

ZAPATA COUNTY
Mary Jayne Villarreal-Bonoan
COUNTY CLERK
Zapata, Tx 78076

00162662



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To SOLID WASTE ORDINANCE

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ZAPATA COUNTY
ZAPATA COUNTY CLERKS OFFICE
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State of Texas |
County of Zapata

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Zapata County, Texas.

Mary Jayne Villarreal Bonoan
Mary Jayne Villarreal-Bonoan, County Clerk

SOLID WASTE ORDINANCE
Ordinance No. 2011-00-__

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AN ORDINANCE DEFINING CERTAIN TERMS, CREATING A SOLID WASTE DIVISION WITH CERTAIN POWERS, ESTABLISHING A MANDATORY COLLECTION OF SOLID WASTE, REQUIRING AND REGULATING CONTAINERS, REGULATING COLLECTIONS PERMITTED WASTE, PROHIBITED SUBSTANCES, AUTHORIZING THE ESTABLISHMENT OF ROUTES, PROCEDURES, CHARGES, REQUIRING A PRIVATE COLLECTOR'S LICENSE, RESERVATION OF RIGHT TO EXCLUSIVE SERVICE CONTRACT WITH PRIVATE COLLECTOR, REGULATING WASTE FROM BUILDING OPERATIONS, PROVIDING FOR FEES AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE.

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WHEREAS, Section 51.012 of the Texas Local Government Code authorizes the adoption by a "Type A" general law municipality of any ordinance or regulation not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality;

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WHEREAS, the County of Zapata is authorized to exercise "Type A" general law ordinance making powers pursuant to Section 81.033 of the Texas Local Government Code and by virtue of the approval at an election for that purpose;

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WHEREAS, the Commissioners Court finds that it is in the best interests of County of Zapata to enact an ordinance concerning the collection of solid waste;

BE IT ORDAINED by the Commissioners Court of Zapata County, Texas, and it is hereby ordained that:

ARTICLE I. IN GENERAL

SECTION A. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Authorized container* means a solid waste container meeting the requirements of this chapter.

(2) *Brush* means trimmings from trees or any other type of vegetation which are not reasonably accommodated in a 32-gallon residential type solid waste container.

(3) *Code Enforcement Department* means that department created by the County Commissioners Court and directed by the County Judge, charged with the responsibility of enforcing the Court's orders, ordinances, regulations and policies adopted in furtherance of the Court's actions.

Collection day shall mean as defined in context in section 2011-00-12(2).

Collection point means the location for placement of solid waste containers as determined pursuant to section 2011-00-11) or section 2011-00-10 or at such location as the solid waste director may direct.

Commercial account means the billing unit for a commercial establishment.

Commercial establishment means premises of any business enterprise or any other premises where transactions for profit are regularly made, and in addition includes churches, schools, fraternal organizations, social clubs and societies and any other organization of any charitable, philanthropic or eleemosynary undertaking, agencies of political subdivisions and any other premises where the nature of the activity customarily carried on thereat warrants the conclusion that the solid waste output per month from such premises will be substantially in excess of the average such output from the residential accounts, and the solid waste director so concludes and determines.

Commercial tree trimmer means a person who trims, clips, prunes or otherwise cuts limbs, foliage or branches from hedges, trees or any other type of vegetation for monetary or other compensation.

Commissioners Court means the Commissioners Court of the County of Zapata.

Container means a receptacle for solid waste which meets the requirements of section 2011-00-5 through 10 (authorized container).

County means the County of Zapata.

County Judge means the County Judge of the County of Zapata.

Curbside means the collection point adjacent to a street meeting the requirements of section 2011-00-12.

Drive-in service means service involving County solid waste division employees driving onto private property to collect garbage.

Heavy or unusual accumulations (commercial) means greater volume per collection than the division can service with its largest commercial containers; and includes residential accumulations as described in section 2011-00-18.

Occupant means any person residing in a residential unit or operating a commercial establishment.

