusive location and screened to minimize visibility from public streets, sidewalk and adjacent property such as but not limited to the following:

1. In a garage;
2. In an outdoor storage building;
3. On the side of a structure on the property; or
4. At the back of a structure on the property.

Provided however, between designated collection days, carts shall not be stored in a manner that constitutes a Nuisance.

B. **Ownership of Carts**

The City owns all Carts. Owners or Occupants of Residential Properties shall leave all Carts at the Residential Property after the Residential Property is sold or the Owners or Occupants move out. Carts may not be transferred to another Residential Property.

C. **Maintenance of Carts**

For properties occupied or possessed by Owners or Occupants, Carts shall be maintained by Occupants of such Residential Properties in a clean and nuisance free condition. For all other Residential Properties, Carts shall be maintained by Owners of such Residential Properties in a clean and Nuisance-free condition.

D. **Replacement of Carts**

In the event a Cart becomes damaged or missing, the Owner or Occupant shall notify the Department that repairs to the damaged Cart or a replacement Cart is required, in a manner conforming to the administrative process. The City personnel may charge the established Cart Replacement Fee.

E. **Repossession of Recycling Carts**

The City may repossess a Recycling Carts if the Owner or Occupant does not comply with requirements established for the Residential Recycling Program. The City may charge the established Repossession Fee.

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

9.04.150 Applicability.

This article shall apply to:

A. Owners and Occupants of Commercial Properties in the City;

B. Owners and Occupants of Mixed-use Properties in the City;

C. Self-transporters of Solid Waste, other than Class 1 industrial waste, and Recyclable Materials generated at Commercial Properties in the City;

D. Self-transporters of Solid Waste, other than Class 1 industrial waste, and Recyclable Materials generated at Mixed-use Properties in the City;

E. Haulers of Solid Waste, other than Class 1 industrial waste, and Recyclable Materials generated at Commercial Properties in the City; and

F. Haulers of Solid Waste, other than Class 1 industrial waste, and Recyclable Materials generated at Mixed-use Properties in the City.

9.04.160 Accumulation and Storage.
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. **Solid Waste**
Excluding Bulk Waste, Solid Waste shall be contained in Carts and/or Containers. Cart or Container lids shall remain closed at all times when not adding Solid Waste to the Carts or Containers. Solid Waste, including Bulk Waste, shall not be stored in a manner that constitutes a Nuisance.

B. **Recyclable Materials**
Commercial Property and Mixed-use Owners or 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.

9.04.170 Collection Provider.
Excluding Self-transporters, Owners or Occupants of Commercial Properties and Mixed-use Properties shall contract with a Permitted Hauler to collect all Solid Waste and Recyclable Materials generated at such Commercial Properties and Mixed-use Properties.

9.04.180 Disposal Provider.
Self-transporters and Permitted Haulers shall deliver all Solid Waste to a Designated or Authorized Municipal Solid Waste Facility.

9.04.190 Schedule for Collection.
A written agreement with a Permitted Hauler for collection by an Owner or Occupant of commercial properties shall provide, at a minimum for:

A. A minimum once per week collection of Carts and Containers used to store Solid Waste; and

B. On-call collection of Bulk Waste (as needed).

9.04.200 Authority to Mandate Collection.

A. **Overflowing Carts and/or Containers**
Excluding Bulk Waste, Solid Waste shall be contained in secured, odor, and vector-tight plastic bags, and stored in Carts and/or Containers designated by the Director for the collection of Municipal Solid Waste. Municipal Solid Waste shall not be accumulated or stored outside of Carts and/or Containers, and Cart and/or Container lids must remain closed at all times when not adding Municipal Solid Waste to the Cart and/or Container.

B. **Harborage of Vectors or other Health Hazards**
In any instance where the Director finds that a Cart and/or 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 City official is authorized to order the Owners and/or Occupants of such Commercial Property or Mixed-use Property to have such condition corrected within twenty-four (24) hours of written notice from the City official.

C. **Protection of Public Health and Safety**
Evidence of overflowing or uncollected Solid Waste and for harborage of vectors or other health hazards constitutes evidence that the person Owner and/or Occupant of Commercial Property or Mixed-Use Property is in violation of 9.04.170, which status allows the City to exercise its option of collecting the Solid Waste from that property. Prior to the City collecting the Solid Waste from the Commercial Property or Mixed-Use Property in violation of 9.04.170, the City shall issue a notice to the Owner/Occupant of said property that said violation must be corrected within twenty-four (24) hours of delivery of the notice. Failure to comply with the notice shall result in the City collecting the Solid Waste and for billing the Owner/Occupant of the property. The Owner/Occupant remains subject to applicable criminal penalty for continued non-compliance.

9.04.210 Location for Collection.

A. All Carts and/or Containers shall be placed on the Owner's Commercial or Mixed-Use Property unless the Director grants an exception that:

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

2. 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.

B. When placement of a Cart and/or Container in a public right-of-way other than an alley is authorized, the Owner of the Cart and/or Container shall pay the established fee for use of such right-of-way.

9.04.220 Storage, Maintenance, Replacement, and Ownership of Carts and Containers.

A. **Maintenance of Carts and Containers**
Haulers from Commercial Properties and Mixed-use Properties shall maintain the Carts and Containers in a clean and Nuisance free condition. Owners or Occupants of Commercial Properties and Mixed-use Properties shall maintain the area surrounding the Carts and Containers in a clean and sanitary condition, free of Litter or any other accumulation of Solid Waste.

B. **Replacement of Carts and Containers**
In the event a Cart or Container becomes damaged or stolen, the Owner or Occupant of the Commercial Property or and Mixed-use Property shall replace such Cart or Container if such Cart or Container is owned by the Owner or Occupant. For Carts and Containers not owned by the Owner or Occupant, the Owner or Occupant of the Commercial Property or Mixed-use Property shall notify the Permitted Hauler for replacement of the Cart or Container.

C. **Cart and Container Identification**
All Carts and Containers must be identified with the name of the Owner or Occupant, or Permitted Hauler providing such Carts or Containers, or by a paint scheme or decal which is distinctive to the Owner or Permitted Hauler.

