ORDINANCE NO. 2011-3488

AN ORDINANCE OF THE CITY OF EDINBURG, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF EDINBURG, TEXAS, TITLE V, CHAPTER 50 GENERAL PROVISIONS., BY REPEALING THE CONFLICTING DEFINITIONS AND SECTIONS; AMMENDING CHAPTER 51, SOLID WASTE MANAGEMENT; AMENDING, REDEFINING AND UPDATING THE COLLECTION AND DISPOSAL SYSTEM; PROVIDING FOR THE INDEMNIFICATION OF SERVICES, DEFINING BOUNDARIES AND PROVIDING FOR THE TYPE OF COLLECTION, TYPES OF SERVICES; ESTABLISHING CUSTOMER RESPONSIBILITIES, PROHIBITIONS, STANDARDIZED SERVICES, COLLECTION RATES, CHARGES FOR GARBAGE, BRUSH AND OTHER WASTE MATERIAL AND SERVICES; ESTABLISHING AND PROVIDING FOR A CITYWIDE RECYCLING PROGRAM TO INCLUDE PARTICIPANT RESPONSIBILITIES, PROGRAM STRUCTURE, PROHIBITIONS; UPDATING AND AMENDING ITS PENAL STRUCTURE AND PENALTIES; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH WITHIN TITLE V, CHAPTER 50, GENERAL PROVISIONS; PROVIDING FOR WAIVER OF THREE SEPARATE READINGS; CONTAINING A REPEALER CLAUSE; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of Edinburg is responsible for the sanitary collection, recycling and disposal of all municipal solid waste produced in the City of Edinburg; and,

WHEREAS, the City of Edinburg now provides collection for said waste to several private and public entities within the City of Edinburg; and,

WHEREAS, this type operation and responsibility to these entities mandate controlled growth, operations and insures public health and safety; and,

WHEREAS, the amendment of the Code of Ordinances is required in order to address these needs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG, TEXAS, THAT:

SECTION I. AUTHORITY OF LAW. All requirements of law have been met in the passing of this Ordinance.

SECTION II. TITLE V. CHAPTER 50 – GENERAL PROVISIONS., of the Code of Ordinances of the City of Edinburg, Texas, is hereby amended as follows: amend §50.01 Definitions., by repealing the terms "Container Service" and "Sanitarian"; repealing §50.03 Responsibility for payment of refuse collection charges., §50.05 Use of refuse container of another to avoid charges prohibited., §50.06 Exclusive municipal service for garbage collection, and §50.07 Garbage collection charges., renumbering §50.04. Termination of service; termination of unauthorized service; late payment surcharge., as §50.03; renumbering §50.08 Sanitary sewer charges, §50.09 Water charges, as §50.04 and §50.05, respectively.

SECTION III. Title V, Chapter 51 – Solid Waste Management, of the Code of Ordinances of the City of Edinburg, Texas, is hereby amended and shall read in its entirety as follows:

TITLE V
CHAPTER 51 – SOLID WASTE MANAGEMENT
COLLECTIONS

Cross-reference:
Accounts of municipally-owned utilities, see Charter Art. XII, § 9
Powers of city generally, see Charter Art. XII
Sales tax on garbage collection, see § 33.22
Unified Development Code: Article 2
Solid Waste Management – Publication of Refuse Guidelines, Development Standards and Requirements for Solid Waste Services

Statutory reference:
Texas Health & Safety Code: Title 5 Sanitation and Environmental Quality; Subtitle A. Sanitation, Chapter 341 Minimum Standards of Sanitation and Health Protection Measures et seq., Chapter 342 Local Regulations of Sanitation et seq., Chapter 343 Abatement of Public Nuisances et seq.; Subtitle B. Solid Waste, Toxic Chemicals, Sewage, Litter and Water; Chapter 361 Solid Waste Disposal Act et seq., Chapter 363 Municipal Solid Waste et seq., Chapter 365 Litter et seq., Chapter 369 Plastic Containers et seq., and Chapter 371 Used Oil Collection and Management et seq.; Subtitle C. Air Quality, Chapter 382 Clean Air Act et seq.; Texas Administrative Code: Title 30 Chapter 328 Waste Minimization & Recycling et seq., Chapter 330 Municipal Solid Waste et seq., Chapter 335 Industrial Solid Waste & Municipal Hazardous Waste et seq.; Authority to regulate rates, see Tex. Rev. Civ. Stat. Arts. 1175(2) and 1446c-O, Subtitle C; City-owned utilities, see Tex. Rev. Civ. Stat. Art. 1106 et seq.; Municipal utilities, see Tex. Local Gov't Code §§ 402.001 et seq.

§ 51.0 GENERAL PROVISIONS

Where the accumulation of garbage, litter, rubbish, junk and other deleterious substances on the premises of private residences, commercial and industrial institutions and in streets and alleys constitutes a public hazard and nuisance; greatly increasing the danger of the spread of infectious, contagious and epidemic diseases and where it is imperative and urgent for the preservation of health, safety, sanitation, peace and public welfare that proper and adequate regulations be adopted to require property owners, tenants, occupants or lessees to secure containers and/or receptacles of sufficient size and number in which to deposit garbage, trash and/or recyclable material for collection and removal at regular intervals.

§ 51.1 DEFINITIONS

The following words and terms, when used in this Chapter, shall have the meanings respectively ascribed to them in this section.

Approved Container - An approved container meeting designated standards and issued by the City. A reusable metal container and referred to as commercial containers, or a reusable plastic container referred to as residential container or plastic cart both of sufficient size and strength to adequately hold garbage and refuse without spillage.

Brush - Non-putrescible solid wastes consisting of yard clippings, leaves, wood and similar materials, such as cuttings or trimmings, shrubbery, grass clippings, brush, leaves, tree trimmings, refuse, trees, shrubs or similar materials that are not suitable for placement in disposable containers.

Bulky waste or Trash - Stoves, refrigerators, old iceboxes, pieces of metal scrap, furniture, water tanks, washing machines, loose brush, loose tree trimmings, bundles in excess of three cubic yards or 50 lbs. in weight, and other waste materials; but does not include construction debris, rocks, shingles, building materials, junk, trash, and other worn-out, wrecked or dismantled machinery, tractors, automobiles, and other similar wastes.

Carrion - Shall mean the dead and putrefying flesh of any animal, fowl, or fish.

Customer - Any owner, occupant, tenant or person otherwise in control of any premises in the City on which garbage and trash are accumulated and from which the same is removed or required to be removed pursuant to the terms of this Chapter.

City - City of Edinburg, Texas

Commercial or Commercial Unit - All premises, locations, or entities, public or private, requiring refuse collection that is not a residential unit. Duplexes, single or multi-family residences (consisting of three or more units), apartments; pertaining to any structure or premises and all businesses, institutions (public or private), apartments, single or multi-family dwellings (consisting of three or more units), commercial establishments and industrial premises.