One-way container means a container of solid waste which is intended to be discarded and disposed of along with its contents.

Owner means the record titleholder or person with possession, dominion, or control over premises and includes agent, tenant, lessee, licensee and occupant.

Pack out service means service involving County solid waste division employees walking in on private property to collect garbage.

Permissible accumulation means those accumulations of non-containerized solid waste which are permitted by section 2011-00-14.

Premises means the property controlled by the owner thereof, whether residence, commercial establishment, vacant lot or otherwise.

Property line means a peripheral boundary of real estate.

Residence means any structure intended to be used for, or actually used for, dwelling or housekeeping purposes by a single family or housekeeping unit; such structure may exist unattached to other such structures or conjoined to other such structures in the form of a

duplex, triplex, apartment complex, public housing complex, mobile home trailer park or in any other manner.

Residential account means the billing unit for a residence, requiring the owner thereof to pay solid waste collection service charges concerning such account.

Residential type solid waste container means a container which meets the requirements of section 2011-00-5 through 10.

Solid waste director means the office or the person within the Code Enforcement Department appointed as head of the Solid Waste Division, and such term includes any employee of such division to which the solid waste director delegates authority to perform any duty of the director as provided for in this chapter.

Solid waste means all putrescible and non-putrescible discarded or unwanted solid materials.

Special substances means those substances described in section 2011-00-16.

Cross references: Definitions generally, § 1-2.

SECTION 2011-00-2. Solid waste division.

Section 2011-00-2. Solid waste division.

(a) *Creation of Solid Waste Division.* There is hereby created a Solid Waste Division within the Zapata County Code Enforcement Department for the County of Zapata.

(b) *Collection and removal of solid waste.* The County Solid Waste Division shall regularly collect and remove properly prepared solid wastes from the premises of subscribers to the services of the division.

(c) *Solid Waste Division Director.* The head of the Solid Waste Division shall be the solid waste director. The solid waste director shall be appointed by the County Judge subject to confirmation by the Commissioners Court and shall have the powers and duties provided for in this chapter.

SECTION 2011-00-3. Mandatory subscription to county collection service.

The owner or occupant of every residence and every commercial establishment premises located within the County limits shall subscribe to the collection services of the solid waste department. Such persons may be referred to as "subscribers" and shall be indebted to the County and billed for solid waste service charges effective upon occupancy of the premises, whether or not a written contract exists between the County and the subscriber.

SECTION 2011-00-4. Litter.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Litter means all trash, paper, napkins, straws, cups or containers made of paper, plastic, or other similar material, bottles, glass, candy or gum wrappers, remnants of food, cans or remnants or parts thereof, remnants of fabric or any material of an unsanitary nature, and any putrescent or putrescible solid waste.

(b) *Prohibited.* It shall be unlawful for the owner of any residence or commercial establishment to permit or allow the premises thereof or the adjacent sidewalks, streets, or

other public property to become strewn with litter thrown or dropped upon such premises, sidewalks, streets or adjacent public property by the occupants, guests or licensees of such residence or by the customers, patrons, invitees or licensees of any such commercial establishment.

(c) *Policing of premises required.* It shall be the duty of the owner of a residence or commercial establishment to keep the premises thereof, adjacent sidewalks and streets, and adjacent public property free and clean of any litter thrown or dropped by persons described in subsection (b) of this section. It shall be the owner's further duty to prevent items of litter on his premises from being blown upon the premises of others. Any such owner who shall fail to keep his premises, adjacent sidewalks, streets and adjacent public property free and clean of litter, or who shall permit or allow any litter to be blown upon the premises of another, shall be guilty of a violation of this Code and punished accordingly.

ARTICLE II. CONTAINERS

SECTION 2011-00-5. Containers Required.

