



BENNY L. JASSO, MAYOR

AARON SERA, ADMINISTRATOR

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CITY COUNCIL SPECIAL MEETING
AGENDA
September 29, 2016
5:30 p.m.
Andres Z. Silva Conference Center

Call to Order/Pledge of Allegiance

1. Ratification of a Resolution Authorizing Acceptance of Federal Aviation Administration Airport Improvement Program Funding and Airport Air from the New Mexico Aviation Division of the New Mexico Department of Transportation
2. Public Hearing to Approve an Ordinance to Amend Title 9, Chapter 1 "Solid Waste/Landfill" of the City of Deming Municipal Code
3. Adjourn Meeting

The next regular City Council Meeting is scheduled for October 10, 2016 at 6:00 p.m.

CITY COUNCIL SPECIAL MEETING MINUTES September 29, 2016

Council Present: Benny L. Jasso, Mayor
Dr. Victor Cruz, Mayor Pro Tem

Joe "Butter" Milo, Mayor Pro Tem
David L. Sanchez, Councilor

Council/Staff Absent: Roxana Rincon, Councilor

Staff Present: Aaron Sera, City Administrator
Jim Massengill, Public Works Director
Laura Holguin, Treasurer
Bryan Reedy, Community Svcs. Director

Bobby Orosco, Police Chief
Erica Carlos, Public Works Secretary
Jay Spivey, Special Projects
Jim Foy, City Attorney

Recording Secretary: Lila Jasso, Administrative Secretary

Mayor Jasso called the special meeting to order at 5:35 p.m. and led the pledge of allegiance.

1. Ratification of a Resolution Authorizing Acceptance of Federal Aviation Administration Airport Improvement Program Funding and Airport Aid from the New Mexico Aviation Division of the New Mexico Department of Transportation

Mr. Sera stated that the reason this is a ratification request is due to the FAA came to the City at the last minute to ask that the City pass this resolution for the funding they have awarded us.

Mr. Reedy read the resolution into record. Mayor Jasso asked if Council had any questions of staff.

Councilor Milo asked is Council had already approved this. Mr. Reedy clarified that Council previously approve the construction of the project, and this is merely a technicality by the FAA to have this resolution in place.

Mayor Jasso entertained a motion from Council.

Councilor Sanchez moved to ratify the resolution authorizing acceptance of Federal Aviation Administration Airport Improvement Program Funding and Airport Aid from the New Mexico Aviation Division of the New Mexico Department of Transportation, as presented. Councilor Milo seconded the motion; motion carried unanimously.

2. Public Hearing to Approve an Ordinance to Amend Title 9, Chapter 1 "Solid Waste/Landfill" of the City of Deming Municipal Code

Mr. Sera stated that the ordinance before them has been in the works for 18 months and that they have produced a draft ordinance which has been amended since then. Mr. Sera gave a brief history regarding the solid waste ordinance in which the Council was approached with

the use of poly carts. Mr. Sera stated that the main reason for the poly carts being implement was due to the accidents involving the trash trucks in the narrow alleyways. Mr. Sera stated that the original draft was amended to consider the comments received from the public during the meetings previously held. He called attention to page 1, item 4 under the General section. He called attention to page 6, 9-1-5: Solid Waste/Garbage Collection Fees-Curbside Collection of Poly-Cart Containers. He asked Mr. Massengill to present the revised ordinance. Mr. Massengill addressed the revision on page 6. He gave a brief history and referred to the existing ordinance, which had one reference to poly carts regarding cost and collection back in 2003. He noted that the wording in the previous ordinance was "roll-out container" and this is what we are currently referring to as poly carts. Mr. Massengill went on to reiterate the current items allowed in and adjacent to the poly carts and that all solid waste need to be bagged. He noted that the other item added is code enforcement under page 13 of the revised ordinance. Mr. Massengill noted that under section G. Enforcement, "the City reserves the right to provide full time enforcement specific to Chapter 9 of the City Code with Title 9, Chapter 1 as the primary focus for enforcement."

Mr. Sera referred to page 7 of the revised ordinance in which the fees for the poly carts are further described. He stressed that the use of poly carts are voluntary. With that being said, he stated that those who volunteer to have a poly-cart will be charged an additional \$1.50 for the poly-cart rental fee. Mr. Sera then asked Council to refer to the rate analysis provided to them. He called Council's attention to the rate analysis and explained how they came to the amount of the rate increase. He concluded with telling Council that it was critical that the depreciation schedule be modified in order to get a \$92,730.82 profit to cover the additional code enforcement expenses, bringing the residential rate to \$19.54; an increase of 87 cents.

Council Milo asked when the rate increase would take place. Mr. Sera stated that he hoped to have everything in place by January 1st.

Mayor Jasso asked if Council had any other questions of staff.

Mr. Sera pointed out to Council that the final papers in their packet, there is a schedule of comparable rates for 12 different municipalizes. He stated that Deming ranks in the lower half of this schedule. Councilor Milo suggested passing out this list to the audience.