Commercial Refuse - All waste, garbage, rubbish and stable matter generated by a producer at a commercial unit, but excludes pallets, wood and/or any material which falls under the category of construction material or debris.

Commingled Recyclables - Glass bottles and jars, aluminum cans, bimetal cans, tin cans and plastic bottles;

Construction Debris or Debris - Dirt, concrete, rocks, bricks, shingles, junk, trash, wood, pallets or other waste building materials resulting from construction, remodeling, repair or demolition operations.

Designated Recyclable Materials - means those materials designated within the City of Edinburg Recycling Plan to be source separated for the purpose of recycling. These materials include, but are not limited to:

Aluminum Cans - Cans made from aluminum that was manufactured to hold a serving of a beverage. Specifically omitted from this definition are aluminum foil and aluminum pie plates.

Plastic Bottles (coded 1 and 2) - Plastic bottles coded to indicate that they are comprised of the specific types of plastic compounds (polymers) known as polyethylene terephthalate (PETE) or high density polyethylene (HDPE). See symbols to the left. A bottle is defined as a receptacle having a narrow neck and a mouth that can be corked or capped. Caps and lids not included. Any item made of plastic that is not a bottle, and any plastic bottle without one of the symbols shown to the left is specifically omitted from this definition. Empty bottles which contained hazardous materials, such as motor oil, antifreeze, etc. should not be recycled.

Steel (Tin) Cans - An air-tight container for the distribution or storage of goods, composed of thin, usually ferrous, and metal. Examples are soup cans and tuna fish cans.

Newspaper - A publication containing news, information and advertising, usually printed on low-cost paper called newsprint. Newspaper may include glossy inserts which come with the paper, dependent upon the market conditions at the time.

Corrugated Cardboard - Shipping containers made with Kraft paper linerboard and corrugated medium.

Mixed Paper - Various categories of recyclable paper including, but not limited to white and colored paper used in printers, photocopiers and fax machines, white and colored ledger paper, carbonless copy paper, construction paper, undeliverable mail, mailed promotional letters/advertisements/circulars, magazines, catalogues, envelopes, soft cover books.

Used Motor Oil - Motor oil from motor vehicles, lawn mowers, boats, etc., which has served its intended useful purpose.

Lead-Acid Batteries - Storage batteries in which the electrodes are grids of lead containing lead oxides that change in composition during charging and discharging, and the electrolyte is dilute sulfuric acid. These include starting batteries such as car batteries that deliver a short burst of high power to start the engine. In addition, they may include deep cell batteries found on boats or campers used to power accessories like trolling motors, winches or lights.

Metal Appliances - Appliances composed predominantly of metal, and may include stoves, washing machines and dryers, for example, if the appliance is predominantly metal. Also included are air conditioners, refrigerators and dehumidifiers if they are predominantly metal. If these appliances on the latter list contain refrigerants that are prohibited by the Clean Air Act from being knowingly vented, the refrigerant must be recovered accordingly.

Developed Property - shall mean any tract of land or lot, which meets any one of the following criteria:

1) Any structure or paving currently exists or has previously existed on the tract or lot; or

2) Any grading, mining, drilling, dredging, filling or excavation has taken place on the tract or lot.

3) Clearing trees or vegetation from a tract or lot shall not, by itself, be construed to render the affected tract or lot "developed property" within the meaning of this article.

Director - means the Director of Solid Waste.

Disposal Site or Landfill - A refuse depository, licensed, permitted and approved to receive refuse, garbage, trash, debris and dead animals for final disposal.

Filth - Shall mean any matter in a putrescent state.

Garbage - Shall mean all animal, vegetable and inorganic matter subject to discard which is generated from within a household, residence, or business, such as but not limited to coffee grounds, tin cans, bottles, paper bags, plastic items, boxes, glass, and food articles, and additionally, shall include all animal, vegetable, and inorganic matter and any putrescible animal or vegetable waste materials resulting from the handling, preparation, cooking and consumption of foods, including waste materials from markets, storage facilities, handling and sale of produce and other food products. The term "garbage" also means admixtures of animal or vegetable waste with rubbish, but does not include dead animal carcasses.

Hazardous Waste - Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be "hazardous" as that term is defined by or pursuant to federal or state law.

Infectious Waste - A solid waste containing pathogens or biologically active material that, because of its type, concentration and quantity is capable of transmitting disease.

Litter - The word "litter" is "garbage," "refuse," and "rubbish," as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Medical Waste - Treated and untreated special waste from health care-related facilities that is comprised of animal waste, bulk blood, bulk human blood, bulk human body fluids, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (relating to Definitions) from the sources specified in 25 TAC §1.134 (relating to Application), as well as regulated medical waste as defined in 49 Code of Federal Regulations §173.134(a)(5), except that the term does not include medical waste produced on a farm or ranch as defined in 34 TAC §3.296(f) (relating to Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer), nor does the term include artificial, nonhuman materials removed from a patient and requested by the patient, including, but not limited to, orthopedic devices and breast implants.

Municipal Solid Waste (MSW) Stream – Means all solid waste generated from residential, commercial, and institutional establishments within the City of Edinburg which is not bulky waste or construction and demolition debris.

Non-profit Organization - A civic or fraternal organization, charity, lodge, association, proprietorship, or corporation possessing an Internal Revenue Code § 501(C)(3) exemption, or a religious organization meeting the definition of "church" under the Internal Revenue Code § 170(b)(1)(A)(I).

Nuisance - Municipal solid waste that is stored, processed, or disposed of in a manner that causes the pollution of the surrounding land, the contamination of groundwater or surface water, the breeding of insects or rodents, or the creation of odors adverse to human health, safety, or welfare. A nuisance is further set forth in Texas Health and Safety Code, Chapters 341 and 382; Texas Water Code, Chapter 26; and any other applicable regulation or statute.

Owner - Shall mean a person having some interest in title to real property.

Person - Any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, political subdivision or any other legal representatives, agents or assigns.

Property - Any real or personal property of any type.

Putrescible - Any matter or material capable of decaying or rotting.

Refuse - The word "refuse" is all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.

Recyclable Material – Means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products.

Residential or Residential Unit - Pertaining to any structure or premises used for permanent living quarters of whatever type, including conventional single-family residences or mobile homes. A residential unit shall be deemed to be occupied when either water or domestic light and power services are being supplied thereto.

Rubbish - Trash or Garbage

Sharps - Includes the following materials when contaminated: hypodermic needles and syringes with attached needles; scalpel and razor blades used for medical procedures; pasteur pipettes; and broken glass from laboratories.

Small Dead Animals - Animals or portions thereof equal to but not greater than ten lbs. in weight that have expired from any cause, except those slaughtered or killed for human use. Animals or portions thereof that have expired from any cause shall also be so defined, regardless of weight, when said animal or portion thereof is in the possession of the city, or when said animal or portion thereof is found on a public street or thoroughfare.