(a) Every owner of a residence, which term includes house, duplex and mobile home, or a commercial establishment shall provide such premises with a sufficient number of containers of sufficient total volume to provide for the peak output of solid waste from those premises. The solid waste director shall determine the total volume of containers necessary to accommodate such solid waste output from each residence or commercial establishment, and the owner of such residence or commercial establishment shall at his own expense obtain and utilize sizes and numbers of containers sufficient to satisfy such volume.

(b) It is specifically made the duty of every apartment building owner and every other multifamily residence complex owner to provide containers as required in this article for the occupants of each unit in such complex.

SECTION 2011-00-6. Specifications--Residential.

Each residential solid waste container shall meet the following requirements:

- (1) The container shall be a watertight receptacle of a solid and durable grade and quality of metal or other durable material, not less than ten gallons nor more than 32 gallons in capacity.
- (2) The combined weight of solid waste and container shall not exceed 50 pounds.
- (3) The container shall be equipped with handles of sufficient size and strength for County solid waste employees to conveniently empty such container.
- (4) The container shall be provided with a suitable, closefitting lid or cover and such lid or cover shall not be secured to such container by means of a chain, spring or other device.
- (5) The container shall not have any inside structures, such as inside bands or reinforcing angles, or anything within the container to prevent free and easy discharge of the contents.

SECTION 2011-00-7. Same--Commercial.

Each commercial solid waste container shall be of a size and type as determined by the solid waste director to be required by each commercial establishment to meet its peak output of solid wastes and to be capable of being used by County solid waste division equipment.

SECTION 2011-00-8. Defective containers.

Solid waste containers that have deteriorated, have holes therein, or have been damaged to the extent of having jagged or sharp edges capable of causing injury to County solid waste employees, or to such extent that the lids or covers will not fit securely or have no lids at all, are hereby declared to be a nuisance and dangerous to the public health and welfare of the citizens of the County and to its employees handling such containers, and are hereby prohibited. If any such garbage containers are found by the solid waste director to be defective as set forth in this section, the solid waste director or employee will place a red tag on such container specifying that it is defective and the manner in which it is defective, and requiring the owner or occupant of the premises where such container is located to correct the defect within ten days from date of such tag. If at the end of ten days such defect has not been corrected, the solid waste director is authorized to confiscate such container and remove it from the premises where located. Immediately following confiscation of such defective solid waste container by the County solid waste division, the owner thereof shall replace such defective container with a container complying with section 2011-00-5 through 10, and failure to do so shall subject such owner to the penalties provided for in section 1-6 of this Code.

SECTION 2011-00-9. One-way containers.

One-way containers are prohibited for use in connection with commercial solid waste collection by the solid waste division. Such containers are permissible for residential solid waste collections, notwithstanding that such containers may not meet all specifications of section 2011-00-5 through 10; provided, however, that it shall be permissible to place for solid waste division collection only one-way containers which meet the following specifications: Paper or plastic bags or sacks shall meet the volume and weight specifications of section 2011-00-6, and be capable of being secured at the top or otherwise sealed; in addition, plastic bags or sacks shall be of a minimum wall thickness of 1 1/2 mills; paper bags or sacks shall be constructed of 50-pound extensible treated paper at a minimum.

SECTION 2011-00-10. Underground containers prohibited.

Underground or partially underground solid waste containers at the collection point are prohibited; provided however, that any such underground facility in existence on January 14, 1975, may be continued to be utilized by the subscriber, but only so long as the location of such facility continues to be at a collection point acceptable to the solid waste director. The subscriber shall not construct any new such facility or enlarge any such existing facility.

ARTICLE III. COLLECTION REGULATIONS

SECTION 2011-00-11. Establishment of routes.

The County solid waste director shall institute a system of routes for solid waste collection by the solid waste division. Such routes shall provide for such collections to be made at either curbside or alley locations. Such routes shall be designed to permit the most efficient means for solid waste collection, taking into account the economic feasibility and efficiency of using curbside or alley collection, the health and safety consideration of each such alternative, the aesthetic considerations of each alternative and the convenience of the subscribers to the service. Such solid waste collection routes shall be subject to periodic review by the solid waste director.