Mayor Jasso asked if Council had any more questions of staff. There were none. He then opened the floor for public comment.

Leo Lopez, 1635 Rabbit Trail, asked if the City was going to do away with dumpsters entirely. Mr. Sera stated that the City would not be taking away the dumpsters and that it would be left as an option. However, he stated if someone lives in an area where there are no alleys or are going to move into a subdivision, then they would have to have a poly-cart that rolls out to the street.

Larry Caldwell, 711 N. Zinc, he stated that the box he presented to Mayor, Council and Staff, is not permitted to be put into the dumpster according to page 3, section B. 3 of the newly proposed ordinance. He recommended that he would like the wording to be changed to specify the size of the boxes allowed to be deposited. A discussion was entertained regarding the

ordinance change. He stated that he is a proponent of curbside pickup and stated that key to the system are the alleys being kept clean. Mr. Sera stated that is the reason for the code enforcer specifically for solid waste.

Rose Wilson, 3118 S. Socorro, Deming Estates, thanked the Council and everyone involved who took the time to listen to the concerns of the residents.

Mike Fletcher, Deming Estates, referred to page 6, section 9-1-5-1 where it states that “where the majority of residents agree to such services or where the director of public works determines such policy cart containers to be necessary and appropriate. All shall be subject to ordinance requirements as written or amended.”; and asked if that would pertain to existing residents. Mr. Massengill stated that the language was taken from the previous ordinance which is in place; and that if a majority of the residents in the subdivision decide to use poly carts, the majority would rule. Mr. Sera explained that if a majority of the residents are in favor of using poly carts, all residents would be required to do so. Mr. Fletcher also asked about the next item number 2, which states “Once a residential property has moved to curbside collection with individual poly carts, the residence, regardless of change of ownership, will be bound to curbside collection and all applicable requirements.” Mr. Fletcher asked if the resident would be bound to this decision forever. Mr. Sera stated that yes, they would be bound to that forever.

Dr. John Gordon, 820 S. Country Club Rd., he commended staff on the revisions of the ordinance. Mr. Gordon called attention to section 9-1-5 General 2. And the Fees section number 1. He asked that staff reconsider the language and not leave that solely at the discretion of the Public Works Director.

Warren Roberts, 3110 S. Socorro, Deming Estates, asked if the metal dumpsters are going to be left in Deming Estates. Mr. Massengill stated that yes, they would be left in place, unless the majority of the residents go to poly carts.

John Strand, Dona Ana Road, thanked staff for being reasonable with this matter. He recalled the issues when the City changed to dumpsters from galvanized trash cans. He stated that the only change this time, is changing from dumpsters in the alleys to receptacles in the street. Mr. Strand asked if the section where replacement of poly carts would be considered for property owners/landlords, if the tenant takes the poly cart. Mr. Strand also asked if the City would consider a poly cart for recycling.

Mayor Pro Tem Cruz voices that he is in favor of the ordinance as it is written and commends staff for the time they have put into this ordinance, and consideration of the concerns of the residents. He stated that this ordinance is an effort to move the City forward and help make the City better. He excused himself as he had to leave due to an emergency.

Louis Jenkins, 1309 Saddler St., thanked the staff for listening to the concerns of the residents and commended them for doing a good job.

Mayor Jasso closed the public comment session of the hearing. Mr. Sera suggested that they

discuss the concerns of the public. Mr. Massengill explained that the City will establish a Solid Waste Review Committee and they will be subject to the Open Meetings Act. Mr. Sera stated that the review committee will meet to discuss issues brought up by the residents and will work on clarifying language and will gather information to come to a solution to any disputes.

Councilor Sanchez asked if the language could specify the size of boxes or pieces of boxes that are allowed. Mr. Sera stated that this would be look at by the committee to clarify the intent of the language. Mr. Sera also stated that this ordinance will likely come back to Council for language clarification.

Councilor Sanchez asked if the replacement fee would be researched and modified to see what the City could do for property owners. Mr. Massengill stated that he does not want this to be a hardship on anyone and that the review committee would be the ones to consider this.

Mayor Jasso asked if there were any more questions from Council. There were none. He entertained a motion from Council.

Councilor Milo moved to approve the ordinance to amend Title 9, Chapter 1 "Solid Waste/Landfill" of the City of Deming Municipal Code. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

ROLL CALL VOTE

Councilor Milo	Aye
Councilor Sanchez	Aye
Mayor Jasso	Aye

3. Adjourn Meeting

With no further business to discuss, Mayor Jasso entertained a motion to adjourn.

Councilor Sanchez moved to adjourn the meeting. Councilor Milo seconded the motion; motion carried unanimously. Meeting adjourned at 6:33 p.m.