ARTICLE IV – CONSTRUCTION OR DEMOLITION WASTE

9.04.250 Applicability.
This article shall apply to:

A. Generators of Construction or Demolition Waste in the City;

B. Current holders of authorization (such as a building or grading permit) by City to develop, build, construct or conduct demolition activities; henceforth referred to in this Article as "authorized party;"

C. Self-transporters of Construction or Demolition Waste in the City; and

D. Haulers of Construction or Demolition Waste in the City.

9.04.260 Accumulation and Storage.

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

A. **Construction or Demolition Waste**

Generators shall accumulate Construction or Demolition Waste in Roll-offs with the following exceptions:

1. Construction or Demolition Waste produced by demolition that is so large 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.
2. Rock, concrete, mortar, brick, cinder block, and similar Construction or Demolition Waste generated by a single property, including an Improved Property or other properties located within the City, are not required to be containerized, unless these materials have the potential to contribute to run-off to the City's storm water conveyance system. These materials may be collected into piles on the ground of the property where such material was generated and removed to a Designated or Authorized Municipal Solid Waste Facility or a Recycling Facility within seventy-two (72) hours of the completion of construction or demolition work unless otherwise approved by the City Manager or his designee. Other types of Construction or Demolition Waste shall not be commingled with permitted piles of these wastes.
3. Shingles, tarpaper and other waste from roofing jobs that are 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 or Authorized Municipal Solid Waste Facility or a Recycling Facility.

B. **Recyclable Materials**

Generators of Construction or Demolition Waste in the City are encouraged to participate in recycling. Generators 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.

9.04.270 Collection Provider.

Generators and the authorized party, for a property generating Construction or Demolition Waste, shall contract with a Permitted Hauler to collect all Construction or Demolition Waste and Recyclable Materials generated at such property or they may self-transport as permitted by this Chapter. The Permitted Hauler shall provide the Generator or the authorized party a copy of the Hauler Permit, prior to collection of Construction or Demolition Waste.

9.04.280 Manifest Requirement.

Self-transporters, Permitted Haulers, and Generators of Construction or Demolition Waste shall, for each load of said waste transported for disposal, utilize a Construction or Demolition Waste manifest provided by the Department, in accordance with the following requirements:

A. **Notification**

1. Upon receiving appropriate authorization from the City to develop, build, construct or conduct construction and/or demolition activities, and prior to commencement of said activities, the Generator or authorized party for the project shall:

    a. Notify the Director, on a form provided by the Department, of the commencement of said project;
    b. Provide a copy to the Director of the written agreement for collection required by Section 9.04.300;
    c. Calculate and provide an estimated amount of Construction or Demolition Waste to be generated during the life of said project; and
    d. Purchase from the Department the appropriate number of Construction or Demolition Waste manifests to document the disposal of each load of the estimated amount of waste during the life of said project or if said project will generate only Fill Material, provide the Director with a copy of the Borrow or Waste Permit issued by the City pursuant to Chapter 18.44 of the City Code for said project prior to the commencement of the project.

2. Failure to purchase and terminate each manifest shall result in a denial of the ability of the Generator or authorized party to purchase manifests from the Department until such time as said requirements are met in full.

B. **Use**

1. Each Hauler shall use a manifest in addition to the requirement for a Permitted Hauler to document each load of waste delivered to a Designated or Authorized Municipal Solid Waste Facility on the Permitted Hauler Vehicle Log for said load, in accordance with this Chapter.
2. For all Construction or Demolition Waste generated within the City and collected by a Hauler or transported by a Self-transporter, such Hauler or Self-transporter shall:

    a. Document the disposal of each load of Construction or Demolition Waste in a manifest provided by the Department;
    b. Complete each manifest in its entirety;
    c. Terminate each manifest at the Designated or Authorized Municipal Solid Waste Facility; and
    d. In the event that additional manifests are needed during the life of the project than were purchased at the time of the notification, the Generator or authorized party shall purchase the appropriate number of manifests to accommodate each load of collected Construction or Demolition Waste during the life of said project.

C. **Maintenance and Termination**

1. For each manifest properly terminated in accordance with Section 9.04.280 B, the Generator or authorized party shall maintain one (1) copy of the manifest for a period of twenty-four (24) months from the date of completion of the project; and
2. The Generator or authorized party shall provide to the Director a copy of each terminated manifest upon completion of the project; and
3. Complete the Termination Form provided by the Department.

D. **Denial of Purchase of Manifests**

The Director shall deny the ability to purchase manifests from the Department, for any Generator or authorized party who has received three (3) or more written notices of violation within a consecutive twenty-four- (24) month span, which document a violation of this Article. A person who is denied purchase of manifests shall be eligible to purchase manifests after a period of six (6) months has elapsed since the date of the most current written notice of violation. A Generator who is denied the ability to purchase manifests from the Department shall also be subject to prosecution.

E. **Appeals**

Appeals for the denial of the ability to purchase manifests shall be conducted in accordance with Section 9.04.480 C.

9.04.290 Disposal Provider.

Self-transporters and Permitted Haulers shall be responsible for ensuring Construction or Demolition Waste is delivered to a Designated or Authorized Municipal Solid Waste Facility in accordance with this Chapter.

9.04.300 Schedule for Collection.

Generators or the authorized party for a property generating Construction or Demolition Waste shall enter into a written agreement with a Permitted Hauler for collection as according to the following schedule:

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 two (2) weeks;

B. Sufficient quantity of Roll-offs as to ensure that Construction or Demolition Waste does not become a Nuisance or overfill Roll-offs; and

C. Collection of each Roll-off at least once every fourteen (14) calendar days.

9.04.310 Location for Collection.

Generators and the authorized party for a property generating Construction or Demolition Waste shall place the Roll-offs for collection of Construction or Demolition Waste on the property generating such Construction or Demolition Waste unless an exception is granted by the Director. The Director may grant an exception to the Generator or authorized party for a property generating Construction or Demolition Waste, upon the Director's determination that:

A. Placement of the collection location on the property generating such Construction or Demolition Waste 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 Director shall not require the Generator or the authorized party for the Roll-off to pay the fee for use of such right-of-way.