SECTION 2011-00-12. Curbside procedure.

(a) *Location.* All solid waste shall be within an authorized container except as provided for in this article. Such containers and permissible accumulations, being those regulated in section 2011-00-5 through 10 and, shall be placed for collection in as close proximity as possible to the County street nearest the residence or commercial establishment being serviced (but in no case in such a manner as would interfere with vehicular traffic traveling upon such street or with pedestrian traffic moving along the sidewalk, shoulder, or edge of such street), such location being referred to in this article as "curbside." Notwithstanding the collection location described in this subsection, the solid waste director shall always make the final determination of the most convenient location for solid waste collection by the solid waste division, and solid wastes shall be placed at such location.

(b) *Time.* The solid waste director shall notify each owner of a residence or commercial establishment of the day or days when the solid waste division will collect solid wastes from such residence or commercial establishment ("collection day"). On each collection day, if any solid waste is to be collected, the following time limitations shall apply:

- (1) Solid waste containers shall be placed at curbside no later than such time as the solid waste director shall designate, such time being the scheduled solid waste collection route time of the solid waste division for the residence or commercial establishment involved.
- (2) Such containers shall be removed to a location alongside of or at the rear of, but not at the front of, the residential or commercial premises by no later than 6:30 p.m. on the collection day.
- (3) The solid waste division shall not collect solid waste which was not set out for collection at the time such scheduled collection route was made by the division until the next regularly scheduled collection route time.

SECTION 2011-00-13. Alley procedure.

Where the solid waste director has determined that alley collection is the most efficient collection process for a particular residence or commercial establishment, solid waste containers shall be placed within the property line of the subscriber in a location adjacent to the alley nearest to such residence or commercial establishment; such location shall be

easily accessible to solid waste division employees. Should the location selected by the subscriber not be the optimum in terms of collection efficiency, then, in all such cases, the solid waste director shall have power to designate the location for the subscriber's solid waste containers, and it shall be a violation of this section for any subscriber not to comply with an order of the solid waste director designating such location for containers.

(1) If a fence separates the alley from the lot where the container is located, a platform rack for the container shall be constructed so that the top of the container shall be not lower than level with the top of the fence nor higher than five feet above the bottom of the fence or the ground at the fence.

(2) If a fence is constructed with an inset space for the placement of solid waste containers outside the fence, but inside the lot line, containers shall be placed therein and shall be protected from overturn or spillage by a rack as specified in this section.

(3) A suitable rack, capable of preventing overturn or spillage of containers by animals, wind or other similar causes, shall be provided by the subscriber, and containers shall be placed therein for collection, in any case where such rack is deemed necessary by the solid waste director to prevent spillage.

SECTION 2011-00-14. Preparation of non-containerized solid waste.

(a) All solid waste shall be placed in a container meeting the requirements of this chapter; provided, however, that if the solid waste is of such nature that it cannot be placed in the container, it shall be prepared in units or pieces under 50 pounds in weight and placed at a point adjacent to containerized solid waste or as designated by the solid waste director. All such solid waste must be protected from blowing, scattering or causing a nuisance.

(b) Tree limbs and other types of brush shall not exceed three feet in length and shall be stacked in accumulations which are easily collectible by solid waste division employees at a point adjacent to containerized solid waste or as designated by the solid waste director. Small pieces, small cuttings, and small loose material shall be placed in approved containers.

(c) Large discarded appliances, which term includes refrigerators, washing machines, dryers, stoves, ovens, and water heaters, or other similar items of solid waste which are not reasonably capable of being broken down into parts no greater than 50 pounds each in weight shall be placed at the collection point as designated in this article; the solid waste division shall collect such items as early as reasonably practicable. Such collections shall not subject a residential account to an additional service charge.

SECTION 2011-00-15. Charges for collection.