CITY OF DEMING, NEW MEXICO

Benny L. Jasso, Mayor

ATTEST:

Aaron Sera, Clerk

**CITY OF DEMING, NEW MEXICO
RESOLUTION NO. 16-26**

**A RESOLUTION AUTHORIZING ACCEPTANCE OF FEDERAL AVIATION
ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM FUNDING AND
AIRPORT AID FROM THE NEW MEXICO AVIATION DIVISION OF THE NEW
MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Deming is seeking FAA and NMDOT funding to Rehabilitate Runway 08/26 for the 2016 FAA project year; and

WHEREAS, this project is contingent on receipt of a grant from the FAA for 90% of the eligible project costs and a grant from the New Mexico Department of Transportation Aviation Division for 5% of the project costs; and

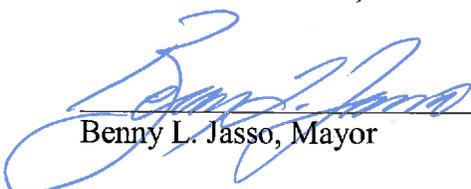
WHEREAS, the project is within the City of Deming's jurisdiction, necessary for the public good and convenience, and to serve the public of the City of Deming; and

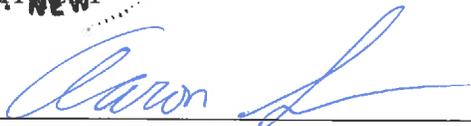
WHEREAS, the City is committed to appropriating an additional 5% in funds, consistent with the regulations and policies governing the FAA AIP Fund Program and NMAD Grant Agreements.

NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the City of Deming hereby adopts and approves this Resolution, and authorizes the City Administrator and/or the Community Services Director to execute all documents including grant applications and accepting grant offers related to the project and direct staff to take other actions necessary to implement this Resolution and Project.

PASSED, ADOPTED, AND APPROVED this 29th day of September, 2016.

CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor


Aaron Sera, Administrator/Clerk



**CITY OF DEMING, NEW MEXICO
ORDINANCE NO. 1260**

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 1 “GARBAGE SERVICE;
LANDFILL” OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW
MEXICO**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING, NEW MEXICO THAT TITLE 9, CHAPTER 1 “GARBAGE SERVICE; LANDFILL” OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW MEXICO BE AMENDED TO THE FOLLOWING:

Chapter 1

SOLID WASTE/GARBAGE SERVICE/LANDFILL

SECTION:

- 9-1-1: SOLID WASTE/GARBAGE DEFINED:
- 9-1-2: SOLID WASTE/GARBAGE CONTAINERS:
- 9-1-3: SOLID WASTE/GARBAGE COLLECTION:
- 9-1-4: SOLID WASTE/GARBAGE COLLECTION FEES-DUMPSTERS:
- 9-1-5: SOLID WASTE/GARBAGE COLLECTION FEES-CURBSIDE COLLECTION OF POLY CART CONTAINERS
- 9-1-6: SPECIAL SERVICES
- 9-1-7: SOLID WASTE/GARBAGE DEPOSITS ON PRIVATE PROPERTY:
- 9-1-8: LANDFILL REGULATIONS:
- 9-1-9: SOLID WASTE REVIEW COMMITTEE

9-1-1: SOLID WASTE/GARBAGE DEFINED:

The words “solid waste” and “garbage” are synonymous as used in this chapter and shall include but not limited to any garbage, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, trash, rubbish, waste, any and all rejected or waste food, wastepaper, trash, solid waste and waste or unwholesome materials of every kind and character excepting, sewage and recognizable industrial byproducts. (Ord. 227, 1949; amd. 2001 Code)

9-1-2: SOLID WASTE/GARBAGE CONTAINERS:

A. General:

1. It shall be the duty of every person owning, leasing, renting, or controlling any house, residence, shop, establishment, hotel, restaurant, market, apartment house, or any other place of business or habitation to deposit all garbage coming from said premises in designated containers or designated sites as applicable. (Ord. 770, 4-13-1987; amd. 2001 Code)