Solid Waste - Means any discarded or unwanted solid materials, garbage, brush, refuse, rubbish, litter, junk, trash, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities but does not include:

1) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to state law;
2) Soil, dirt, rock, sand and other natural or manmade inert solid materials used to fill land if the object of depositing same is to render the land suitable for the construction of surface improvements; and
3) Waste materials, which result from activities, associated with exploration, development, or production of oil or gas and are subject to the jurisdiction or control of the Texas Railroad Commission.

Source-Separation – Means the process by which recyclable materials are separated at the point of generation by the generator from their MSW stream for the purposes of recycling.

Source-Separated Recyclable Materials – Means recyclable materials which are separated at the point of generation by the generator from their MSW stream for the purposes of recycling.

Special Waste – Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment.

Trash - Shall mean all non-decayable waste; plastics, cardboard, rubber and fabrics or fibers; but for the purpose of service does not include construction materials, debris or bulky waste for commercial collection.

Undeveloped property - Shall mean any tract of land or lot, which is not developed property.

Vector - An agent, such as an insect, snake, rodent, bird, or animal capable of mechanically or biologically transferring a pathogen from one organism to another.

Waste Material - Refuse, garbage, rubbish, other solid or liquid wastes and useless, unused, unwanted or discarded materials.

Yard waste - Leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material not greater than six inches in diameter, that results from landscaping maintenance and land-clearing operations. The term does not include stumps, roots, or shrubs with intact root balls.

(`82 Code, § 14-20) (Ord. 837, passed 9-16-80; Am. Ord. 957, passed 9-21-82; Am. Ord. 2249, passed 10-17-00)

§ 51.2 EXCLUSIVE MUNICIPAL SERVICE FOR GARBAGE COLLECTION.

(A) Beginning November 1, 1985, the City's Solid Waste Department shall be the exclusive provider of residential and commercial garbage, rubbish, recyclables, refuse and other collection and disposal services for all premises within the city and it shall be unlawful for any other person(s) and/or company(s) to provide residential or commercial garbage, rubbish, recycling or refuse collection and/or disposal services to any person for compensation within the city or to make use of the public streets for that purpose, except as provided in this chapter.

(B) Any person, firm, corporation, association or partnership providing residential and commercial garbage, rubbish, recyclables, refuse and other collection and disposal services within the city limits after October 31, 1985, shall be in violation of this section, guilty of a misdemeanor and subject to being fined, upon conviction, as provided in § 51.200 Penalty per violation.

(C) Each separate collection, if more than one per day, and each separate day upon which such a collection is made shall constitute a separate violation of this section, subject to punishment under the provisions of division (B) of this section for each such violation.

§ 51.3 INDEMNITY FOR COLLECTION ON PRIVATE PROPERTY

(A) City Indemnified. Each person or entity who applies for service under this chapter who desires that the City enter onto their private property to collect and remove refuse must hold harmless and indemnify the City for damages to their paving or property caused by the City's removal of refuse.

(B) Owner Agrees to Indemnify City; by applying for and accepting such service, the property owner agrees to indemnify and to hold harmless and defend the City, its officers, agents and employees from and against all liability for any and all claims, liens, suits, demands and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees and other reasonable costs, arising out of or resulting from City's work under the contract service agreement and from any liability arising out of or in connection with the City's or its officers, agents, or employees entry and exit upon said property, including all such causes of action based upon common, constitutional or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of the City, its officers, agents or employees. The property owner agrees to waive any and all claims it may have against the City, in connection with, resulting from, or arising out of, claims and suits covered by this indemnification provision, and agrees that any insurance carrier involved shall not be entitled to subrogation under any circumstances against the City, its officers, agents and employees. Property owner further agrees that this indemnity provision shall be considered as an additional remedy for the City and not as an exclusive remedy.

(C) Property owner will provide the City prompt and timely notice of any event covered which in any way, directly or indirectly, contingently or otherwise, affect or might affect the property owner or City, and City shall have the right to compromise and defend the same to the extent of its own interests.

§ 51.4 SOLID WASTE MANAGEMENT

(A) The collection, removal and disposal of all garbage and trash shall be carried on in a systematic, efficient manner in order to maintain the entire City in a clean and sanitary condition.

(B) The Department of Solid Waste Management provides waste collection and disposal services for all premises within the city. Three (3) types of services are offered:

1) Residential Service. A dwelling, whether of single or multilevel construction, consisting of two or less contiguous or separate single-family dwelling units, shall be treated as a residential unit. All residences within the City are required to subscribe to the City's residential waste collection service. This service provides for collection of waste stored in approved plastic cart receptacle and the collection of yard waste or trash.

2) Commercial Service. Commercial establishments, institution(s), apartment(s), multi-family dwellings, flats, commercialized residence (consisting of three or more units), businesses and industrial premises are considered commercial businesses and as such are required to subscribe to the City's commercial collection service. The service consists of scheduled pickup of waste from metal containers sized to meet the needs of the customer.

3) Special Collection Services. Special Pick-up services include the collection of wastes, which are too bulky for regular pickup, trash, rubbish and debris that are not attributed to normal residential/commercial functions. The service may be obtained through contract with the City's Solid Waste Department.

§ 51.5 REFUSE COLLECTION RESPONSIBILITY

(A) Every owner, occupant, tenant or lessee of any residence, dwelling, flat or business, commercial, or institutional property or other property is entitled to receive garbage collection services and shall arrange, by contract with the city, for such garbage collection and disposal services from the City's Solid Waste Department, except as otherwise specified in this chapter.

(B) Every customer/resident shall use approved containers sufficient in size and number to hold the garbage and recyclable material normally accumulated on the premises of said customer/resident in compliance with the requirements of this Ordinance.

(C) It shall be the duty of every person, occupant, owner or permit holder, head of every family occupying or in possession of any house, building, flat, apartment, tenement or dwelling place in the city, which is a private residence, to place all garbage, accumulated on said premises in an approved container and place the container at its approved service location and time as directed by the Department and remove such container from its service location at the end of its service day.

(D) It shall be the duty of the owner or person otherwise in control of commercial, institutional, apartment(s), multi-family dwellings, flat, commercialized residence or industrial premises within the City to cause all garbage accumulated on said premises to be placed in a Commercial-type container on the premises.

(E) Every customer shall keep all garbage and trash containers used; securely closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents and other animals and said lids and covers shall only be removed while said containers and receptacles are being filled or emptied, as the case may be.

(F) Commercial-type containers shall be placed at a location on the premises arranged by the Department of Solid Waste Management; if gates are used, the customer shall ensure that they are open and that such container has easy access for City on the dates collection is scheduled.

(G) The owner or occupant of the building or premises shall dispose of all Medical, Industrial and/or Hazardous Wastes as those terms are defined in § 51.1 DEFENITIONS, resulting from manufacturing, medical and/or industrial operations where such wastes originate in accordance with Local, State, and Federal Laws.