The charges to be collected from residents of this County for the collection of garbage and trash by this County shall be as determined by the County Commissioners Court from time to time and billed and collected as other utility services furnished by this County.

SECTION 2011-00-16. Special substances--Prohibited.

The solid waste division shall not collect in its normal collection service, and it shall be a violation of this chapter for any subscriber to allow any of the following to be placed in his solid waste containers by any person for collection by the solid waste division:

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- (1) Any substance, whether solid or liquid, which is highly flammable or capable of spontaneous combustion.
- (2) Any substance, whether volatile or not, capable of giving off any noxious or poisonous fumes or gases.
- (3) Any acid or other corrosive substance.
- (4) Any dead animal.

SECTION 2011-00-17. Same--Disposal.

The special substances prohibited by section 2011-00-16 may be disposed of only in one of the following manners:

- (1) The owner thereof or person responsible therefore may, by using his own transporting vehicle and at his own risk, without causing any damage or danger to any public or private property, remove such substance to a location designated by the solid waste director for the particular substance involved.
- (2) The owner thereof or person responsible therefore may contract with a private collection company to collect such substance, provided that such collection company is properly licensed by the County to perform such services, is properly notified of the contents and nature of the solid waste to be collected, and secures the license required by section 2011-00-24 to perform such collection.
- (3) The owner thereof or person responsible therefore may request the solid waste division to make a special collection of such substance upon agreement to pay the County a fee based on the actual cost of such collection plus ten percent; provided, however, that the solid waste division shall collect without such additional service charge any item listed under section 2011-00-16(4).

SECTION 2011-00-18. Heavy accumulations; manure and waste oils.

- (a) Heavy accumulations of solid wastes from such places as packinghouses, poultry killing and dressing plants, wholesale fruit and vegetable houses and other places where the daily accumulation constitutes more than ordinary quantities are not included in the service furnished by the solid waste division, and such establishments shall remove heavy daily accumulations of solid wastes in a manner authorized in section 2011-00-18.
- (b) Heavy accumulations such as brick, broken concrete, rock, stones, ashes, lumber, clinkers, cinders, dirt, plaster, sand, gravel, automobile frames (subject to section 2011-00-23), dead trees and other bulky, heavy material shall be disposed of at the expense of the owner or person controlling same, in a manner authorized in section 2011-00-17.
- (c) Manure from cow lots, horse stables, poultry yards and pigeon lofts, and waste oils from garages and filling stations, shall be disposed of by the owner or person controlling same in a manner authorized in section 2011-00-17.
- (d) For a residential account, a heavy accumulation is any accumulation over one cubic yard per collection, and such accumulation shall subject the residential account to an additional charge, which charge shall be assessed on the basis of actual collection cost plus ten percent, and added onto the regular monthly billing rate; an exception to this provision is provided in section 2011-00-14(c).

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SECTION 2011-00-19. Commercial tree trimmers.

Limbs, leaves and cuttings from trees and shrubs and any other brush that have been trimmed or removed by a commercial tree trimmer shall be disposed of at the expense of the trimmer, and such tree trimmer may elect to utilize one of the alternative means of disposal set out in section 2011-00-17. For the purpose of this section, a commercial tree trimmer shall be deemed the owner of the trimmings he generates and shall not be required to obtain a private waste collection license under article IV of this chapter in order to dispose of such trimmings.

SECTION 2011-00-20. Construction scrap materials.

Scrap, solid waste and trash materials resulting from improvement construction operations and scrap, solid waste and trash remaining after demolition of any improvement on realty shall not be collected or removed by the solid waste division in the regular course of its solid waste collection. The persons undertaking such construction or demolition operations shall each be individually responsible for removing such waste and trash materials and shall do so only in accordance with one of the procedures set out in section 2011-00-17.

SECTION 2011-00-21. Scavenging prohibited.