9.04.320 Storage, Maintenance, Replacement, and Ownership of Roll-offs.

A. **Maintenance of Roll-offs**
Haulers of Roll-offs from properties generating Construction or Demolition Waste shall maintain the Roll-offs in a clean and Nuisance free condition. Generators and the authorized party for a property generating Construction or Demolition Waste shall maintain the area surrounding the Roll-offs 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 authorized party, for a property generating Construction or Demolition Waste, shall contact the Hauler for replacement of the affected Roll-off.

ARTICLE V – IDENTIFICATION AS RECYCLABLE MATERIALS FOR COMMERCIAL COLLECTION.

9.04.350 Identification as Recyclable Materials.
Material managed in accordance with all of the following requirements shall be considered Commercial Recyclable Materials for purposes of this Chapter. The management of Carts and Program Recyclable Materials identified as being included within the Residential Recycling Program are not subject to the requirements of this Article.

A. **Separation**
Recyclable Materials shall:

1. Be separated by the Generator from any Solid Waste generated at the property; and
2. Be composed of cardboard, paper, plastic, glass, metal or other materials as designated by the Director from time to time.

B. **Storage**
Recyclable Materials shall:

1. Not be commingled with any Solid Waste during storage and/or collection;

2. Be stored in Carts, Containers and/or Roll-offs specifically designated to store Recyclable Materials, or bulked and secured in a manner not contributing to a Nuisance or potential fire hazard;
3. Be stored in Carts, Containers, Roll-offs or as bulked material with affixed labels, decals, paint or signs that clearly indicate "RECYCLABLE MATERIAL" in letters at least two (2) inches in height, in a color boldly contrasting the paint color of the Cart, Container, Roll-off or bulked material; and
4. Be stored in Carts, Containers, Roll-offs or as bulked material in a manner not constituting a Nuisance or contributing to windblown Litter or discharge to the environment.

C. **Records**

In order to verify Recyclable Material collection service, Generator shall retain a copy of a written contract or agreement securing Recyclable Material collection service with an identified third party and retain written copies of bills or invoices for the most recent period of twelve (12) calendar months.

ARTICLE VI – OTHER WASTE

9.04.360 Animal Waste.

Occupants of Residential Properties 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. Occupants of Residential Properties who generate quantities of Animal Waste that will create a Nuisance and all Occupants of Commercial Properties and Mixed–use Properties may discard of Animal Waste in either:

A. A dumpster collected as often as necessary to prevent occurrence of a Nuisance or health hazard, but not less than once per week; or

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

9.04.370 Dead Animals.

The City may charge the established fee for the collection and disposal of dead animals, regardless of whether the service was or was not requested, to the owners of the dead animals or the Owner of Improved Property where the dead animals were found. Owners or Occupants of Improved Property where a dead animals is located shall contact the Department for collection and disposal of the dead animal within twenty-four (24) hours of the discovery of the dead animal. For dead animals less than forty (40) pounds, owners of the dead animals or Owners or Occupants of Improved Property where the dead animals are located shall place the dead animal in a securely tied plastic bag. For dead animals equal to or greater than forty (40) pounds, owners of the dead animals or Owners or Occupants of Improved Property where the dead animals are 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 is greater than forty (40) pounds, the Department shall arrange for an alternative method of disposal and assess the cost thereof against the owner of the animal or the Owners or Occupants of the Improved Property where the animal is found.

C. Nothing in this Chapter shall be construed to prevent the Department 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 Improved Property, the owner of the dead animal or the Owners or Occupants of the Improved Property where the dead animal was found, may be given the opportunity to bury the animal on his own premises.

9.04.380 Other Waste.
Generators of waste, other than waste described in Article II, III, IV, and V 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 and permitted in Article II, III, IV, and V 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 VII – HAULERS

9.04.390 Hauler Permit Required.

A. No Hauler shall collect, process or dispose of Solid Waste or other materials at the Designated or Authorized Municipal Solid Waste Facility without holding a valid Hauler Permit granted in accordance with this Chapter. A Hauler Permit issued pursuant to the provisions of this Chapter shall be a mere grant or privilege 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, collected, or otherwise found within the City and such waste was not disposed at the Designated or Authorized Municipal Solid Waste Facility.

B. No Hauler Permit shall be issued under this Article VII unless the Hauler enters into a franchise agreement with the City.

9.04.400 Hauler Permit Term.
Upon the effective date of this ordinance, the City may grant a Hauler Permit for a term commencing on the date of the issuance of the Hauler Permit, as set forth in Section 9.04.390, and expiring on August 31st of each calendar year.

9.04.410 Hauler Permit Application, Issuance, and Appeal Procedures.

A. **Hauler Permit Application**

To acquire a Hauler Permit for the first time, or to add any additional vehicles to a current, valid Hauler Permit, a Hauler must submit an application to the Department for a Hauler Permit a minimum of fourteen (14) calendar days prior to the proposed commencement of collection within the City. Any currently-Permitted Hauler must submit an application for renewal to the Director for a Hauler Permit a minimum of sixty (60) calendar days prior to the expiration of the valid Hauler Permit. Haulers shall submit a Hauler Permit application in accordance with this Chapter and the policies and procedures established by the Director. The Hauler shall, under penalty of perjury, swear 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:

1. The name, address and telephone number of the applicant;
2. All names under which the applicant is doing business or has conducted business during the past three (3) calendar years;
3. A list of all proposed Permitted Vehicles 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.

4. The types of Solid Waste and/or Recyclable Materials to be collected, transported, processed, and/or disposed.

5. Proof of an executed, current franchise agreement with the City for Hauler services.
6. Any additional data and information deemed necessary by the Director in order to verify the accuracy of information contained in the permit application forms and attendant documents.

B. **Review, Issuance, Denial 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:

1. The applicant has failed to provide some or all of the information required by Section 9.04.410A, including, but not limited to, proof of an executed, current franchise agreement with the City for Hauler services.
2. The applicant has supplied false information to the City in connection with any matter regulated under this Chapter.
3. The applicant has failed to pay all or any portion of the established Hauler Permit fee, franchise fees, other fees, penalties, or interest required or imposed pursuant to this Chapter.
4. The applicant has failed to comply with Texas state requirements for vehicles governed by 30 TAC § 330.105.