2. All residential and commercial users shall comply with the rules and regulations established by the City for the use, care and location of solid waste containers and shall keep the lids and covers furnished for such containers closed at all times except when they are being filled, emptied or cleaned. Containers shall be only loaded with bagged garbage and in such a manner as they will self-empty when inverted.
3. It is unlawful for any person to deposit, or cause to be deposited, any solid waste in any container that the resident is not entitled to use. To do so, shall result in fines and penalties and may be prosecuted to the fullest extent of the law.
4. Unauthorized Removal of Solid Waste: No person shall remove solid waste from any solid waste container or facility or in any manner disturb the contents of solid waste containers within the service area.
5. Solid waste as defined in 9-1-1 shall be bagged and tied prior to depositing in any dumpster or poly cart. Bagged and tied items include but are not limited to the following: yard waste, such as grass, trees, bushes, leaves, etc., trash of all kinds and varieties, rubbish food waste, cardboard, etc. Items too large or heavy to bag, such as furniture, mattresses, and appliances shall be delivered to the Deming/Luna County Transfer Station or Butterfield Trail Regional Landfill as applicable. Special pick-ups for large or heavy items are available by request and billed according to rates established by ordinance. Any person found depositing large items in the alleys, without requesting special pickup, will be prosecuted to the fullest extent of the law as per Section 1-4-1.
6. The garbage collection fees set out in this ordinance shall be included within the monthly water, sewer, or gas utility bill to each water, sewer, solid waste or gas user, and the City shall only accept payment of the water, sewer or gas utility bill if the appropriate garbage fee is paid therewith. Owners or occupants of premises which do not use City water, City sewer, and/or City gas shall be billed monthly by separate billing for the appropriate garbage fee for their premises. Commercial owners or owners of high volume residences or occupants of any of these premises which do not use City water and/or City gas shall be billed monthly by separate billing for the appropriate garbage fees for their premises. In the event solid waste fees are not paid in full, garbage service will be stopped, container will be removed, and a fee of \$35.00 will be charged to reinstate services and return solid waste container to said premises.
7. Appliances, Automotive Waste:
 - a. No person shall deposit in any alley, dumpster, poly cart, public street, or ROW, any refrigerators, freezers, washing machines, clothes dryers or other appliances, mattresses, agricultural crop residues, live or dead animals, animals manures, mining waste, fuel extraction waste, forestry waste, ash from industrial boilers, furnaces and incinerators, appliances, bricks, concrete, lumber, hot ashes, dirt, plaster, sand, gravel, large chunks of metal, such as automobile frames, and other heavy materials, tires, automotive batteries or any waste which cannot be deposited in the City's solid waste facility under NMED regulations.

- b. Items described in this Subsection 7 shall be taken by the responsible party to the Deming Luna County Transfer Station or as directed by the public works department. City personnel will inspect and determine if the item is acceptable for disposition in the City landfill. Special pick-ups for large or heavy items are available by request and billed according to rates established by ordinance. Any person found depositing large items in the alleys, without requesting special pickup, will be prosecuted to the fullest extent of the law as per Section 1-4-1.
8. Any person violating the requirements, stipulations, and provisions within this ordinance shall, upon conviction thereof, be punished as provided in Section 1-4-1 of this Code, which can be obtained at www.cityofdeming.org or 309 S. Gold Ave.

B. Garbage Dumpsters:

1. **Furnished by City:** The City shall furnish solid waste containers to those residential or commercial users for dumping their garbage. If the Public Works Director decides the existing dumpster capacity is insufficient, such as consistently overfilled dumpsters with lids not fully closed, the Public Works Director reserves the right to determine the need, size, and number of additional dumpsters and/or additional scheduled pickups, make said changes and increase the bill as per standard ordinance fees. The user will receive written notice prior to any mandated changes in dumpster size, location, or number of pickups. Upon placement of the dumpster, and written notice to the intended user, at a location on the residential or commercial property suitable for pick up by the City garbage truck, said intended user shall thereafter exclusively use said solid waste containers. Scheduled pickups are in operation from Monday to Friday. Pick up schedule may be amended at any time by the Public Works Director based on holidays, increased demand, or emergencies.
2. No items, bagged, bundled or otherwise may be placed for pick up outside, adjacent to, or on top of the dumpster. Said items shall be delivered to the Deming Luna County Transfer Station or an additional pickup can be requested and billed according to rates established by ordinance.
3. **The following items are not allowed to be deposited in dumpster(s):**
 - Any item that is not bagged,
 - Appliances, mattresses, boxes, furniture or auto parts,
 - Concrete, remodeling debris, or demolition material,
 - Hot ashes, oil, gas, grease, paint, or any form of hazardous or special waste,
 - Tree trimmings that exceed two (2) feet in length or 3” in width.
4. **Area Needing Large Solid Waste Container; Notice; Protest:** If the City shall determine, pursuant to its police powers, that any particular area of the City would be better served by use of a large solid waste container for garbage collection, the Public Works Director may so designate such an area. If such an area is designated, the Public Works Director shall give written notice, certified mail, return receipt requested, to each property owner within the designated area. Each property owner shall have ten (10) days thereafter to protest the designation. A final determination shall be rendered by the Solid Waste Review

Committee. Thereafter, the property owners shall pay a pro rata share of the cost and the monthly charge for such solid waste containers. (Ord. 770, 4-13-1987)

5. Dumpsters provided at City parks are intended solely for park users. Dumpsters provided for City facilities are intended solely for City personnel conducting official City business. No person shall deposit any solid waste into any solid waste container provided by the City and located at City parks or facilities without prior express written approval. Penalty: Any person violating any provision of this subsection shall, upon conviction thereof, be punished as provided in section 1-4-1 of this code.