No person, other than the owner of the premises upon which solid waste is set out for collection, an employee of the County solid waste division, or an authorized employee of a private garbage collection company holding a valid County private waste collection license issued by the County, shall be permitted to do any of the following:

- (1) Remove any items, including mechanical devices, metal products, vegetation or cardboard from solid waste containers or accumulations set out for County collection.
- (2) Collect, load or remove solid waste from any premises for any purpose.
- (3) Meddle or tamper with any solid waste container or its contents, or in any way pilfer, scatter, or disrupt such container or contents.

SECTION 2011-00-22. No pack-out service; exception.

The solid waste division shall not perform any pack-out or drive-in service for any residential or commercial account, save and except in the following instance: Where a residence consists entirely of elderly or handicapped persons who would have great difficulty in placing their solid waste at the designated curbside or alley collection point; such finding to be made by the solid waste director after reasonable inquiry into the circumstances concerning such residents.

SECTION 2011-00-23. Abandoned and junked vehicles.

In all cases where a motor vehicle or part thereof is involved, the solid waste director shall forthwith notify the County Code Enforcement Departments Department of the location of such motor vehicle or part, and the solid waste director shall not collect, remove or dispose of such vehicle or part unless and until the County Code Enforcement Department or his agent shall notify in writing the solid waste director that such vehicle or part does not constitute either an abandoned motor vehicle or a junked motor vehicle under either the

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state abandoned motor vehicle act (V.T.C.A., Transportation Code Chapter 683) or the County junked vehicle, or nuisance ordinance and regulations promulgated there under. Upon such notification by the Code Enforcement Department's department, the owner of the property upon which such vehicle or part is located shall cause such vehicle to be removed in a manner complying with section 2011-00-17.

ARTICLE IV. PRIVATE COLLECTOR'S LICENSE

SECTION 2011-00-24. Required.

It shall be unlawful for any person to engage in the business of collecting, removing or disposing of special substances or any other solid wastes in the County without first obtaining a permit to do so from the solid waste director.

SECTION 2011-00-25. Scope.

The business regulated by this article shall be engaged in only where the private waste collector is under contract with the person whose solid waste is to be collected. This licensing procedure shall not be utilized by a scavenger, as prohibited in section 2011-00-21, or any other person who removes any solid waste without the agreement of the owner thereof.

SECTION 2011-00-26. Application.

Application for a license required by the provisions of this article shall be made on a form prescribed by the solid waste director and filed with him.

SECTION 2011-00-27. Determinations for issuance.

Before any license shall be issued under the provisions of this article, the solid waste director shall determine:

- (1) Whether the applicant is fit and proper to conduct such business and the application shall set forth the name and address of the applicant;
- (2) The business name under which the applicant does or proposes to do business;
- (3) The number of vehicles the applicant desires to operate;
- (4) The class, size and design of each vehicle;
- (5) Whether or not the applicant has been convicted of the violation of any national, state, or municipal law;
- (6) Whether or not the applicant, or any persons with whom he has been associated or employed, has a claim or judgment against him for damages resulting from the negligent operation of a vehicle;
- (7) The financial ability and responsibility of the applicant;
- (8) The applicant's ability to respond in damages in the event of damage to persons or damage to property by reason of the negligent operation of a vehicle on the streets or thoroughfares of the County;

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- (9) The nature and character of the service the applicant proposes to render;
- (10) The experience applicant has had in rendering such service;
- (11) The patrons for whom the applicant proposes to render this service;
- (12) A schedule of such services; and
- (13) Such other information as the solid waste director may deem relevant, which will assure that such persons are responsible in terms of pursuing an occupation which involves entering the private property of others, and in terms of possessing a requisite amount of technical skill necessary for the safe handling of special substances.

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SECTION 2011-00-28. Fee.

The fee for a license issued under the provisions of this article shall be \$50.00 per calendar year of operation or fractional part thereof.

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SECTION 2011-00-29. Insurance required.