The Director shall grant or deny a Hauler Permit application within sixty (60) calendar days of the applicant's submission of a completed application. In the event the Hauler Permit application is denied by the Director, the appeals process shall be conducted in accordance with this Chapter.

9.04.420 Permitted Vehicle Requirements.

A. **Permitted Vehicle 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 Permitted Vehicles identified on the Hauler Permit application to collect Solid Waste and/or Recyclable Materials within the City. Hauler shall solely utilize Permitted Vehicles within the City that are:

1. Owned or leased by the Hauler;
2. Listed in the Hauler Permit application as a Permitted Vehicle;
3. Cleaned regularly and upon the request of the Director as to maintain Permitted Vehicles in accordance with 30 TAC § 330.105;
4. Affixed to the windshield with the City Permitted Hauler decal as designated by the Director; and
5. Identified with paint or decal on the driver's-side door, indicating Hauler Permit number and Permitted Vehicle number or letter identifier below Hauler Permit number. Numbers or letters must be a minimum of two (2) inches in height and of a color contrasting to the paint color of the vehicle.

B. **Permitted Vehicle Construction and Maintenance**

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

1. The Permitted Vehicle body shall be capable of being readily emptied;
2. The Permitted Vehicle shall be kept in a sanitary condition, in accordance with 30 TAC § 330.105;
3. The Permitted 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;

4. The Permitted 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 or Authorized Municipal Solid Waste Facility; and
5. The Permitted Vehicle shall meet all other requirements as determined by current and adopted State of Texas and local regulations to protect the health, safety, and general welfare of the City and the City residents.

C. **Inspection and Documentation of Permitted Vehicles**

The Director may inspect any Permitted Vehicle used or proposed for use by a Permitted Hauler together with the contents of such 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.

D. **Permitted Hauler Vehicle Log**

A single copy of the Permitted Hauler Vehicle Log will be provided by the Department to each Permitted Hauler upon the granting or renewal of a Hauler Permit; whereupon the Hauler is permitted to reproduce as many copies as needed during the validity of the Hauler Permit to accommodate each load of waste collected in accordance with this Chapter. The Permitted Hauler shall utilize a log for each load of Solid Waste and Recyclable Materials collected or otherwise found in the City by the Permitted Hauler for each permitted vehicle. Permitted Haulers shall comply with the following requirements:

1. Ensure that each load of Solid Waste and Recyclable Materials collected or otherwise found in the City is identified on the Permitted Hauler Vehicle Log;
2. Ensure that all information required on the Permitted Hauler Vehicle Log is provided on the log;
3. Ensure that the Permitted Hauler Vehicle Log is maintained in the Permitted Vehicle identified on the log at all times until the end of the month indicated on the log;
4. At the end of the month identified on the Permitted Hauler Vehicle Log, remove the log from the Permitted Vehicle and maintain each log at the Permitted Hauler's place of business for a period of twenty-four (24) months; and
5. Supply, upon request by the Director, any requested Permitted Hauler Vehicle Log.

9.04.430 Cart, Container, and Roll-off Requirements.

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

A. Each Cart, Container, and Roll-off shall be painted with or securely affixed with the Owner's name and business address or telephone number on at least one (1) side of each

receptacle. Lettering shall be of sufficient size and of contrasting color to be easily visible at a distance of twenty (20) feet;

B. Each Container and Roll-off shall be painted, or securely affixed, with the tare weight on two opposite sides of the respective Container and Roll-off; and

C. Each Container and Roll-off shall be cleaned regularly.

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

A. Permitted Haulers shall suitably enclose or cover Solid Waste and Recyclable Materials prior to transportation to a Designated or Authorized Municipal Solid Waste Facility or a Recycling Facility to prevent Littering, spillage of materials or fluids, and/or infiltration of rainwater inside the Solid Waste or Recyclable Materials. 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 Haulers shall immediately clean and remove any Litter and spillage of materials or fluids upon the roads caused by the Permitted Hauler or the Permitted Hauler's Permitted Vehicles. Permitted Hauler shall remit payment to City within thirty (30) calendar days, upon written notification by the City, for any and all costs incurred by the City related to any such removal of Litter, spillage of materials or fluids, and/or infiltration of rainwater caused by the Permitted Hauler or the Permitted Hauler's Permitted Vehicles. This provision shall be in addition to any penalties authorized elsewhere by this Chapter or any other provision of law.

9.04.450 Disposal of Solid Waste.
Except as otherwise specifically provided in this Chapter, Permitted Haulers who collect Solid Waste generated or otherwise found within the City shall deliver such Solid Waste, other than Excluded Waste, to a Designated or Authorized 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.

9.04.460 Hauler Records.
Each Permitted Hauler shall maintain current customer records, including customer name, address, service level information, and routing records, including Permitted Vehicle number, collection day and daily routes. 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 Director may require and for a period no less than two (2) consecutive calendar years. Such records shall include, but not be limited to, documents evidencing the Permitted Hauler 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 Materials was delivered. The Director may examine the books, papers, records, financial reports,

equipment, and other facilities of any Permitted Hauler in order to verify compliance with this Chapter.

9.04.470 Violations.

A. Notice of Correction. The City shall issue a written notice of correction to a driver of a Permitted Hauler who fails to correct any matter contained in a notice of corrective action as described in this Subsection.

1. The responsible party in receipt of a written notice of correction shall complete any and all necessary corrective actions to correct and remediate the documented violations within seven (7) calendar days; and
2. Upon completion of the necessary corrective actions, the responsible party shall provide a written or verbal description of the corrective action within seven (7) calendar days to the City official identified on the citation, or for matters that cannot be reasonably corrected and remediated within seven (7) calendar days, the responsible party shall provide a written statement indicating how compliance with the provisions set forth in this Chapter will be achieved within seven (7) calendar days to the City official identified on the notice of violation.

B. A written citation shall be issued by the appropriate City official, to a Permitted Hauler who violates any provision set forth in this Article VII.

C. **Delinquent Fees.**
If the holder of any Hauler Permit issued pursuant to this Chapter becomes delinquent in the payment of fees, the Director is authorized, upon ten (10) calendar day's notification to the Hauler, to refuse access to City disposal facilities. The Director may further, upon thirty (30) calendar days notification, suspend such Hauler Permit, as provided in 4.04.480.

