

WEBB COUNTY



SOLID WASTE MANAGEMENT REGULATIONS

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ORDER ADOPTING RULES OF WEBB COUNTY, TEXAS

FOR THE MANAGEMENT OF SOLID WASTE

ADOPTED _____

PREAMBLE

WHEREAS, the Legislature has enacted the County Solid Waste Control Act, codified as Texas Health and Safety Code, Chapter 364, which authorizes cooperative effort by counties, public agencies, and other persons for the safe and economical collection, transportation, and disposal of solid waste to control pollution in this state; and

WHEREAS, it is the mission and obligation of the Commissioners Court of Webb County to take all measures within their authority to ensure the health and safety of the citizens of Webb County; and

WHEREAS, Section 363.113 of the Texas Health and Safety Code mandates that counties with a population of more than 30,000 shall review the provision of solid waste management services in its jurisdiction and shall assure that those services are provided to all persons in its jurisdiction by a public agency or private person; and

WHEREAS, Section 364.011 of the Texas Health and Safety Code authorizes Texas Counties, by rule, to regulate solid waste collection, handling, storage, and disposal in areas of the county not in a municipality, or the extra-territorial jurisdiction of a municipality; and

WHEREAS, Section 364.031 of the Texas Health and Safety Code authorizes Texas Counties to contract with another public agency or a private contractor to furnish solid waste collection, transportation, handling, storage, or disposal; and

WHEREAS, Section 364.034 of the Texas Health and Safety Code authorizes Texas Counties to offer solid waste disposal services to persons within its territory, to require use of that service by those persons, and charge a fee for that service; and

WHEREAS, the Webb County Commissioners Court finds that the adoption of an Order Adopting Rules of Webb County for the Management of Solid Waste in the County of Webb, Texas is specifically exempt from the Texas Private Real Property Rights Preservation Act pursuant to provision of Government Code §2007.003(b)(4), §2007.003(b)(6), §2007.003(b)(11)(C), and §2007.003(b)(13); and

WHEREAS, a public notice was published in a newspaper of general circulation on the ___ day of _____ and the _____ day of _____ of 2016 in accordance with Chapter 364 [**SHOULD THE COUNTY ELECT TO PROHIBIT SOLID WASTE DISPOSAL PURSUANT TO SECTION 364.012 HEALTH AND SAFETY CODE, ADDITIONAL PUBLICATION REQUIREMENTS ARE NECESSARY**]; and

WHEREAS, the Commissioners Court of Webb County, Texas has considered the matter and deems it appropriate to adopt Rules for the Management of Solid Waste to abate or prevent pollution or injury to public health in Webb County, Texas.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE WEBB COUNTY COMMISSIONERS COURT OF WEBB COUNTY, TEXAS that:

1. The Rules attached and appended hereto, entitled "RULES OF WEBB COUNTY, TEXAS FOR THE MANAGEMENT OF SOLID WASTE" are hereby adopted and are incorporated herein as though fully set forth in writing in this Resolution and Order; and
2. These Rules shall apply to all areas of the county not in a municipality, or the extra-territorial jurisdiction of a municipality; and
3. In order to equitably share the financial burden on all affected property owners, and to provide for the most efficient and cost effective service possible, the County of Webb shall contract with and grant exclusive rights to a public agency or private contractor for the collection and disposal of solid waste in said areas; and
4. All other current providers of such service, if applicable, shall be advised that they must cease all residential solid waste collection operations within said area, and release without penalty all residential solid waste customers from existing contractual obligations for such service effective _____.
5. This Order shall be in full force and effect on _____.

On motion of Commissioner _____, seconded by Commissioner _____
_____, duly put and carried, this **THIS ORDER IS HEREBY ADOPTED** by the Commissioners
Court of Webb County, Texas, duly convened and acting in its capacity as governing body of
Webb County on this _____ day of _____, 2016

Honorable Tano E. Tijerina
Webb County Judge

Honorable Frank J. Sciaraffa
Webb County Commissioner Pct. 1

Honorable Rosaura "Wawi" Tijerina
Webb County Commissioner Pct. 2

Honorable John C. Galo
Webb County Commissioner Pct. 3

Honorable Jamie A. Canales
Webb County Commissioner Pct. 4

APPROVED AS TO FORM:

ATTESTED BY:

Honorable Marco A. Montemayor
Webb County Attorney

Honorable Margie Ramirez Ibarra
Webb County Clerk

RULES OF WEBB COUNTY, TEXAS
FOR THE MANAGEMENT OF SOLID WASTE

SECTION 1. GENERALLY

1.1 PURPOSE

These rules have been adopted for the purpose of protecting the environment, abating public nuisances, and controlling pollution through the regulation of solid waste collection, handling, storage, and disposal as mandated by Section 363.113 of the Texas Health and Safety Code.