Before any license is issued under the provisions of this article, the applicant therefore shall provide a public liability insurance policy for the full term of the license period in the amount of not less than \$10,000.00 each person, and \$20,000.00 each accident, and \$10,000.00 property damage.

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SECTION 2011-00-30. Vehicle restrictions.

Any vehicle to be used for hauling solid waste as provided for in this article shall be watertight and totally contain and enclose all materials being hauled, appropriately marked with an identifying sign, and shall be made available for inspection by the solid waste director prior to its use.

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SECTION 2011-00-31. Transfer.

Licenses issued under the provisions of this article shall be nontransferable.

SECTION 2011-00-32. Revocation.

Any license issued under the provisions of this article may be revoked by the County solid waste director at any time when in his judgment such action is deemed in the best interest of the public, without refund or rebate to the licensee for any unused portion of the license fee.

ARTICLE V. EXCLUSIVE COLLECTION SERVICE OR FRANCHISE

SECTION 2011-00-33. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code Enforcement Department means that department created by the County Commissioners Court and directed by the County Judge charged with the responsibility of enforcing the Court's orders, ordinances, regulations and policies adopted in furtherance of the Court's actions.

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Collection service means any service provided for a fee involving the picking up, transporting and/or disposal of solid waste.

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Construction materials means wood, cement, metal, brick and other materials used to construct, reconstruct or remodel any building or accessory structure.

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Garbage means all animal and vegetable matter, such as, but not limited to, waste material and refuse from kitchens, grocery stores, butcher shops, cafes, restaurants, drug-stores, hotels, rooming houses and boardinghouses, or other places, including, but not limited to, such items as meat scraps, other food scraps, bread, bones, fruit and vegetable peelings and remains and other deleterious substances.

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Solid waste means any refuse, including but not limited to trash, garbage and construction materials.

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Solid waste collection vehicle means any vehicle, dumpster or bin, self-propelled, transported or towed, used for the collection of solid waste.

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Trash means rubbish, such as, but not limited to, feathers, tin cans, bottles, paper, rags, grass, boxes and cartons, old clothes and shoes, ashes, grass trimmings, hedge, tree, plant and shrub trimmings, leaves and limbs, yard cleanings and construction materials and other similar items.

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Cross references: Definitions generally, § 1-2.

SECTION 2011-00-34. Reserved rights.

The County reserves the right to grant an exclusive contract for solid waste collection services or Franchise for such period of time as it deems necessary upon terms and conditions to be agreed upon between the parties, subject to the requirements and conditions of this article. However, the County also reserves the right to render solid waste collection services with its own equipment and personnel if the party contracted with is unable or fails to satisfactorily provide such services.

SECTION 2011-00-35. Non contractual services prohibited.

No person or entity shall operate a solid waste collection service or provide solid waste collection services within the County limits on behalf of the County without entering into a contract with the County for the provision of such services.

SECTION 2011-00-36. Assumption of risk; indemnity of County.

As a condition of the contract authorized under this article, the party to such contract agrees to assume all risks incident to or in connection with the operation of a solid waste collection service, and agrees to be solely responsible for all accidents, injuries or damages of whatever nature to persons or property caused by or resulting from such operation, and shall indemnify and hold harmless the County, its officers, agents and employees from any and all claims, suits, losses, damages, liens, or injuries to persons or property of whatever nature arising directly or indirectly from such operation.

SECTION 2011-00-37. Penalty for violation of article.

Any person who violates any provision of this article shall, upon conviction thereof, be fined in the sum of not more than \$500.00 per day until such violation ceases.

ARTICLE VI. WASTE FROM CONSTRUCTION OPERATIONS

SECTION 2011-00-38. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fill materials means soil, dirt, rock, sand, and other natural and man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements.

Industrial solid waste means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, including discarded or unwanted solid materials suspended or transported in liquids, and discarded or unwanted materials in liquid or semi-liquid form; the term "industrial solid waste" does not include waste materials, the discharge of which is subject to the state's water quality act.