D. **History of Delinquency.**
If the holder of any Hauler Permit has a history of delinquency in payment of fees as evidenced by having been issued more than one notice from the Director, such Permitted Hauler 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.

9.04.480 Suspension, Revocation of Hauler Permit; Appeals.

A. **Suspension of Hauler Permit**

1. For any Permitted Hauler that has been named as a responsible party and been issued three (3) written notices of correction by the City within a consecutive twelve (12) month span, the Director may suspend the Hauler Permit for such Hauler.

2. A Hauler that has had its Hauler Permit suspended is eligible to re-apply for a Hauler Permit sixty (60) days from the date of suspension.
3. A Hauler may appeal the suspension of its Hauler Permit in accordance with this Subsection.

B. **Revocation of Hauler Permit**

1. A Hauler Permit may be revoked for any of the following reasons:

   a. The Hauler has had two (2) prior suspensions in a consecutive twelve (12) month span;
   b. The Hauler interferes with an investigation of the Director in the performance of official duties; or
   c. A Hauler operates under a suspended Hauler's Permit

2. For any Permitted Hauler that has had its Hauler Permit revoked by the Director, the Hauler shall not be eligible to receive a Hauler Permit for a period of twelve (12) months from the date of written notice of revocation from the Director for that Hauler.

C. **Hauler Permit Appeals**

1. If the Director denies an application for a Hauler Permit or suspends or revokes a Hauler Permit or denies the ability of a person to purchase Construction or Demolition Manifests from the Department, the Director shall prepare a report within ten (10) business days of taking such action, indicating the reasons for the denial, suspension or revocation. 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.
2. The City Manager or his designee shall review the Director's report and the appellant's rebuttal. The City Manager or his designee shall make a ruling on the appeal within a reasonable period of time after the appeal has been filed.
3. The City Manager or his designee shall sustain, reverse or modify the action of the Director. The decision of the City Manager is final.

9.04.490 Ownership of Solid Waste and Recyclable Materials.
Title to all Solid Waste and Recyclable Materials placed for collection shall be vested in the Permitted Hauler upon collection of a Cart, Container, or Roll-off by the Person discarding of such Solid Waste and Recyclable Materials at the collection location. For Solid Waste and Recyclable Materials that the Designated or Authorized Municipal Solid Waste Facility and Recycling Facility is prohibited by law or permit from processing or disposing, the responsibility for properly discarding of such Solid Waste and/or Recyclable Materials shall remain with the Person generating such waste and only be transferred to the Permitted Hauler upon collection of

such waste by Permitted Hauler. Scavenging by any Person from any Cart, Container or Roll-off placed for collection within the City is prohibited.

9.04.500 Permitted Hauler Recycling Rebate.

A. Excluding the City, Permitted Haulers will be eligible for a Recycling rebate for Recyclable Materials identified as Recyclable Materials by Article V and collected from Commercial Properties and Mixed-use Properties in the City provided that such Permitted Hauler meets the following requirements:

1. Permitted Hauler is in good standing with the City;
2. Permitted Hauler has not received more than two (2) written notices of correction from the City during the prior twelve (12) calendar months;
3. Permitted Hauler has entered into a written agreement with the City for the Permitted Hauler Recycling rebate program; and
4. Other requirements as established by the City.

B. The Permitted Hauler Recycling rebate shall be applied quarterly to the established tipping fees paid to the City for Solid Waste disposed by such Permitted Hauler at the Designated or Authorized Municipal Solid Waste Facility for the prior three (3) calendar month period. The Permitted Hauler Recycling rebate calculation shall be developed by the City Manager or his designee. The Permitted Hauler Recycling rebate amount shall be set by resolution of the City Council. The Permitted Hauler Recycling rebate shall not apply to Construction or Demolition Waste.

9.04.510 Emergency Powers; Right to Assume Collection.

A. The City may 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, a written notice to all affected Permitted Haulers setting forth the time, place, and purpose of such hearing shall first be sent via electronic mail and then a hard copy of said notice shall be mailed within a minimum of seventy-two (72) hours to the last known addresses of such Permitted Haulers.

C. The proceeding shall be conducted informally with the procedures established by the City Manager in consultation with the City Attorney. All interested parties, including the City Manager or his 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 appropriate under the circumstances.

ARTICLE VIII – DESIGNATED OR AUTHORIZED MUNICIPAL SOLID WASTE FACILITIES

9.04.520 Designated or Authorized Municipal Solid Waste Facilities.

A. Except as otherwise specifically provided in this Chapter, any Person who collects or transports Solid Waste generated and/or otherwise found in the City shall deliver such waste to and shall be required to comply with all posted rules at the Municipal Solid Waste Facilities operated by the City; failure of any Person to deliver such waste or to adhere to posted rules shall be considered a violation of this Chapter and is subject to enforcement in accordance with Article X of this Chapter. This Article shall not be construed to prohibit the source separation of Recyclable Materials from Solid Waste prior to collection of such Solid Waste. In addition, this Article shall not be construed to apply to Solid Waste not permitted to be accepted at said Municipal Solid Waste Facility.

B. In the case of a Permitted Hauler, the City shall through franchise regulate any conduct regulated by this Chapter. Where such franchise is approved by ordinance, that ordinance shall supersede any terms or provisions that conflict with the regulations contained in this Chapter.

ARTICLE IX –FEES AND PAYMENTS PROCEDURES

9.04.530 Fees General.

Fees for collection, disposal, processing, environmental services, and other fees as set forth in this Chapter are established and required and paid as provided herein.