(H) All garbage shall be placed inside the container/receptacle for collection; garbage or trash outside the container/receptacle is deemed the responsibility of the owner, occupant, tenant or lessee and will not be serviced by the City.

(I) Every customer is hereby required to maintain constant supervision and surveillance over garbage containers on their premises. If, after having been timely placed for collection, the containers are not collected or emptied and the contents removed, as the case may be, by the City within a period of twelve (12) hours of scheduled collection, the customer shall promptly notify the city of this fact in order to avoid return service fees. It shall be the duty of every person placing solid waste in any such container to eliminate as far as possible all water and other liquids, and to securely wrap same before placing same in such container.

(J) All animal and pet waste that is subject to decomposition shall be well wrapped or bagged in waterproof paper or plastic adequate to avoid contact with or exposure to said material before being deposited in the container or receptacle.

(K) Customer(s) shall not commingle infectious wastes and/or untreated medical waste with routine solid waste but shall segregate such wastes for special collection and transportation as designated by the Director.

(L) The customer shall secure infectious waste and/or untreated medical waste within an approved infectious waste container. This container shall be:

1) puncture-resistant;
2) leak-proof; and
3) clearly marked "Infectious Waste."

(M) The customer shall store the containers holding infectious waste and/or untreated medical waste in a secured compartment so as to render the contents inaccessible to any insects, animals and unauthorized persons until collected.

1) This subsection does not apply to waste generated by:
    a. single or multi-family dwellings; and
    b. hotels, motels or other accommodations which provide lodging and other similar services for the public.
2) This subsection applies to special waste generated by the operation of the following types of publicly or privately owned or operated health care related facilities, including but not limited to: ambulatory surgical centers; abortion clinics; birthing centers; blood banks and blood drawing centers; clinics, including but not limited to medical, dental and veterinary; clinical, diagnostic, pathological or biomedical research laboratories; educational institution health centers; educational institution research laboratories; emergency medical services; end stage renal dialysis facilities; funeral establishments; home health agencies; hospitals; long term care facilities; mental health and mental retardation facilities,

including but not limited to hospitals, schools, and community centers; minor emergency centers; occupational health clinics and clinical laboratories; pharmacies; pharmaceutical manufacturing plants and research laboratories; professional offices, including but not limited to the offices of physicians and dentists; special residential care facilities; and veterinary clinical and research laboratories.

§ 51.6 REFUSE DISPOSAL AND ANTI-LITTERING PROHIBITIONS

As prescribed hereunder this section the following acts shall be considered unlawful and subject to penalties prescribed under § 51.200 PENALTY:

(A) For any person to place debris or brush in any commercial container or residential plastic cart herein required to be used only for the collection of garbage.

(B) For any person, owner, occupant, tenant or lessee to discharge, deposit, expose, dispose, dump or unload any solid or other waste matter, garbage, trash, debris, waste products, tires, brush or yard cleanings in any street, alley, easement, right-of-way, gutter, waterway, irrigation/ drainage canal or other public places or upon any private property or adjacent land, whether owned by such person or not, within the City or its jurisdiction whether collection service is rendered or not; except at the designated City Sanitary Landfill, such act shall be deemed to be in violation of this Chapter and shall be the responsibility of the owner or occupant to remove/rectify and shall have, after written notice by the city, seven days to remove/rectify same or the city shall provide the services and assess a minimum fee of $25 or the actual cost of removal to the owner or the occupant's water bill.

(C) For any waste product(s), tires, spent chemicals, rubbish, waste building materials, liquors, brines, offal, debris and/or any polluting materials to be stored, deposited, exposed or disposed of in any manner that will cause a public nuisance and/or health hazard and/or in such way to be a potential instrument or medium in disease transmission to a person or between persons; or contributing to the pollution of the surrounding land, the contamination of any surface or ground water or causing foul odors to escape or causing the infestation or harborage of insects or rodents. All solid wastes shall be disposed of appropriately at the City owned and maintained landfill in compliance with the requirements of this Ordinance, such act shall be deemed to be in violation of this Chapter and shall be the responsibility of the owner or occupant to remove/rectify and shall have, after written notice by the city, seven days to remove/rectify same or the city shall provide the services and assess a minimum fee of $25 or the actual cost of removal to the owner or the occupant's water bill.

(D) For any person to deposit any burning match, cigarette, charcoal, ember or flammable substance or similar material in any container used for the disposal of garbage or trash.

(E) For any owner, occupant, tenant or lessee, using or occupying a building, house or structure, to utilize the garbage containers or receptacles of another owner, occupant, tenant or lessee for the disposal of their own refuse or garbage, and in this manner try to avoid payment of the fees levied by this article.

(F) For any owner, occupant, tenant or lessee, using or occupying a building, house or structure to relocate any receptacle/plastic container to a previously un-serviced area or location in order to obtain additional or extra services and in this manner avoid payment of the additional fees for subsequent services levied by this chapter.

(G) To deposit or dispose of Industrial, medical and /or hazardous waste, as that term is defined by and pursuant to federal or state law, at any location or within city owned receptacles within the City regardless of consent of the owner of the property.

(H) For any Residential, Commercial and/or Roll-Off Container to be filled with garbage or trash above the top flange of such container.

(I) For any person to tamper with, meddle with or in any manner disturb garbage, which has been placed for collection; such shall not apply to police, fire or other agencies, which may require access in their line of duty.

(J) For any person transporting or in control of any vehicle used in the transportation of solid waste or brush to transport same in such manner as to permit the discharge of same upon any alley or street in the city.

(K) To dispose grease pit and regulated garage waste along with routine msw; this regulated waste shall be disposed of at the expense of the party responsible for same, under the rules of the governing agency.

(L) For any person operating or in charge of any business, such as tree surgery, lawn care, plant nursery, yard work and maintenance company or the like to place for collection any brush material, yard waste and the like not generated from their residence as part of their normal residential brush generation for collection and in this manner try to avoid payment of the fees levied by this chapter.

(M) Any act prescribed in any other provision of this ordinance

§ 51.7 RESIDENTIAL COLLECTION

(A) All containers shall be placed in front of the property between the sidewalk and curb or in any place most accessible to the collector. No garbage containers may be placed in an alley or other public way without authorization from the Director. The containers shall be placed at the hereinabove prescribed locations no later than 7:00 a.m. on the day of scheduled collection. In this regard, it shall be unlawful for any customer to place containers of garbage at said location prior to 7:00 p.m. the evening prior to the day of scheduled collection

(B) In the event it is not practical to place containers for collection at locations hereinabove provided, the Director or his duly authorized representative shall designate the point most easily accessible for collection in such instances.

(C) No brush or yard waste shall be placed inside the City-supplied containers for collection. All brush to be collected by the City shall be placed in the parkway behind the curbline at a location so that access to it is not obstructed by overhanging tree limbs, wires, or other obstacles, which would interfere with mechanical collection. Brush collected on regular trash and brush collections shall be bundled into four (4) foot long bundles not exceeding twenty-four (24) inches. Unbundled trees and brush shall be cut into lengths of six (6) feet or shorter.

