

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

DEPARTMENT: Environmental Services

AGENDA DATE: February 9, 2016

CONTACT PERSON NAME AND PHONE NUMBER: Ellen A. Smyth, Director, (915) 212-6060

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 8: Nurture and Promote a Healthy, Sustainable Community

SUBJECT:

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT), SECTION 9.04.880 (CITY ABATEMENT), SUBSECTIONS 9.04.880B AND F, TO REMOVE THE CERTIFIED MAIL PART OF THE NOTICE REQUIREMENT; THE PENALTY BEING AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE.

BACKGROUND / DISCUSSION:

Currently, the City's Code Compliance Division issues notices required by ordinance and Chapter 342 of the Texas Health and Safety Code (HSC) to private property owners via certified mail. These notices are related to cases involving properties found to be in violation of the City's weeds and vegetation standards per Chapter 9.04 of the El Paso City Code. The ordinance currently requires that these notices be issued to the property owner via certified mail, even though the HSC does not require that a notice be certified.

If the proposed amendment is approved by Council, notices to property owners may be issued by priority mail instead of certified mail for tracking purposes, which will result in a significant cost savings to the City.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Ellen A. Smyth, P.E.



January 19, 2016

Name

Signature

Date

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT), SECTION 9.04.880 (CITY ABATEMENT), SUBSECTIONS 9.04.880B AND F, TO REMOVE THE CERTIFIED MAIL PART OF THE NOTICE REQUIREMENT; THE PENALTY BEING AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE.

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

Section 1. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.880 (City Abatement.), Subsections 9.04.880B and F of the El Paso City Code, are amended to read as follows:

9.04.880 City Abatement

B. Such notice shall be in writing and delivered in person or sent by mail (or by any means authorized by state law) to the owner, or to any one or more of the owners if the land is owned jointly or in common at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, or to any agency having the authority to lease, rent, sell, manage or take care of the land. If the correction notice cannot be hand delivered at the time of the investigation, or the owner's address recorded in the central appraisal district is unknown, notice may be given by publication at least once in a newspaper of general circulation, by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property which the violation relates, if the property contains no buildings.

F. The city may provide a notice to inform the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, by mail (or by any means authorized by state law) and a posting on the property, or by personal delivery of correction notice, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety within a twelve-calendar month period from the date of the notice, the city without further notice may correct the violations at the owner's expense and assess the clean-up expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period and the city has not been informed in writing by the owner of an ownership change, then the city without further notice may take any action as provided by Chapter 342 of the Texas Health and Safety Code and assess its expenses as provided by Section 342.007.

Section 2. This ordinance shall become effective on March 1, 2016.

Section 3. That, except as herein amended, Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), shall remain in full force and effect.

ORDINANCE NO. _____

PL Matter #16-1005-1257; PL Doc #490581 – 9.04.880B & F REMOVE "CERTIFIED MAIL" REQUIREMENT/JF

ADOPTED this ___ day of _____ 2016.

CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:


Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



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

ORDINANCE NO. _____

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Chapter 9.04 (Solid Waste) Ordinance Amendment

Environmental Services



1. Strategic Goals

- Goal 8: Nurture and promote a healthy, sustainable community
- Goal 3: Promote the visual image of El Paso
- Goal 6: Set the standard for sound governance and fiscal management



2. Texas Statute

- Article XVII (Weeds and Vegetation) of Chapter 9.04 (Solid Waste Management) is governed by Chapter 342 (Municipal Regulation of Sanitation) of the Texas Health and Safety Code (HSC)



3. Alignment

- The Texas HSC does not require a municipality to use certified mail for notices to property owners in violation of its ordinance
- The proposed amendment will align the City's notification requirement with the State's



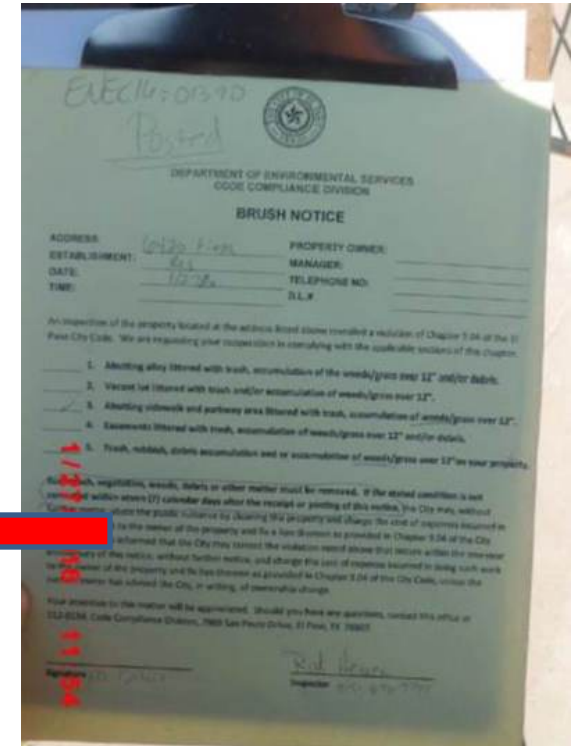
4. Current Ordinance

- Currently, the El Paso City Code requires that a certified notice via US Postal Service be issued to a property owner in violation of the ordinance



5. Posting at Property

- In addition to issuing a notice via mail, a copy of the notice is posted at the property in violation





6. Returned Notices

- Approximately 700 letters are returned to Code Compliance every year, due to incorrect addresses or refusal of property owner to accept delivery



"Delivering Outstanding Services"



7. Cost Savings

- During FY 2015, Code Compliance spent \$67,000 in certified mail postage (\$5.33 per notice)
- Code will implement a new policy to issue a first notice of violation at a property via 1st class mail (\$0.49 per notice)
- In cases of continued non-compliance, ESD will issue a second notice via certified mail without return receipt required (\$3.94 per notice) in order to document delivery for potential lien cases



Questions and Comments