A. **Residential Properties Fees**

1. **Base Rate.**
   Each Residential Property unit for which service has been initiated pursuant to this Chapter shall be charged the established monthly fee.
2. **Senior and Disabled Citizens Discount.**
   The monthly charge for Residential Property unit which is owned and occupied, or rented and occupied by a Person sixty-five (65) or more years of age or by a Person who presents proof of disability in accordance with this section will be discounted by the stated percentage or amount stated in the budget resolution or other duly adopted resolution of the City Council. The fee discount shall only apply to the first Cart. 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 (65) or more years of age, or must present proof of disability when the discount is requested and must file a notarized application on a form provided by the Department.
   b. A written request for such discount may be filed with the Department at any time when the applicant reaches eligibility and will take effect at the first billing cycle which starts thirty (30) calendar 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 (65) 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. Proof of age shall consist of one of the following:

   i. If the Person seeking the discount presents a valid driver's license or state-issued identification card showing the day and year of birth;
   ii. If the Person seeking the discount currently holds a Sun Metro Senior Citizen reduced fare card;
   iii. If the request is signed by the Director of a City senior citizen center or nutrition center or other agency approved by the Department.
   iv. All other requests shall be verified by the signed and sworn affidavit of the Person seeking the discount or someone authorized by him and having personal knowledge of the facts.

d. 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 (100%) 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.

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. Approved discounts are not transferable to another Person or address.
g. No Person shall be entitled to a discount for more than one (1) residence at the same time and only for the residence the Person occupies, nor shall any Person be entitled to claim both a sixty-five years (65) and over discount and a disabled discount at the same time.
h. 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.

i. The discount provided in this section shall not apply to charges for additional Carts, special collections, collection of Solid Waste from Commercial Properties and Mixed-use Properties, or from any location of any type utilizing Containers or Roll-offs.

j. Any change which results in loss of eligibility for a discount for a residence will be reported to the Department within thirty (30) calendar days, and full charges will be restored during the next billing cycle.

k. Eligibility for the senior and disabled citizens' discount shall lapse at the end of each City fiscal year.

l. The Director shall have the authority to investigate and verify that applicants continue to be eligible for this discount.

m. The discount shall in no way be considered as approval of Sidedoor collection under Section 9.04.100. Such approval must be separately requested pursuant to that provision, and if granted shall result in the termination of any discount provided under this Section.

n. Persons receiving Sidedoor collection under Section 9.04.100 are not eligible for the discount.

3. **Failure to Comply with Residential Carts/Containers Requirements**
In addition to any other actions or remedies the City may pursue, in the case of Residential Municipal Solid Waste accounts, the City shall charge the established fee to a Person who fails to comply with the requirements regarding the Carts or Containers.

B. **Commercial Properties and Mixed-use Properties Fees**
The established monthly fee for services provided pursuant to this Chapter by the City from Commercial Properties and Mixed-use Properties shall be charged.

C. **Construction or Demolition Waste and Other Waste Fees**
The established fee for services provided pursuant to this Chapter by the City of Construction or Demolition Waste and other waste shall be charged.

D. **Other Fees**

1. Each Person or entity requesting or needing the delivery or relocation of a Cart, Container, or Roll-off provided by the City, each Person or entity who cancels Cart, Container, or Roll-off service provided by the City, and each Person or entity who requests special services from the City such as the collection and disposal of Bulk Waste, infectious waste, dead animals, or an extra collection shall be charged the established service charges and special collection fees.
2. The service charges shall be imposed each time a Cart, Container, or Roll-off 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 Bulk Waste, collection of infectious waste, and collections of dead animals as defined in this Chapter.

4. The established Cart, Container, and/or Roll-off replacement fee shall be charged for the replacement of Cart, Container, and/or Roll-off that are lost, burned, damaged or destroyed by the customer and the customer requests replacement or the Director determines that the Cart, Container, and/or Roll-off is no longer serviceable by the Department.

E. **Franchise Fees**

Commencing on a date as established by City Council, Haulers providing collection of Solid Waste generated and/or otherwise found within the City shall be required to pay a franchise fee as approved by City Council for each ton of Solid Waste collected by such Hauler. As provided in this Chapter, any City official authorized to enforce the provisions of this Chapter may upon written notice or request examine the books, papers, records, financial reports, equipment, and other facilities of any Hauler to verify compliance with this Article.

F. **Environmental Services Fee**

The Owner, agent or Occupant of every residence, business, establishment, industrial, educational, institutional, religious or other premises shall be charged the established monthly user service fee. 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.

G. **Shopping Cart Recovery Fee**

The Shopping Cart Recovery Fee is established and shall apply per Shopping Cart recovered by its Owner from the City, subject to the conditions specified in Section 9.04.920C of this Chapter.

9.04.540 Permit Fees.

A. **Hauler Permit**

The established annual fee shall be charged for every Permitted Vehicle used by the Permitted Hauler.

B. **Additional Vehicle Registration Fee**

The fee for either registering an additional or substituting a previously registered vehicle shall be one hundred percent (100%) of the annual fee for the vehicle to be added or substituted.

C. **Special Disposal Permit Fees**

Special disposal permit fees are established and shall be charged for scheduled and unscheduled disposals, and such charges shall additionally include the regular per ton or per cubic yard disposal charge.

D. **Container Location on Sidewalk or on Public Right-of-way**

When permitted under this Chapter, the annual established fee shall be paid by the Container Owner for each Cart, Container, and/or Roll-off located on the public right-of-way. It shall be the Container Owner's responsibility when placing a Cart, Container, and/or Roll-off on public right-of-way to pay this annual fee to the Department. Failure to pay shall result in (1) having the Cart, Container, and/or Roll-off removed from the public right-of-way; and/or (2) imposing a fee charged at the same amount as the fee to the Generator or Hauler providing such services.

9.04.550 Disposal Fees.

A. **Landfill Fees**

Landfill fees are established and shall be charged by both type of material and vehicle type.

B. **Fees Subject to Fraction**

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

C. **Waste Tires**

Disposal fees for waste tires from residential users who have exceeded the eight (8) tires per year limit or from commercial users are established and shall be charged.

D. **Surcharge for Uncovered Loads**

In conjunction with the City's enforcement of this Chapter and Texas Commission on Environmental Quality rules, the City is authorized to charge the established surcharge fee for vehicles that are not provided with a tarpaulin, net, or other means to effectively secure the load in order to prevent the escape of any part of the load by blowing or spilling to the Person or company hauling waste to the facility when the Director 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 from the facility entrance.

E. **Transfer Fees**

Fees for disposal at any City transfer station are established and shall be charged based on compacted or uncompacted cubic yard.