9-1-3: SOLID WASTE/GARBAGE COLLECTION:

1. The City and its duly authorized agents or employees shall have the exclusive right within the service area to collect or gather solid waste, with the exception of nonresidential recyclables, commercially compacted items, hazardous wastes and other such materials which the City is prohibited by law from collecting or disposing.
2. No person or organization may sell within the service area any services for the systematic and routine collection, transportation or disposal of garbage, trash or solid waste except for special wastes as defined by NMED Solid Waste Bureau (SWB), residential recyclables, commercially compacted items, hazardous wastes and other such materials which the City is prohibited by law from collecting or disposing as per NMED Solid Waste Bureau. Authorization to provide these services within the City limits requires prior written approval and contract through the Public Works Department. The City reserves the right to negotiate a fee structure, if needed, for any of these services.
3. The City shall provide sufficient employees and equipment for the collection and disposal of all garbage and the same shall be collected as frequently as may be necessary in accordance with good sanitary practices. (Ord. 1236, 6-4-2013)

9-1-4: SOLID WASTE/GARBAGE COLLECTION FEES-DUMPSTERS:

A. Residential:

1. A. Garbage Collection Fees: Garbage collection fees per household for residences, commercial businesses, multi-family units, or high volume users shall be in accordance with the payment schedules set out in the tables below.

The following residential fee applies to residential users who share a dumpster with others. The dumpsters are picked up once (1) per week as per the table below:

Solid Waste Category	
Residential fee: Minimum per residence for dumpster use	\$19.54 per month

B. Commercial Businesses, Multi-family, High Volume Users:

Times Per Week Pick Up	1.5 Cubic Yard Dumpster	3 Cubic Yard Dumpster
1	\$62.54	\$85.99
2	\$99.02	\$138.11
3	\$138.11	\$192.30
4	\$174.59	\$250.16
5	\$208.46	\$304.87

- a. Minimum Monthly Fees: Commercial businesses that share a dumpster with other businesses, shall pay a minimum monthly fee in accordance with the payment schedule set out in the table below. The dumpsters are picked up once per week.

Shared Dumpster Fee:	\$26.07
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- b. Dumpster Additional Pick Up Fee: Businesses, multi-family, or residences shall be charged fees for additional dumpster pick up in accordance with the table below. Additional pick up is defined as an additional trip to empty dumpster(s) if the dumpster is inaccessible during the regular collection schedule, overfull such that the lids do not shut correctly, or is not in the correct location for pick up as determined by dumpster regulations under Section 9-1-4 and Section 9-1-5. Additional pick up fees will be charged to the relevant address regardless if the request to pick up was issued by City staff or by resident request:

Additional Pick Up Fees - Commercial
\$18.00 per each Dumpster

- c. Commercial dumpster lid locking devices: Upon user request, lid locking devices are available to purchase from the City at actual cost plus freight. Devices will be mounted on the dumpster by City staff. Individual padlocks (or user preferred lock(s)) will be the

responsibility of the user to furnish. Dumpsters with lid locking devices will empty without removing the user furnished lock. Maintenance and operation of the lid locking devices are the responsibility of the user. If lid locking device is proven to be damaged by City vehicles, the device will be replaced by the City. Cost for replacement devices, due to any other type of damage, is the responsibility of the user.

9-1-5: SOLID WASTE/GARBAGE COLLECTION FEES- CURB SIDE COLLECTION OF POLY CART CONTAINERS

A. RESIDENTIAL/COMMERCIAL

General

1. Curb side collection shall be mandated where there are currently no alleys and any future subdivisions constructed with or without alleys. The solid waste review committee will assess other alleys to determine the need for mandated curbside collection in accordance with a developed list of possible safety and obstruction concerns, e.g. (alleys less than fourteen feet (14') wide, overhanging obstructions, utility conflicts, accident history, non-typical alleys with offsets or angle points, alley cleanliness and compliance, etc.). Residences that transition to curb side collection with individual poly carts, regardless of change of ownership, will be bound to curbside collection and all applicable requirements.
2. Individual residents, owners, lessees, tenants, etc., not subject to mandated poly cart areas, have the option to volunteer for curb side collection with poly carts where applicable and reasonable as determined by the public works department. Once a residential property has moved to curbside collection with individual poly carts, the residence, regardless of change of ownership, will be bound to curbside collection and all applicable requirements.
3. Residential Customers: City shall provide one (1) ninety-six (96) gallon cart to each applicable account holder in the order determined by the Public Works Director except in circumstances determined by the Public Works Director that a residence will be better served with a dumpster. Poly carts are provided at the current adopted rate per month in accordance with the ordinance.
4. Commercial Customers: Upon request by small commercial/businesses and with City approval, the City shall provide one (1) ninety-six (96) gallon Poly cart or size appropriate poly cart(s) as determined by the Public Works Director. Poly carts are provided at the current adopted rate per month in accordance with the ordinance.
5. Poly cart implementation and scheduling shall be established by the public works department as applicable to the Solid Waste/Garbage Service/Landfill ordinance. Solid Waste Department shall issue an anticipated schedule prior to implementation.
6. Poly carts shall be provided by the City to applicable account holders and shall be made of metal or plastic with tight fitting covers. Solid waste shall not exceed the container capacity, and the container lid must be securely closed when not in use. No person shall remove for their own use, someone else's container.

