

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

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2018 AUG 1 PM 3:22

**DEPARTMENT:** City Manager's Office – Office of Management and Budget

**AGENDA DATE:** Introduction: August 7, 2018  
Public Hearing: August 14, 2018

**CONTACT PERSON/PHONE:** K. Nicole Cote, Director of OMB (915) 212-1092

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

An Ordinance Amending Title 9 (HEALTH AND SAFETY) Chapter 9.04 (Solid Waste Management) Section 9.04.530 (Fees General), by amending Subsection 9.04.530E, to allow for a franchise fee for wear and tear on the City's rights-of-way due to use of the City's sanitation vehicles collecting, transporting and disposing municipal solid waste.

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**BACKGROUND / DISCUSSION:**

In FY 2015, the City's Budget Resolution approved by City Council allowed the City's Department of Environmental Services to charge a franchise fee for wear and tear on the City's rights-of-way due to the use of the City Sanitation vehicles engaged in the collections transportations and disposal of municipal solid waste. This ordinance will amend Title 9 and no longer be included in the budget resolution.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**  **DATE:** 8/1/18

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT), SECTION 9.04.530 (FEES GENERAL), BY AMENDING SUBSECTION 9.04.530E, TO ALLOW FOR A FRANCHISE FEE FOR WEAR AND TEAR ON THE CITY'S RIGHTS-OF-WAY DUE TO USE OF THE CITY'S SANITATION VEHICLES COLLECTING, TRANSPORTING AND DISPOSING MUNICIPAL SOLID WASTE FROM RESIDENTIAL PROPERTY; THE PENALTY BEING AS PROVIDED IN SECTION 9.04.630 OF THE EL PASO CITY CODE.**

**WHEREAS**, Section 364.034 of the State of Texas Health and Safety Code allows for a public agency, including a municipality to: 1) offer solid waste disposal service to persons in its territory; 2) require the use of the service by those persons; 3) charge fees for the service; and 4) establish the service as a utility separate from other utilities in its territory; and

**WHEREAS**, the City of El Paso has established the solid waste disposal service as a utility as separate from other utilities and provides this utility service to residential property for a reasonable fee; and

**WHEREAS**, in FY2015, the City's Budget Resolution allowed the City's Department of Environmental Services to charge a franchise fee for wear and tear on the City's rights-of-way due to the use of City sanitation vehicles engaged in the collection, transportation and disposal of municipal solid waste to an authorized municipal solid waste facility; and

**WHEREAS**, the franchise fee is related to providing the solid waste disposal utility services; and

**WHEREAS**, a municipality may legally make a reasonable return from the operation of their utility system, which may be transferred to the City's general fund; and

**WHEREAS**, the City Council desires to specify that the reasonable return generated from the franchise fee shall be transferred to the City general fund to be appropriated by the City Council as deemed appropriate.

ORDINANCE NO. \_\_\_\_\_

PL Matter #18-1005-1649/PL Doc #809141/ENV Franchise Fee FY19/SC

**NOW, THEREFORE 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 9.04.530 (Fees General), Subsection 9.04.530E in the City of El Paso City Code be amended as follows:

E. The Department of Environmental Services shall be authorized to charge the established fee as a related cost to providing the solid waste disposal utility to service due to the wear and tear on the City's rights-of-way caused by the use of the City sanitation vehicles in providing the utility service, and that the reasonable return generated by the franchise fee be transferred to the City general fund to be appropriated by the City Council as deemed appropriate.

**SECTION 2.** This ordinance shall be effective on September 1, 2018.

**SECTION 3.** Except as expressly amended herein, Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Section 9.04.530 (Fees General) of the El Paso City Code will remain in full force and effect.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF EL PASO

\_\_\_\_\_  
Dee Margo  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sol M. Cortez  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Katherine N. Cote, Director  
Office of Management & Budget

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