Municipal or County solid waste means solid waste resulting from or incidental to municipal, county, community, trade, business and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

Rubbish means nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags cartons, wood, excelsior (wood shavings), furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary landfill means a controlled area of land upon which solid waste is disposed of in accordance with standards, regulations or orders established by the state department of health or the state water quality board.

Solid waste means all putrescible and nonputrescible, discarded or unwanted solid materials, including municipal solid waste and industrial solid waste. As used in this article, the term "solid waste" does not include, and this article does not apply to soil, dirt, rock, sand, and other natural and man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or waste materials which result from activities associated with the exploration, development, or production of natural oil or gas and are subject to control by the state railroad commission.

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SECTION 2011-00-39. Removal and bond.

No solid waste, rubbish, or fill material resulting from new construction, remodeling and/or additions to existing structures will be removed by the County. Every application for construction, remodeling and/or addition or a demolition permit shall be accompanied by a waste disposal plan. The plan must provide for the removal and disposal of all solid waste, rubbish or fill material at applicant's expense to a sanitary landfill that is operating pursuant to V.T.C.A. art. 4477-7 or by another option approved at the discretion of the County manager or his designee. The solid waste director is hereby authorized to levy a cash bond in the amount of \$100.00 per 1,000 square feet of building to be constructed, remodeled, repaired or demolished. Applicants must provide satisfactory proof of the removal of solid waste, rubbish or fill material from the property and that it has been properly deposited at a sanitary landfill or a site approved by the County manager in order to receive any reimbursement of the cash bond. Upon satisfactory proof that the removed solid waste, rubbish or fill material has been deposited at a sanitary landfill, the County shall reimburse 90 percent of the cash bond. The County shall, in the event of noncompliance with the provisions of this section by the applicant, return that amount necessary to comply with the above-mentioned requirements.

SECTION 2011-00-40. Failure to show proof.

Any person failing to show proof as required by section 2011-00-39 within ten working days from the request for reimbursement of the cash bond by said person shall forfeit the entire cash bond amount.

SECTION 2011-00-41. Penalties for violations.

- (a) A violator shall be fined no less than \$50.00 and no more than \$1,000.00 per each day the violation continues.
- (b) The following acts shall constitute a violation of this article:
- (1) Initiating the building or remodeling operations without a solid waste disposal permit, posting bond or providing a waste disposal plan;
 - (2) Initiating demolition operations without a demolition permit, posting bond or providing a waste disposal plan; and
 - (3) Failure to remove solid waste, rubbish, or fill material as required by this article.

SECTION 2011-00-42. Conflicting Orders.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

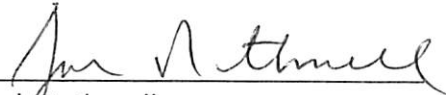
SECTION 2011-00-43. Effective Date.

This Ordinance shall become effective five on September 1, 2011 after its passage or adoption.

State law references: Municipal powers relating to public health, V.T.C.A., Health and Safety Code § 122.006; minimum standards of solid waste and health protection measures, V.T.C.A., Health and Safety Code § 341.001 et seq.; local regulation of solid waste, V.T.C.A.,

Health and Safety Code § 342.001 et seq.; Solid Waste Disposal Act, V.T.C.A., Health and Safety Code § 361.001 et seq.; litter, V.T.C.A., Health and Safety Code § 365.001 et seq.; Solid Waste Resource Recovery Financing Act, V.T.C.A., Health and Safety Code § 362.001 et seq.; municipal solid waste, V.T.C.A., Health and Safety Code § 363.001 et seq.; litter, V.T.C.A., Health and Safety Code § 365.001 et seq.

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE COMMISSIONER'S COURT OF ZAPATA COUNTY ON THIS 11TH DAY OF JULY, 2011.


Joseph Rathmell
Zapata County Judge

Attested by:

Mary Jayne Villarreal-Bonoan
County Clerk



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