7. When owners, tenants, lessees, etc. vacate a property, the poly cart must be available for pick up by the Solid Waste Department. Property owners are responsible for the cost of replacement poly carts if not made available or returned as scheduled.
8. All trash shall be bagged to prevent spilling when the poly cart is emptied into the collection truck.

Fees:

1. The Account holder shall be charged at the current adopted rate per month for each scheduled curbside collection pick up per poly cart. Fees shall be in accordance with the payment schedule set out in the table below:

POLY CART COLLECTION FEES

Number of Pickups per week	Residential Poly cart (1)	Residential Additional Poly cart (1)	Commercial Poly cart (1)	Commercial Additional Poly cart (1)
1	\$19.54	\$15.00	\$19.54	\$15.00
2	\$39.08	\$30.00	\$39.08	\$30.00

B. PRE-COLLECTION/COLLECTION PRACTICES

1. All residential and commercial users shall comply with the rules and regulations established by the City for the use, care and location of poly cart containers and shall keep the lids and covers, furnished for such containers, closed at all times except when they are being filled, emptied or cleaned. All garbage and solid waste containers provided by the City shall be kept in neat and sanitary condition at all times. Containers shall be only loaded with bagged garbage and in such a manner as they will self-empty when inverted. All garbage must fit inside the cart with the lid completely closed. Over filled Poly carts (with lids not completely closed) will not be emptied during the regular route schedule. Additional pick up fees will apply if the City is requested to return prior to the next regularly scheduled pick up day or if the poly cart was skipped due to an over filled or inaccessible poly cart.
2. The front of the cart should face the street with the cart's handle facing the residence. Place cart(s) curbside no later than 6:00 a.m. on the designated collection day, unless otherwise directed by the Public Works Department.
3. Poly carts shall be located in an accessible location within the street ROW, including but not limited to one or more of the following: 1) five feet (5') from the curb between the curb and center of the street, five feet (5') from the edge of asphalt between the edge of asphalt and the center of the street. Exceptions to the five (5) feet clearance rule such as dirt roads or narrow streets will be determined by the public works department.
4. Carts must also be placed five (5) feet from any obstacle, including but not limited to, parked vehicles, gas or electric meters, fences, cable boxes, street signs, lampposts, trees, mailboxes, structures, etc.

5. The owner, occupant, tenant, or lessee of each individual property shall store the poly cart on their property for the purpose of and in such a manner to keep the containers from being overturned or upset and the contents scattered.
6. No items, bagged, bundled or otherwise may be placed for pick up outside, adjacent to, or on top of the poly cart. Scattered solid waste or trash is the responsibility of the owner, occupant, tenant, lessee etc. If said solid waste is not picked up or removed within twenty-four hours of first notice by a City employee or resident message to City office, then City staff will schedule an additional pick up and the applicable resident will be charged for said additional pick up at the current rate established by ordinance.
7. It is unlawful to maliciously damage any solid waste container owned by the City. Any person that damages any container provided for residential or commercial users shall be liable to the City for the cost of repair, replacement, or loss of such container at the current market rate including freight for such containers. All residential and commercial poly cart users shall be responsible for lost, vandalized, damaged, stolen, or burnt poly carts and any, or all costs associated with replacement. The City shall be entitled to seek restitution for all poly cart maintenance repairs or loss. If the Public Works Director determines that damage was due to normal wear and tear, repair of such items will be covered by the City.
8. Poly carts are to be placed at the designated pick up area on assigned pick up day only. It is the responsibility of the account holder to notify the utility department when vacating premises so that assigned poly cart will be removed by the Public Works Department. Failure to do so could result in a replacement charge to the account holder.
9. **The following items are not allowed to be deposited in poly cart(s):**
 - Any item that is not bagged,
 - Appliances, mattresses, boxes, furniture or auto parts,
 - Concrete, remodeling debris, or demolition material,
 - Hot ashes, oil, gas, grease, paint, or any form of hazardous or special waste,
 - Tree trimmings that exceed two (2) feet in length or 3" in width.