(D) The Director for just cause (health and or sanitation reasons, insufficient capacity, nuisance, littering) may increase the size of the residential or commercial-type container(s), quantity of containers and/or frequency of collection and apply appropriate monthly charges without customer approval.

§ 51.8 RESIDENTIAL COLLECTION CHARGES

(A) The collection and removal of garbage and trash from houses, buildings, flat, apartment(s), tenement or dwelling place in the city, which is a private residence shall be made as often as

necessary in order to maintain such premises free of accumulations of garbage and trash. In this regard, garbage collection shall be made not less than one (1) time each week.

Residential Service:

1) Rates. The following monthly rates will be charged for collection:

   a. 95 gallon-cart, $12.08.

   b. 300 gallon-cont, $28.75

   c. Extra carts may be provided at the following additional monthly charge:

      i. Each 95-gallon cart, $8.00

   d. In the event a particular size cart is not specified, the Director will set the proper rate.

   e. Once per week service rates include brush and bulk item collection, this service does not include collection for construction material or debris.

   f. On a case by case basis the City may elect to provide residential services within its extra territorial jurisdiction (ETJ); the charge for the service will be one and one quarter rate set for inside city services and will only provide for 95 or 300 gallon collection. For services outside the City's extra territorial jurisdiction the rate for such services will be double the rate set for inside City customers. Brush will not be included in these services.

§ 51.9 COMMERCIAL COLLECTION

(A) Container service shall require a one-month deposit before delivery; Brush Collection Services are not included with commercial services but are available through special pick up services for their removal.

(B) Commercial container enclosure requirements and guidelines– please refer to Article 2; Division 2.300 General Use Standards (G)(2); or Sec. 2.302 Nonresidential Use (D)(3) of the City's Unified Development Code (UDC); and SWM's Publication of Waste Development Guidelines, Planning Standards and Requirements for Solid Waste; Any establishment that uses a commercial-type container with enclosure or waste storage area shall keep same maintained in good order, repair and free of accumulated wastes.

(C) It shall be considered an offense for any item to be placed in commercial containers that, because of size, weight, or any other physical property, could cause damage to the collection vehicle. These items include, but are not limited to, any one item over three feet in any dimension, any one item in excess of 50 pounds, any concrete, bricks, dirt, blocks, or other earthen material, boards (over three feet long), pallets, timbers, and the like. These items shall be placed in a roll-off container for disposal.

(D) Tires will not be accepted. If tires are collected undetected, the customer will be charged $5 per tire.

(E) Persons, businesses, or other entities placing such items in containers for collection will be required to remove these items before collection can take place.

(F) The Director for just cause (health and or sanitation reasons, insufficient capacity, nuisance, littering) may increase the size of the residential or commercial-type container(s), quantity of containers and/or frequency of collection and apply appropriate monthly charges without customer approval.

§ 51.10 COMMERCIAL COLLECTION CHARGES

(A) Frequency of Collection: The collection and removal of garbage and trash from houses, buildings and premises used for commercial, institutional or industrial purposes shall be made as often as necessary in order to maintain such premises free of accumulations of garbage and trash. In this regard, garbage collection shall be made not less than one (1) time each week.

1) Commercial Containers:

Pickups per Week	Container Size					
	1.5 Yd	2 Yd.	3 Yd.	4 Yd.	8 Yd.	10 Yd.
1	$30.36	$40.48	$60.72	$80.96	$145.73	$182.16
2	$60.72	$80.96	$121.44	$161.92	$291.46	$364.32
3	$91.08	$121.44	$182.16	$242.88	$437.19	$546.48
4	$121.44	$161.92	$242.88	$323.84	$582.92	$728.64
5	$151.80	$202.40	$303.60	$404.80	$728.65	$910.80
6	$182.16	$242.88	$364.32	$485.76	$874.38	$1092.96

2) Roll-Off Containers

Type and Size of Container			Compactor	
Open top	Daily Rental	Service Fee	18 yard	$176.40
20 yard	$3.00	$195.60	30 yard	$293.40
30 yard	$3.00	$293.40	35 yard	$342.30
40 yard	$3.00	$391.20	40 yard	$391.20
RATES FOR OUT-OF-TOWN ROLL-OFF SERVICES				
(A) Out-of-town roll-off rates shall be assessed and collected from persons and businesses provided roll-off				

container service outside the corporate limits of the city.

(B) Rates to be charged are as follows:

(1) Non-compacted: $12.50/c.y.

(2) Compacted: $12.75/c.y.

(3) A mileage charge of $1.10 per mile round-trip shall be added to the charges stated in (B)(1) and (2) above. Mileage shall be calculated from business to landfill to business.

(4) All roll-off containers called in for service, but not serviceable due to overloading will be charged $110 for lost time unless the customer can make the unit serviceable in a timely manner (not more than 20 minutes).

(5) The fees charged maybe adjusted upward or downward to reflect changes in the cost of operation as reflected by fluctuations in the Consumer Price Index. The Consumer Price Index for Urban Wage Earners and Clerical Workers, Expenditures Category "Gasoline", all types, both as published by the U.S. Department of Labor, Bureau of Labor Statistics shall be used.

3) Special Pickup, Special Event and Special Service Rates:

Service	Rate
All services beyond those normally provided by the Department of Solid Waste Management and where the customer requests a service level or a combination of services where there is no posted rate the rate will be based on comparable cost of service as determined and set by the Director. (Cost per 95 gallon cart $10.12 per cart)	

§ 51.11 RESPONSIBILITY FOR PAYMENT AND SPECIAL COLLECTION CHARGES.

(A) The charges/fees shall be levied and assessed against the certified owner on the City's Tax Rolls and/or the owner of the master or sprinkler water meter account. Any reference herein made to any person, building, structure, business or establishment of any kind shall be construed as being made to the owner.

(B) Since the proper and prompt removal of all refuse and other accumulations is essential to the preservation of public health and safety, the charges/fees in this Chapter shall be levied against every person, owner or occupant, tenant or lessee; possessing, using or occupying any building, structure and/or premise and at a minimum a fee equal to the minimum container charge shall be levied against all active city water and/or sewer service accounts, and thus

provide for a more even and equitable distribution of the cost of this service to the citizenship enjoying the benefits thereof.

(C) When a customer has an active water and/or sewer account with the City, said charges shall be due and payable simultaneously with charges for water and/or sewer service. There shall be no refunds made to customers for missed pickups or when no service is provided due to holidays or days on which there exists inclement weather, which prevents the collection and removal of garbage and trash. Additionally, there shall be no refunds made due to customer vacations or when the premises are vacated for whatever reason when the water account remains active.

