

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 018123, TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT) TO REQUIRE A COMMERCIAL HAULER' S FRANCHISE FEE IN SECTION 9.04.410B.3 (HAULER PERMIT APPLICATION, ISSUANCE, AND APPEAL PROCEDURES) AND SECTION 9.04.530E (FEES GENERAL); THE PENALTY BEING AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE**

**WHEREAS**, pursuant to Section 3.18 of the El Paso City Charter the right of control, ownership and use of streets and alleys is declared to be inalienable except as provided by ordinance passed by the Council; and,

**WHEREAS**, pursuant to Section 3.18 of the El Paso City Charter, an ordinance providing for the grant of a franchise regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that franchise; and,

**WHEREAS**, in addition to the authority granted by the City Charter, the granting of a franchise to commercial haulers is a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to, Texas Local Government Code Chapters 51 and 52, and the Texas Health and Safety Code Chapter 363 and Section 364.034(e); and

**WHEREAS**, City Council during the budget process for FY15 requested that staff provide information on the financial benefit to the City regarding a potential requirement that commercial solid waste haulers pay a franchise fee to the City; and

**WHEREAS**, a Legislative Review Committee meeting was held on September 16, 2014, to discuss information regarding the potential for charging said franchise fee; and

**WHEREAS**, the City Council now wishes to require franchise fees of commercial solid waste haulers to help defray the cost of the wear and tear on the City's rights-of-way due to the use of commercial sanitation vehicles engaged in the collection, transportation and disposal of municipal solid waste to an authorized municipal solid waste facility.

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

**Section 1.** That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.410 (Hauler Permit Application, Issuance, and Appeal Procedures), Subsection B.3 be amended as follows:

**9.04.410 Hauler Permit Application, Issuance, and Appeal Procedures.**

B.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.

**Section 2.** That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.530 Fees General, Subsection E (Franchise Fees), be amended as follows:

**9.04.530 Fees General.**

**E. ~~Reserved Franchise Fees.~~**

~~A Hauler collecting Solid Waste generated and/or otherwise found within the City shall be required to pay a franchise fee at the rate set forth in Schedule C of the annual budget as approved by City Council for the respective fiscal year.~~

**Section 3.** Except as herein amended, Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management) and Ordinance No. 018123 shall remain in full force and effect.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Josette Flores  
Assistant City Attorney

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

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# **Environmental Services**

**Solid Waste Hauler Franchise Fee Proposal**

**September 15, 2014**



# Franchise Fee

- Fee charged to permitted haulers who have entered into a franchise agreement with the City
- Currently, 11 haulers have been franchised by the City
- Fee was enabled by ordinance in 2010, and revoked by City Council resolution earlier in 2014
- Ordinance amendment would be required to charge fee



# Franchise Fees in Texas

- $\pm$  20 municipalities in Texas charge franchise fees
- Average fee statewide is 8.2% (as a percentage of reported gross receipts)
- Cities of Dallas and Houston have a franchise fee of 4%; Ft. Worth has a fee of 5%
- Cities of Austin and San Antonio charge no franchise fee



# Franchise Fee Comparison

Municipality	% of G.R.	Municipality	% of G. R.
Pearland	18	Sugarland	5
Lewisville	17	Dallas	4
Allen	15	Garland	4
Coppell	15	Grand Prairie	4
Grapevine	12	Houston	4
Southlake	10	Laredo	4
Plano	7	Austin	N/A
Arlington	5	Corpus Christi	N/A
Flower Mound	5	San Antonio	N/A
Irving	5	El Paso	TBD



# Commercial Waste in El Paso

- Potential annual gross receipts for commercial waste is \$33.1 million [does not include recycling or construction or demolition material (CDM)]\*
- Potential annual gross receipts **including CDM** is \$45.5 million\*

*\*Commercial Refuse and Recycling Collection Feasibility Analysis, Prepared for ESD by R.W. Beck, February 2009*



# Franchise Fee Estimated Revenue

Revenue to City (in millions)	2.0%	4.0%	6.0%	8.2%
Without CDM included in gross receipts	\$0.66	\$1.32	\$1.99	\$2.71
With CDM included in gross receipts	\$0.91	\$1.82	\$2.73	\$3.73

- The figures above are from 2009 R. W. Beck study
- 1% = approximately \$500,000
- This study is more than 4 years old and so numbers are estimates



# Fee Assessment and Collection

- Fee may be assessed to franchisees as the same percentage of reported gross receipts, or
- Fee may be assessed on a graduated scale to franchisees based on gross receipts thresholds established by ordinance, similar to income tax brackets
- Gross receipts and assessed fee would be reported to City annually on an established date, payable in quarterly payments



**Questions or Comments?**