Residential/ Commercial 96-gallon Replacement Poly cart	Current market value plus applicable freight
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B. COLLECTION DAY

1. On the day curbside collection is scheduled for any premises, poly cart may be placed according to the set-backs noted under 9-1-5 B. *Pre-collection/Collection Practices*, or unless otherwise specified by the Public Works Director. City staff recommends that residents place the poly cart at the designated location no earlier than twelve (12) to sixteen (16) hours prior to the scheduled collection day. When there is more than one poly cart at a residence, poly carts must be separated a minimum of sixteen inches (16") for ease of operation. Poly carts stacked side by side will not be picked up and an additional pickup charge will be applicable. Poly cart(s), when placed at the designated location, shall not interfere with pedestrian or vehicular traffic. Place cart(s) curbside no later than 6:00 a.m. on the designated collection day. It shall be the responsibility of the resident to deliver the poly carts to such point for collection and return the empty

containers from such points to the usual place of storage, within twenty-four (24) hours of collecting. No items, bagged, bundled or otherwise may be placed for pick up outside, adjacent to, or on top of the poly cart.

2. All collections made by the City for other than qualified physically disabled residents, (see Exempt Service Collection), shall be made at curbside from the streets, except where special circumstances warrant otherwise and are approved by the Public Works Director.

9-1-6 SPECIAL SERVICES:

- A. **Special Services:** Upon request a special pickup will be provided for items that cannot be placed in poly cart or dumpsters such as trash overflow, discarded furniture, appliances, mattresses, yard waste, trees, tree and shrubbery trimmings etc. Customers must call City Hall and make an appointment for removal of such items. On the agreed appointment date and time customers will have items placed at the location specified by the Public Works Department and deemed acceptable and safely accessible for the City to remove such items. Items must be within City ROW prior to collection by the City. For collection of special request solid waste, the cost shall be as shown in the table below. All costs and fees associated with this special service shall be automatically applied to customer's monthly bill.

Special Garbage Pick Up Fees

If applicable and upon request, the charge for special pickups shall be \$25.00 per 1/2 hour (thirty minutes) to include two (2) employees and one collection truck.

The City highly encourages residents to deliver solid waste that is not allowed or does not fit in a poly cart or dumpster, to the Deming/Luna County Transfer Station, Butterfield Trail Regional Landfill (as applicable), or obtain the services of a licensed general contractor or licensed yard cleaning service to transport and properly dispose of said solid waste.

B. EXEMPT SERVICE COLLECTION:

1. Exempt Service Collection means that resident is physically unable and does not have anyone else at the residence to roll poly cart(s) to the curb or designated location for collection. To qualify for Exempt Service Collection, the resident must:
 - Have a physical disability that prevents a person from rolling the cart(s) to the curb or specified collection point,
 - Not have any other occupant or long-term guest residing in the home with the ability to roll the cart to the curb or specified collection point,
 - Submit the completed application to the Solid Waste Department (See application for submission options),
 - Have a licensed physician complete the physician's section of the application and return to the Public Works Department

2. Within fourteen (14) working days of receiving the request for Exempt Service Collection, a representative from the Public Works Department will contact the applicant by phone and schedule an appointment to meet at the residence for completion of the Exempt Service Collection Application. At that meeting, the specifics of the application will be reviewed for accuracy. City staff reserves the right to rescind exempt service if information is found to be inaccurate or incomplete. Upon acceptance of your application, city staff will advise the resident of the proper location for the poly cart(s).
3. **Cart location must be:**
 - a. In front of or beside your residence
 - b. Visible from the street
 - c. Out of danger of animals
 - d. Clear of obstructions, sprinklers, down spouts, etc.
4. Applications must be renewed by July 1st of each year and subsequently reviewed, approved or denied. Exempt Service Collection shall not be provided for persons who have not complied with the above requirements of this section. Customers receiving Exempt Service Collection are subject to all fees as stated in Garbage Collection Fees-Poly Cart Containers subsection A and Special Services and Fees subsections E as warranted.

Exempt Service Fees

Initial Processing Fee Renewable every five (5) years	\$25.00
Annual Exempt Service Collection Fee	\$30.00

5. Annual processing fee and exempt service collection fee are due upon approval and will be automatically billed to the first month's bill following approval.

C. Out of Town Commercial Users: A \$200.00 refundable deposit is required for each commercial user that intends to set up an account to deposit solid waste at Butterfield Trail Regional Landfill. Deposit is refundable upon full payment of accrued costs for solid waste fees together with any or all late fees.

9-1-7: SOLID WASTE/GARBAGE DEPOSITS ON PRIVATE PROPERTY:

A. Unlawful Solid Waste Deposits:

1. Prohibited: No person owning, leasing, occupying or having charge of any premises within the City limits shall deposit or allow to be deposited on such premises any solid waste except in a proper container designated to that location. Any such person who fails to properly dispose of said solid waste or fails to remove such solid waste or special waste within ten (10) days after the same is deposited on said premises shall, upon conviction thereof, be punished as provided in section 1-4-1 of this code. No such person shall deposit

or allow the deposit of any material in such solid waste containers or facilities if New Mexico Environmental Department regulations prohibit the deposit of such material in the City's solid waste facility or when the solid waste container contains labeling prohibiting the deposit of such material. Contact the Public Works Department to assist with identifying NMED prohibited materials.