1.2 APPLICABILITY

These rules shall apply to all areas of Webb County not in a municipality, or the extra-territorial jurisdiction of a municipality as set forth in Section 364.011(a) of the Texas Health & Safety Code. These rules may also apply to the extra-territorial jurisdiction (ETJ) of a municipality that has entered into an inter-local agreement with Webb County as provided by the Inter-local Cooperative Act, Chapter 791, Texas Government Code.

1.3 DEFINITIONS

- (1) **“County Official”** is defined as any employee of the County, whether elected, appointed, or hired.
- (2) **“Extra-territorial Jurisdiction or ETJ”** means the unincorporated areas designated by the Texas Legislature as having limited municipal governance for the promotion and protection of the general health, safety, and welfare of persons residing adjacent to municipalities. The extent of an extra-territorial jurisdiction is defined by Chapter 42, Texas Local Government Code.
- (3) **“Permit”, “License”, or “Certificate”** means permission from the applicable governmental authority to conduct an activity regulated by Federal, State, or Local Laws. Permits, Licenses, and Certificates shall include but are not limited to Certificates of Compliance with Plat Requirements, Utility Permits, Junkyard Licenses, Floodplain Development Permits or Exemption Certificates, Development Permits, etc.
- (4) **“Private Contractor”** means the public agency, public entity, private person, private corporation, or private partnership, performing solid waste collection and disposal as contracted or designated by the County.
- (5) To **“Produce”** or **“Generate”** solid waste means to perform or use property in such a manner that produces household garbage or municipal solid waste.

- (6) "**Public Agency**" means a district, municipality, county, or other political subdivision or state agency, as defined by Section 364.003, Texas Health and Safety Code, authorized to own and operate a solid waste collection, transportation, or disposal facility or system.
- (7) "**Public Nuisance**" has the meaning assigned by the Texas Health and Safety Code, Chapter 343.
- (8) "**Putrescible Waste**" has the meaning assigned by the Texas Health and Safety Code Section 361.091(j).
- (9) "**Service Agreements**" or "**Service Contracts**" means a contract for solid waste collection and disposal services between a Service Provider, and a person who generates solid waste subject to the provisions of this order.
- (10) "**Service Area(s)**" means the territory or zone receiving solid waste collection and disposal services within the County's jurisdiction. In order to minimize the fragmentation of homes and/or subdivisions, territories or zones may provide for slight deviations from ETJ boundaries in certain areas.
- (11) "**Service Provider**" shall mean the County's designated solid waste collection and disposal system provider whether such designated provider is the County, a public entity, or a private contractor selected by the County.
- (12) "**Solid waste**" has the meaning assigned by Texas Health and Safety Code, Chapter 361 (Solid Waste Disposal Act).
- (13) "**Solid waste disposal system**" means a plant, composting process plant, incinerator, sanitary landfill, or other works and equipment that are acquired, installed, or operated to collect, handle, store, treat, neutralize, stabilize, or dispose of solid waste, and includes the sites.
- (14) "**Transfer Station(s)**" means a site designated by the Service Provider for the temporary deposition of waste.

SECTION 2 REQUIREMENTS

2.1 COLLECTION AND DISPOSAL SERVICE AGREEMENT(S) REQUIRED

- (1) All persons who generate solid waste subject to this order shall contract with the County authorized service provider for solid waste collection and disposal.
- (2) All persons who generate solid waste subject to this order under Section 1.2 shall provide proof of a valid collection agreement/contract to any County Official upon request.
- (3) All Applicants for permits, licenses, or certificates that may be incidental to the causation, creation, or generation of solid waste, shall be required to provide proof of a valid collection service agreement/contract as a condition of approval/renewal.

- (4) Solid waste collection services by the Service Provider may be suspended until all delinquent fees have been paid.
- (5) Any person who fails to either obtain a service contract or is suspended for non-payment is subject to an enforcement action for non-compliance as further defined herein under Section 3 of this Order.