9.04.560 Payment Procedures and Nonpayment of Fees.

A. **Initiation of Collection Service**

The Department is authorized to initiate collection services to any Generator at the request of the Owner, Occupant or agent representing the property Owner and to bill for all established fees through the El Paso Water Utilities or other means authorized by the Director at the established rates. Once service for class is initiated in the customer's name, the established fees shall be charged to the customer during such time as the

customer occupies the building for which the service had been established, or the building is connected to an active water meter.

B. **Prompt Payment of Fees**
All fees established in accordance with this Chapter shall be paid promptly by the Person to which the service has been provided. Payment of all fees established in accordance with this Chapter are due upon preparation of the bill by the City and shall be paid within twenty (20) calendar days after the bill is mailed, unless a specific provision in this Chapter requires the fee is required to be paid in advance or at the time of a request for services or for the issuance of a permit.

Section 9.04.570 Solid Waste Management Fund.
Each year, all fees collected for the environmental and Solid Waste management services provided by the City under this Chapter shall be deposited into a Solid Waste management fund. Payment for the operations of the Department attributable to its Solid Waste management services function shall be made from this fund. Fund balance reserves shall be established as directed by the City Council and managed for these purposes by the City Manager or his designee. The annual budget for the Department shall show these reserves as a separate use of fund balance. Corresponding expenses will be incorporated into the annual operating budget.

ARTICLE X – ENFORCEMENT

9.04.600 General Authority.
The City may initiate an action to enforce the provisions of this Chapter, including legal proceedings to compel compliance.

9.04.610 Authority to Issue Citations.
The following City officials are authorized to enforce the provisions of this Chapter and shall have the power to issue warnings and citations to any Persons violating the provisions of this Chapter:

A. City Manager or his designee;

B. Code enforcement division;

C. Police; and

D. Fire chief or designees.

The City officials designated above are authorized to conduct inspections of any property necessary, conduct audits of records and documents required to be utilized and maintained by this Chapter, and to investigate instances of non-compliance with this Chapter to enforce the provisions of this Chapter. If the Occupants in possession of any property refuses to allow the City 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.

9.04.620 Reserved.

9.04.630 Other Penalties.
Any Person violating any provision of this Chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine up to two thousand dollars ($2,000.00). If any such violations of this Chapter are continuous, each day that the violation occurs shall constitute a separate offense.

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

ARTICLE XI – EXCLUSIVE FRANCHISE

9.04.640 Exclusive Franchise.
The 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 XII – EXCLUSIVE HAULER

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

ARTICLE XIII – LITTER AND ILLEGAL DUMPING

9.04.660 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;

C. Occupants of Improved Properties in the City, where an Owner is not an Occupant; and

D. Owners of Improved Properties by the City where an owner is also an Occupant.

9.04.670 Litter and Illegal Dumping prohibited.
No Person shall dump, throw, drop, discard or otherwise dispose of Litter on any public or private property 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.

9.04.680 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 site free of Construction or Demolition Waste, Solid Waste, Recyclable Materials, Litter, or other waste.

ARTICLE XIV – DISTRIBUTION OF HANDBILLS AND OTHER MATERIALS.

9.04.700 Applicability.
This article shall apply to all Persons in the City.

9.04.720 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.

9.04.730 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.

9.04.740 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.

9.04.750 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 have their right of privacy disturbed, or to have any such Handbills left upon such property.

9.04.760 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 XV – PROHIBITED ACCUMULATION OF SOLID WASTE, RECYCLABLE MATERIALS, OR OTHER WASTE.

9.04.800 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;

C. Occupants of Improved Properties in the City, where an Owner is not an Occupant, and

D. Owners of Improved Properties in the City, where the Owner is also an Occupant.

9.04.810 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 XVI – UNSECURED LOADS.

9.04.820 Applicability.
This article shall apply to all Persons in the City.

9.04.830 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 XVII – WEEDS AND VEGETATION.

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

9.04.860 Weeds and Vegetation Prohibited.

A. Owners shall maintain properties as to prevent the growth of Weeds and Vegetation, other than those types of Weeds and Vegetation excepted under Section 9.04.870, under the following conditions:

   1. Any individual lot or tract of land smaller than three acres upon which Weeds and Vegetation exceed an average height greater than twelve inches.

   2. Any individual lot or tract of land three acres or greater upon which Weeds and 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.

3. Regardless of lot size, any abutting parkways or alleys upon which Weeds or Vegetation exceed an average height greater than twelve inches.

B. Any accumulation or growth of such Weeds and Vegetation on properties covered by this Article, unless exempted under Section 9.04.870, is deemed to be deleterious to the public health, comfort and welfare and is declared to be a public nuisance, the prompt abatement of which is a public necessity.

C. It is unlawful for any owner or person having the right of possession of any property within the City to cause or permit such public nuisance on the property or any abutting pathways or alleys.

9.04.870 Exceptions.
The following Weeds and Vegetation in the City shall be exempt from the requirements of Section 9.04.860:

A. Regularly cultivated ornamental, fruit bearing, vegetable bearing or flowering plants, bushes or trees, or native desert vegetation;

B. Regularly cultivated crops grown on property that is classified as agriculture exempt according to the tax rolls;

C. Pasture lands on property that is classified as agriculture exempt according to the tax rolls; and

D. 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).

9.04.880 City Abatement

A. The Director is authorized to notify the Owner about the condition of the land constituting a public Nuisance due to accumulation of Solid Waste, Recyclables, Weeds and Vegetation, other waste, or any other unacceptable, unsightly or unsanitary matter in violation of this Chapter. Such Solid Waste, Recyclables, Weeds and Vegetation, other waste, or any other unacceptable, unsightly or unsanitary matter in violation of this Chapter must be removed within seven calendar (7) calendar 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) calendar 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 at the Owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, 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 into 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 City Manager or his designee within seven (7) calendar days after the receipt of the notice, to present their reasons for which this ordinance should not be enforced.