(D) Billing and collection of the charges levied for these service(s) under this article shall be done by the Utility Billing Department, and all such charges/fees shall be payable at that department. Billings shall be monthly and billing will generally conform to billings now rendered for water and sanitary sewer service.

(E) Discontinuance of garbage and waste service for delinquency. In order to insure the prompt and continuous disposition of garbage and refuse which is necessary for public health and safety, any person who fails or refuses to pay fees within forty-five (45) days from the due date shall have his garbage service suspended, shall be guilty of a misdemeanor, and upon conviction shall be fined as set forth in § 51.200 Penalty. Where any building is served water through one meter, the owner of the water account shall be responsible for the payment of the garbage fee.

(F) Special Sanitation Services:

1) Upon request, a standby truck shall be provided for special functions of service clubs or churches (non-profit organizations by definition) for a minimum charge of $75.00. Service includes delivery of truck to site of function and pickup of truck at conclusion of function. The city shall not be responsible for the loading of truck.

2) Special services, which include washing privately, owned roll-off containers; brush or garbage collection on non-scheduled days can be provided on an actual cost basis as determined by the Director of Solid Waste Management or his designated representative.

(G) Additional Charges:

In addition to the charges described in this section, there shall be additional charges for the following services:

1) Re-issuance of a container for nonpayment

   a. $25.00 for Residential Carts

   b. $75.00 for Commercial Containers

2) Extra or Additional Pick-ups:

   a. $25.00 for Residential Carts

   b. Commercial Containers will have a $25.00 minimum charge or $8.33 per cubic-yard whichever is greater

3) Equipping containers with casters

4) Servicing container(s) inside fence

5) Account customers that obstructed the serviceability of their containers or removed said container from its designated collection area or failed to set container(s) for collection at

the designated time or failed to open containment area gates and are therefore requesting services to be rendered or are requesting services to be rendered in a different collection area which will result in a return trip to said location:.

a. $15.00 for Residential Customers

b. $25.00 for Commercial Customers

6) Customers whose containers are damaged due to negligence and/or abuse will be assessed a replacement charge which shall be based upon the actual cost of the container or its repair.

7) Adding of locking mechanisms.

(H) Reserve for depreciation: Out of the amounts collected monthly as a result of the application of the rates set in this section, an amount equal to 50% of the average of the last four fiscal year's depreciation expense amount contained in the city sanitation collection fund annual financial report for each succeeding fiscal year as a reserve for depreciation, shall be set aside in a separate fund called the "Reserve for Depreciation-Sanitation Collection." Such fund shall be an account (line item) in the budget for the city sanitation collection fund. All expenses from the reserve for depreciation shall be for replacement of rolling stock or other major capital items only and either be budgeted or approved before expenditure by the City Council.

§ 51.12 DISPOSAL OF ACCUMULATIONS OF WASTES FROM BUILDING OPERATIONS OR PROPERTY CLEAN-UP

(A) Heavy accumulations of material such as brick, broken concrete, lumber, ashes, cinders, dirt, plaster, sand or gravel, automobile frames, dead trees, large accumulations of brush or other bulky and heavy material resulting from construction, major cleanup or major remodeling and/or repair, or resulting from a general cleanup of vacant or improved property just prior to its occupancy, or in preparation for construction, will not be removed by the City. A person needing the removal of such debris/ materials shall have same removed at his expense or through contract with the City for disposal services. All waste must be transported to the City owned and maintained landfill in accordance to § 51.1 EXCLUSIVE RIGHTS In the event any section of this article is not met, the person(s) will be guilty of a misdemeanor and punishable under § 51.200 Penalty.

(B) Discarded automobile bodies, frames, tires or other heavy bulky waste and all industrial wastes resulting from manufacturing operations must be disposed of by the owner or occupant of the building or premises where such industrial wastes originate and in such a manner and at such a time as shall be designated by the Department of Solid Waste Management.

(C) Under this same section the Director for just cause (health reasons, insufficient or ineffective containment of trash, littering, nuisance, creation of unsightly and unsanitary conditions and/or creation of vector habitation) and after notice has been given may affix a commercial-type roll-off container, in sufficient quantity as needed or required and assign sufficient frequency of collection and apply appropriate monthly charges without customer approval.

§ 51.13 HAZARDOUS AND SPECIAL WASTE

(A) No hazardous waste, radioactive waste, or Class I Industrial Solid Waste, as those terms are defined in § 51.1 DEFENITIONS, shall be accepted for the disposal at the City's Landfill nor set out for its collection by the City and it shall be the duty of all generators of such waste to

provide their own means for the removal and disposal of such wastes and at no time shall these wastes be commingled with solid waste.

(B) Removal and disposal of special wastes (i.e. RACM and non-RACM, sludge, grease or grit trap waste, slaughter house waste, untreated medical waste, pesticides, dead animals, etc...) shall be conducted under the direct supervision of Department of Solid Waste Management. If such waste are not acceptable at the City owned and operated Landfill it shall be the duty of all generators of such waste to provide their own means for the removal and disposal of such wastes and at no time shall these wastes be commingled with solid waste.

§ 51.14 LAWN CARE AND THE LIKE

It shall be the duty of all persons, tree surgery operators, plant nursery operators, yard work contractors or public utility contractors to provide their own facility for the removal of trees, tree trunks or any other accumulations of brush, yard waste and to remove same in a manner which shall be designated by the Department of Solid Waste Management.

§ 51.15 DISPOSAL OF SMALL DEAD ANIMALS

Dogs, cats or any other small dead animals may not be placed in garbage containers nor collected as solid waste. Small dead animals which are bagged and placed at the curbside are picked up at residences without charge.

§ 51.16 DISPOSAL OF LARGE AND/OR HEAVY DEAD ANIMALS

Heavy dead animals, such as cows, horses and mules, shall be disposed of by and at the expense of the owner, or in the manner and by the method directed by the Director of Solid Waste Management.

§ 51.17 UNCOVERED LOADS

All vehicles used for collecting or transporting trash, garbage, yard waste, or refuse upon a public street in the City shall be kept tightly closed, and all covers thereon securely fastened while being used in transporting trash, garbage, yard waste, refuse, etc. and at all other times except when necessary to open the same to receive such trash, garbage, yard waste, or refuse.

§ 51.18 DISPOSAL OF MANURE AND LIKE OPERATIONS

Manure, waste oil, dirt, and turf. Manure from cow lots, horse stables, poultry yards and pigeon lofts, and waste oils and all residues which collect in wash drains from garages and filling stations shall be disposed of by and at the expense of the party responsible for same, under the direction of the Department of Solid Waste Management.

§ 51.19 CITY EMPLOYEES ONLY MAY SERVICE GARBAGE CONTAINERS

No one except the duly authorized agents and employees of the city shall empty garbage cans or receptacles, or convey or transport garbage or trash on the streets, alleys and public thoroughfares of the city unless a written permit is granted and issued by Department of Solid Waste Management.