2.2 PROCUREMENT AND CONTRACTS

- (1) For purposes of efficiency and effectiveness, the County may execute inter-local agreements between itself and other local governments pursuant to the Inter-local Cooperation Act, Chapter 791, Texas Government Code, for solid waste collection and disposal services.
- (2) Should the County elect to contract with a Private Contractor for waste collection and disposal services, the County shall use competitive procurement practices pursuant to the County Purchasing Act, codified as Texas Local Government Code, Chapter 262, Subchapter C.
- (3) To maximize efficiency and effectiveness, the County may contract with a sole service provider or Private Contractor.

2.3 AMENDMENTS TO JURISDICTION AND SERVICE AREAS

- (1) On a yearly basis, the County of Webb shall evaluate and modify as necessary the boundaries of the area subject to these rules based on annexations, deannexations, or incorporations of municipalities within the County.
- (2) On a biennial basis, the County of Webb shall evaluate the Service Area(s) receiving solid waste collection and disposal services within its jurisdiction to determine if a more efficient and cost effective method of service delivery may be provided. The biennial evaluation may include the modification, addition, or removal of territories or zones from the Service Area(s).

2.4 DISPOSAL AND COLLECTION

- (1) Rules governing procedures and systems related to the pick-up, collection, and disposal shall be provided by the Service Provider.
- (2) To ensure compliance with 30 Texas Administrative Code § 330.103(a), solid waste containing putrescible waste shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. The observance of holidays may not impede the minimum weekly collection frequency but may occur on another day than normally scheduled.
- (3) All solid waste collected in the County's jurisdiction must be disposed of in a licensed solid waste disposal facility.

- (4) The County or private contractor may establish a transfer station(s) as solid waste disposal option. Use of a transfer station shall require permission from the County or private contractor.

2.5 FEES

- (1) All persons receiving solid waste services must pay fees for solid waste and collection services whether performed by the County or a designated Service Provider in an amount adequate to cover the cost of said service.
- (2) Fees for the collection and disposal of solid waste may be assessed and collected by a variety of methods including and not limited to inclusion in public utility bills, direct billing, annual assessments, voucher/license systems, or any other method determined by the Webb County Commissioners Court or the Service Provider.
- (3) Fees for the collection and disposal of solid waste may differ by Service Area and will be determined by the County or Service Provider providing solid waste collection and disposal services in their respective area(s).
- (4) The County, may contract with a third party for the assessment and collection of solid waste disposal fees. Third parties may include a Public Agency, Private Contractor, or a Public or Private Utility.

SECTION 3. PENALTIES AND ENFORCEMENT

3.1 PUBLIC NUISANCES, ILLEGAL DUMPING, AND LITTERING PROHIBITED

- (1) In order to promote and ensure compliance with the provisions of these rules, any property owner located within the unincorporated area of the County that commits a public nuisance, illegal dumping, or littering will be subject to the appropriate penalties.
- (2) An offense causing or creating nuisance conditions as defined by Section 343.011, Texas Health and Safety Code shall be subject to the criminal penalties of Section 343.012, Texas Health and Safety Code.
- (3) An offense causing or creating illegal dumping or littering as defined by Section 365.011, Texas and Health and Safety Code shall be subject to the criminal penalties of Section 365.012 and Section 365.013, Texas Health and Safety Code.
- (4) Citations for causing or creating public nuisance conditions, illegal dumping, and littering, may be issued by a peace officer as defined by 1 Texas Code of Criminal Procedures Art. 2.12.

3.2 PROSECUTION

- (1) The Webb County Attorney shall serve as the prosecuting attorney for any violations of this order.

SECTION 4. SEVERABILITY

In case any one or more of the provisions contained in these rules shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of these rules, and these rules shall be construed as if the invalid, illegal, or unenforceable provision had never been included.

SECTION 5. FORCE MAJEURE

Neither the County, Public Agency, or Private Contractor shall be required to perform any term, condition, or covenant in these rules so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by a governmental authority, civil riots, floods, and any other cause not reasonably within the control of the County, Public Agency, or Private Contractor, and which by the exercise of due diligence the County, Public Agency, or Private Contractor, is unable, wholly or in part, to prevent or overcome.

SECTION 6. EFFECTIVE DATE

This Order shall be in full force and effect on _____.