E. If the property Owner or their representative fails to remove an accumulation of Solid Waste, Recyclables, Weeds and Vegetation, other waste, or any other unacceptable, unsightly or unsanitary matter in violation of this Chapter within seven calendar (7) calendar days after the receipt or posting of notice, the Department shall arrange to have the cleaning, disposal or removal of Solid Waste, Recyclables, Weeds and Vegetation, other waste, or any other unacceptable, unsightly or unsanitary matter in violation of this Chapter done and assess the cost of such clean up, disposal or removal at the Owner's expense and to take any action as provided by this Chapter. 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 cost of recording the resolution, 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.

F. The City may provide a notice to inform the Owner at the Owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, by certified mail and a posting on the property, or by personal delivery of correction notice, that if the Owner commits another violation of the same kind or nature that poses a danger to the public health and safety within a twelve (12) calendar month period from

the date of the notice, the City without further notice may correct the violations at the Owner's expense and assess the clean up expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period and the City has not been informed in writing by the owner of an ownership change, then the City without 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.

ARTICLE XVIII – LITTER COLLECTION AT RETAIL OR SERVICE ESTABLISHMENTS

9.04.900 Applicability.

This article shall apply to Owners and Occupants of Improved Property in the City containing a Retail or Service Establishments.

9.04.910 Litter Control.

Owners shall comply with the following Litter control requirements:

A. **Signs**

Owners shall post reflective warning signs with the phrase "LITTERING PROHIBITED" shall be posted at Parking Lots serving Retail and Service Establishments according to the following requirements:

1. Signs shall be constructed of metal, wood or durable plastic;
2. Signs shall be posted on a pole or fixed structure between four (4) and six (6) feet above ground surface;
3. Signs shall have lettering consisting of uppercase letters of no less than two (2) inches in height and must be of a color contrasting the color of the sign itself; and
4. Signs shall be distributed around the Parking Lot area according to the following requirements:

    a. A minimum of one (1) sign shall be posted for Parking Lots providing between one (1) and twenty-five (25) parking spaces, or where parking spaces are not demarcated, for parking lots up to 5,000 square feet; or
    b. One (1) sign shall be posted per twenty-five (25) parking spaces provided, or where parking spaces are not demarcated, for each 5,000 square feet of Parking Lot area provided.

B. **Litter Receptacles**

Owners shall provide Litter receptacles at Parking Lots serving Retail and Service Establishments according to the following requirements:

1. Litter receptacles shall have a capacity between fifty-five (55) and ninety-six (96) gallons;
2. A minimum of two (2) Litter receptacles shall be provided for Parking Lots providing between one (1) and twenty-five (25) parking spaces, or where parking spaces are not demarcated, for Parking Lots up to 5,000 square feet;

3. One (1) additional Litter receptacle shall be provided per additional fifteen (15) parking spaces, or where parking spaces are not demarcated, for each additional 3,000 square feet of Parking Lot area;
4. Litter receptacles shall be spaced throughout the Parking Lot area and/or along the front area of the buildings accessible to the public; and
5. Owners shall ensure that Litter receptacles are emptied regularly, and shall ensure that at no time is Litter allowed to overflow receptacles.

C. **Parking Lot Area Litter Control**

Owners shall ensure that uncontained Litter in the Parking Lot areas is controlled by removing and placing Litter in Litter receptacles at least once per business day, or for businesses that are opened to the public 24 hours a day, twice per business day. Owners are further required to maintain a written schedule for regular Parking Lot Litter control and make such schedule available to any City official authorized to enforce the provisions of this Chapter, upon request of said official.

9.04.920 Shopping Cart Control.

Occupants shall comply with the following Shopping Cart control requirements:

A. **Shopping Cart Recovery**

Occupants shall immediately recover, upon sight or notice, any Shopping Cart that is not contained within the parking area of the establishment providing the shopping cart. Notice may be provided verbally or in written form by a City official or by any Person witnessing the occurrence. Occupants shall also immediately recover their Shopping Carts that are located anywhere in the City to include, but not be limited to, the following locations:

1. Shopping carts located on a City street, alley or right-of-way;
2. Shopping carts located in City storm water conveyance or ponding areas, including arroyos; and/or
3. Shopping carts located on sidewalks or on private property.

B. **Shopping Cart Maintenance**

Occupants shall ensure that each Shopping Cart provided by the Occupant's Retail or Service Establishment clearly identifies the owner of the Shopping Cart by a sign, label or imprinted logo. Occupants shall ensure that uncontained Shopping Carts are located and recovered by conducting a search and recovery of nearby (within a one- (1) mile radius) property, neighborhoods and areas of frequent Shopping Cart accumulation at least once every seven (7) calendar days. Occupants shall also maintain a written schedule for regular Shopping Cart control and make such schedule available to any City official authorized to enforce the provisions of this Chapter, upon request of said official.

C. **Impoundment**

The City shall impound any Shopping Cart not contained within the parking area of the Retail or Service Establishment owning the Shopping Cart, where the Occupant has received two (2) or more written notices of violation within a consecutive twelve (12)

month span. Owner of Shopping Carts shall be able to recover impounded Shopping Carts from the City by paying the per-Shopping Cart Recovery Fee established in Section 9.04.530G of this Chapter. Any Shopping Carts not recovered within thirty (30) calendar days of the City giving notice of the impoundment shall be recycled and/or disposed of by the City. The failure of an Occupant to recover an impounded Shopping Cart within thirty (30) calendar days of the City giving notice of the impoundment shall constitute authorization for the City to dispose of the Shopping Cart at the Occupant's expense. The Occupant shall pay such cost of disposal as documented and billed by the City within thirty (30) calendar days upon receipt of the billing.

ARTICLE XIX – SEVERABILITY

9.04.950 Severability.

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.

Section 2. The provisions of this Chapter shall be effective on September 1, 2010, with the following exception:

A. Requirements to deliver Solid Waste to Designated or Authorized Municipal Solid Waste Facility shall take effect on September 1, 2011;

B. Requirements for a Hauler franchise agreement shall take effect on January 1, 2011 for any new Hauler Permit issued on or after September 1, 2010, and a Hauler Permit renewal issued after January 1, 2011 shall be subject to the franchise agreement requirement upon renewal.

Section 3. Except as herein amended, Title 9 (Health and Safety), shall remain in full force and effect.

(All signatures follow on next page)

PASSED AND APPROVED this _____ day of _____, 2010.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

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