§ 51.20 DEPOSITING LITTER ON STREETS

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city, except in public receptacles or authorized private receptacles or in the official city landfill. As prescribed in accordance with Section§51.5(B),(C) and/or (D) or shall be consider unlawful under §51.6(B) and/or (C) and subject to penalties under §51.200 of this chapter.

§ 51.21 DEPOSITING LITTER ON PRIVATE PROPERTY

As prescribed in accordance with Section§51.5(B),(C) and/or (D) or shall be consider unlawful under §51.6(B) and/or (C) and subject to penalties under § 51.200 Penalty of this chapter.

§ 51.22 LOADING OF VEHICLES TO PREVENT SCATTERING

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

§ 51.23 - § 51.49 RESERVED

RECYCLING

§ 51.50 RECYCLING

(A) A drop-off site at the Recycling Center, located at 3102 South Highway 281, is available 7 days a week. Items accepted at the drop-off site must be sorted according to material. Materials accepted are cardboard, newspapers, office paper, aluminum cans, steel cans, plastics #1 and #2, telephone books and magazines. This area is under 24-hour surveillance and any misuse of the facility, such as illegal dumping, shall be punishable under § 51.200 Penalty.

(A) Other items accepted at the Recycling Center Monday through Friday from 8:00 a.m. until 6:30 p.m. and Saturday and Sunday 8:00 a.m. to 5:00 p.m. only are:

1) Car and small engine batteries – up to 5 per visit
2) Used motor oil – up to 5 gallons per visit

(B) To promote recycling and proper solid waste management, the city will work to organize special, community collection events. Current and future collection events include:

1) Trash Bash
2) Christmas Tree Recycling;
3) Neighborhood Clean Ups;
4) Telephone Book Recycling.
5) Household Hazardous Waste Collection

(C) Value. It is hereby declared that recyclable material has value.

(D) Theft of recyclable material prohibited. Any person, other than the City, who collects, obtains, possesses, picks up, takes or otherwise removes any recyclable material from an authorized recycling receptacle or removes the receptacle itself, or both, that has been placed at a designated recycling location, commits the offense of "theft" as defined by state law.

(E) The Director is responsible for disposing of all recyclable materials. The City will collect only materials having a positive market value and will sell items collected at the best price available.

(F) Ownership of recyclable material. Placing recyclable material in an authorized recycling receptacle at a designated recycling location shall be deemed to vest title to the material in the City and shall not constitute abandonment of the material.

(G) Deposit of Funds. All funds received from recycling operations shall be deposited in the Solid Waste Fund recycle sales account

§ 51.51 RECYCLING MANDATED (RESERVED).

§ 51.52 DISPOSAL OF RECYCLING MATERIALS (RESERVED).

§ 51.53 UNAUTHORIZED COLLECTION PROHIBITED

From the time that recyclable materials are placed for collection they shall become the property of the City. It shall be a violation of this Chapter for any person to collect, pick up or cause to be collected or picked up any such material unless expressly authorized by the City. Each and every such unauthorized collection in violation of this section shall constitute a separate and distinct offense and may be punishable as provided in § 51.200 Penalty.

§ 51.54 SOURCE SEPERATION; EXEMPTION SOURCE SEPERATION (RESERVED).

§ 51.55 COLLECTION OF RECYCLABLES (RESERVED).

§ 51.56 CONTAINERS (RESERVED).

§ 51.57 HOURS AND DAYS OF SERVICE

Recycling Collection will be conducted every week or as necessary; between the hours of 7:00 a.m. thru 5:00 p.m. Collection of all materials is contingent upon compliance with regulations.

§ 51.58 RESIDENTIAL AND NON-RESIDENTIAL COMPLIANCE WITH ORDINANCE (RESERVED).

§ 51.59 FEES (RESERVED).

§ 51.60 NEW DEVELOPMENTS OF CERTAIN PROPERTIES.

New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties:

(A) Any new application to the City, for a subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:

1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and

2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Recycling Coordinator.

(B) Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Director.

§ 51.61 COMMERCIAL RECYCLING SERVICE.

(A) For each commercial customer that voluntarily participates in the city's recycling program efforts, the city will furnish, at no cost to the customer, a Metal Commercial Container and/or a Roll-Off type or Clearstream container(s) for this purpose. It is the desire of the city to establish a regular, weekly route to schedule the pickup of the recyclables in order to achieve the greatest cost savings.

(B) Small businesses that do not require a dumpster for recycling collection have the option of using the Clearstream container at no cost.

(C) Only three containers are allowed per business. Collection of all materials is contingent on compliance with regulations.

§ 51.62 CONTAMINATION OF RECYCLING CONTAINERS.

(A) All recycling containers are the property of the city. It is the resident or the business' responsibility to keep these containers clean and free of contamination.

(B) Inspections will be conducted at random on all Recycling customers through the "Tag" program. City employees will randomly select a particular route to inspect. Inspectors will be looking inside the containers for contaminates that will spoil recyclables, such as food, diapers, household trash or any other item that is not acceptable inside the container. If contamination exists, the container will be tagged and will not be emptied. After a customer has been "Tagged" three times, their container will be picked up and after 30 days the customer may request it back after signing an agreement with the recycling coordinator. Businesses that have a Roll-Off may also be "Tagged" for contamination. If the Roll-Off contains any item except recyclable materials, the city has the authority to deny service to that container. The customer will be asked to either remove the contamination to allow the dumpster to be emptied; or pay a service charge, equal to the collection and disposal charge for that particular container, to have the container emptied by the city's garbage collection service.

(C) It is understandable that residents or businesses that make an effort to recycle correctly, may sometimes make a mistake and place unacceptable items in with their recyclables, in this case, during the inspection process, the containers will be given a tag to remind the resident to be more careful when placing items in the containers. The containers will be emptied as long as the contamination is not too severe.

(D) The purpose of the inspection process is to help educate citizens and to decrease the contamination rate.

§ 51.63 - § 51.99 RESERVED

LANDFILL

§ 51.100 CONDITIONS FOR DISPOSAL BY INDIVIDUAL RESIDENT.

No individual resident of the city shall be allowed to dispose household solid waste or brush in the city landfill unless in the event of an emergency as determined by the City Manager or Director, and only upon presentation to the landfill attendant of the individual's current utility bill from the city.

§ 51.101 DISPOSAL FEES

(A) Local businesses, trash or garbage collectors, manufacturers, factories, commercial establishments, and all other persons not disposing of their personal household waste, however such waste has been generated from within the city limits, shall be charged for the use of city-owned or maintained landfill as follows:

1) Type I and IV Regional Landfill Charges - Vehicle load (non-hazardous municipal solid waste, brush, construction and demolition materials), $8.33 per cubic yard; $25.00, per ton; minimum of $25.00 charge per load. Proof of construction being conducted within the city limits must be provided by the contractor or individual performing the services prior to disposal and subject to verification. Rate is subject to applicable surcharges, disposal fees, local and state taxes, etc.

(B) Government entities, waste haulers, contractors, or individuals disposing of waste generated from outside the city shall be charged for the use of city-owned or -maintained landfill as follows:

1) Type I and Type IV Regional Landfill Charges - Vehicle load (non-hazardous municipal solid waste, brush, construction and demolition materials): $11.67, per cubic yard; $35.00, per ton; minimum of $25.00 charge per load. Rate is subject to applicable surcharges, disposal fees, local and state taxes, etc. User shall be responsible for producing weight verification if required.

(C) Tire handling fee, $5.00 for passenger car/truck tires up to 17 inches in size. The Director will set the appropriate disposal rate for tires larger than 17 inches, passenger truck or car size.

(D) Surcharge for uncovered load, 15% of load fee.

(E) Contract rates as approved by City Council.

(F) City Manager or Director shall have the authority to accept, reject and/or negotiate non-contract rates and shall consider such factors as:

1) The type of material to be disposed;

2) Whether the material can be handled with existing equipment and space;

3) The cost of handling; and

4) Other matters relative thereto.

(G) All fees shall be paid at city hall where a receipt or ticket shall be issued for the payment.

(H) City Manager or Director shall have the authority to negotiate disposal rates for all approved Class II, III and RACM waste.

§ 51.102 FEE PAYMENT AND RECEIPT PREREQUISITE TO DUMPING.

It shall be unlawful for any attendant at a landfill owned or maintained by the city, or any other employee of the city, to allow or permit any person to dispose solid waste or brush at any landfill owned or operated by the city unless such person is issued a charge ticket by the landfill attendant for payment of disposal fees at city offices (requires prior establishment of charge account).

§ 51.103 DETERMINING ACCEPTABILITY OF REFUSE.

The City Manager or Director shall have authority to determine acceptance of waste and set the appropriate rate as outlined in §51.101 Disposal Fees, at the sanitary landfill, and in making the determination shall consider:

(A) The type of material to be disposed;

(B) Whether the material can be handled with existing equipment and space;

(C) The cost of handling; and

(D) Other matters relative thereto.

§ 51.104 COMPLIANCE WITH RULES AND REGULATIONS.

All vehicles entering, and all persons disposing at the landfill, shall be subject to all rules and regulations of the city, the Environmental Protection Agency, and any other local, state or federal environmental regulatory agency which govern landfill operations.

§ 51.105 DUMPING OF REFUSE FROM OUTSIDE CITY.

The City Manager or Director shall have authority to determine acceptance of outside city waste and set appropriate rates. Acceptance shall be consistent with §51.101, Disposal Fees, and § 51.103, DETERMINING ACCEPTABILITY OF REFUSE.

§ 51.106 DENIAL OF USE AND ENTRY

The City Manager or Director may deny permission to enter and/or use the sanitary landfill to any person who has violated or whose entry and use may potentially violate any law, regulation or ordinance of the city; regulatory statute of the landfill's operating permit, law or regulation of the state or of the environmental regulatory agency of the state or of the United States; or in the event of any emergency that may pose a danger to the operation, or the health, welfare and safety of its employees and/or its users. Denial shall be verbal or by written notice.

§ 51.107 - § 51.199 RESERVED

ENFORCEMENT AND PENALTIES

§ 51.200 PENALTY

(A) The provisions of this chapter are intended to apply, not only to land inside the City but also to all City-owned land outside:

1) Whenever in this code, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, and the provisions of the code or the provisions of the ordinance govern public health and sanitation, including the dumping of refuse, the violation of any such provision of this code or any such ordinance shall be punished by a

fine not exceeding $2,000, and the violation of any other provision of this code, or any other ordinance, shall be punished by a fine not exceeding $500; provided, however, that no penalty shall be greater or less than a penalty provided for the same or a similar offense under the laws of the state; regardless of the designation of a fine as set out in any particular ordinance or section of the code of ordinances. Each day any violation of this code or of any ordinance shall constitute a separate offense.

2) Whenever in this code, or any ordinance of the city, an act is prohibited, or the doing of a specific act is required, and in the event of the committing of an act which is prohibited or the failure to correspond to an act which is required, such act or omission constitutes an offense and unlawful conduct and is hereby declared to be against the peace and dignity of the state and the city. All such violations of the code are punishable by a fine as provided for in this section and shall be under the jurisdiction of the Municipal Court in and for the City.

3) The enforcement and penalty provisions are cumulative of all other rights, penal provisions, claims or actions that the City of Edinburg may undertake to remedy any conditions related hereto, whether such rights, penal provisions, claims or actions arise under statutory law, federal law or the common law of the state.

4) If it appears that a person has violated, is violating, or threatens to violate a provision under this subchapter, the City may institute a civil suit in a district court for:

    a. injunctive relief to restrain the person from continuing the violation or threat of violation;

    b. the assessment and recovery of a civil penalty; or

    c. both injunctive relief and a civil penalty.

5) The City Attorney is hereby authorized to seek injunctive or other legal or equitable relief as may be necessary and appropriate to the enforcement of this chapter.

6) The Fire Marshal, Health Official, Building Official, Environmental Inspector or other authorized designee, or any peace officer may issue citations or summons for violation of this chapter regardless of whether a notice to abate is issued.

§51.201 PENALTIES CUMULATIVE

All penalties accruing under this subchapter are cumulative of all other penal provisions, and a suit for recovery of any penalty does not bar or affect the recovery of any other penalty or bar any criminal prosecution against a person or any officer, director, agent, or employee of that person.

Added by Acts 1993, 73rd Leg., ch. 353, § 2, eff. Sept. 1, 1993.

REV. 1.4.10

SECTION IV. PENALTY CLAUSE: Each violation of any of the provisions of this Ordinance shall constitute a separate offense and shall, upon conviction thereof, be punishable by a fine not to exceed $2,000 in accordance with section 10.99 General Penalties, of the Code of Ordinances of the City of Edinburg.

SECTION V. REPEALER CLAUSE: This Ordinance shall be cumulative of all other ordinances dealing with the same subject and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any

provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION VI. SAVINGS CLAUSE: If any section, part, or provision of this Ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION VII. PUBLICATION AND EFFECTIVE DATE: This Ordinance shall be published and shall take effect immediately upon its passage and publication in accordance with the law.

SECTION VIII. WAIVER CLAUSE: The requirement of three separate readings of this Ordinance is hereby dispensed with by a vote of not less than a majority of all the members of the City Council.

READ, CONSIDERED, PASSED and **APPROVED** at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 15th day of March, 2011.

CITY OF EDINBURG

BY: _____
Richard H. Garcia, Mayor

ATTEST:

BY: _____
Myra Ayala-Garza, City Secretary

CITY OF EDINBURG, TEXAS

APPROVED AS TO FORM:
Gonzalez Palacios, LLP
Attorneys at Law

BY: _____
City Attorney