2. **Unauthorized Deposit of Solid Waste:** No person shall deposit any solid waste into any solid waste container on private property or into any solid waste container provided by the City, (such as dumpsters located at City parks, City facilities, or approved special events) for the use of the persons owning, leasing, occupying or having charge of any premises without written permission from the City or the person owning, leasing, occupying or having charge of such premises.
3. Prior to collection of unauthorized or prohibited waste by the City or designated agent, the owner of the property where the waste is located will be given written notice to remove the waste. After ten (10) days, the City will schedule a time to collect the waste and subsequently bill the owner for actual costs plus 10%.
4. **Removal Of Solid Waste By City:** Any qualified agency hereafter designated by the Public Works Director shall be authorized to remove any solid waste from any premises on which such solid waste exists, after the expiration of said ten (10) day period.
5. **Assessment Of Removal Costs:** After the removal of such solid waste by or on behalf of the City, the City shall be entitled to make an assessment against the premises for the costs of such removal and in event of the failure of the owner, lessee or other person occupying said premises to pay the same, file an applicable lien against said premises pursuant to New Mexico Statutes Annotated sections 3-48-5 and 3-48-7. (Ord. 767, 3-9-1987)
6. **Construction Sites:** Building permittees shall be responsible for containment or removal on a daily basis of all solid waste and debris generated from a construction site. Disposal of such waste and debris shall be to disposal sites in accordance with this ordinance.
7. **Penalty:** Any person violating any provision of this subsection shall, upon conviction thereof, be punished as provided in section 1-4-1 of this code. (Ord. 951, 5-12-1997)

9-1-8: LANDFILL REGULATIONS:

A. **Site Designation:** The City has or shall hereafter designate a site or sites for the receiving of garbage and solid waste. Any person who removes any garbage or solid waste from within the City limits shall only dispose of it in such designated site or sites. Current designated sites are Deming/Luna County Transfer Station and Butterfield Trail Regional Landfill.

B. **Manner and Hours of Disposal:**

1. All garbage and solid waste deposited under the provisions of this ordinance shall only be transported, received and deposited in accordance with the regulations of the City and NMED Solid Waste Bureau regulations now or hereafter promulgated.
 2. Any and all waste deposited under the terms of this section shall be the sole property of the City, which may use, dispose of, recycle or otherwise treat as it may see fit. It shall be unlawful for any person to scavenge or remove any garbage or solid waste from the site or sites after the same has been deposited, unless allowed by the Solid Waste Department.
 3. Hours for which said site or sites shall be open shall be designated by the City and the hours for which the same shall be open shall be posted in and upon said site or sites. It shall be unlawful for anyone to enter upon or deposit any waste at any time when the site or sites are not open to the public. (Ord. 830, 2-11-1991)
- C. User Fees: The City shall hereafter establish a schedule of fees for deposit of special wastes at the site or sites designated. The term "special wastes" shall include:
1. Hauler Waste Which Increases Cost: Wastes from private or commercial haulers whose quantity or type of waste increases the cost of disposal.
 2. Hauler Waste Originating Outside Of Luna County: Wastes from private or commercial haulers whose garbage or solid waste originates outside of Luna County.
 3. Other Waste: Any other special waste charges as hereafter established by the City. (Ord. 1193, 11-9-2009)
 4. Permit Required to Deposit Special Waste: It shall be unlawful for any person to deposit any special waste on any site or sites of the City without first having paid the required fee and obtaining a permit, if required, for the disposal of such special waste.
 5. Fees Established: Special waste fees shall be in accordance with the payment schedule set out in the tables below:

Special Waste Fees	Minimum Fees Effective TBD
Non-commercial passenger car tires – Four (4) or less	No Fee
Non-commercial Passenger car tires – Five (5) or more	\$2.20 per tire
Commercial generated car tires	\$2.20 per tire
Truck and other equipment tires	\$11.31 per tire

Large animals (accepted at BTRL only)	\$25.13 per animal
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Transfer Station Fees	Minimum Fees Effective TBD
Residential inside Luna County limits	No charge for covered load
Residential inside Luna County limits	\$5.00 fine per uncovered load
Residential outside Luna County limits	\$55.85 per ton
Small commercial maximum one (1) ton per load	\$46.02 per ton

Butterfield Trail Regional Landfill	Minimum Fees Effective TBD
Residential	None accepted
Commercial deliveries	\$32.88 per ton
Other waste requiring special handling as determined by the Public Works Department.	\$46.02 per ton

- D. **Negotiation of Fees:** The City of Deming may, for local government entities or projects benefiting the City, negotiate landfill fees and enter into written contracts establishing said fees. Negotiation of fees will be determined by the review committee identified under **Section 9-1-9.** (Ord. 1219, 2-13-2012)

- E. **Adjustment Of Fees:** Hereafter, the adjustment of rates and fees to be charged by the City for collection and disposal of solid waste, including landfill charges, shall be pursuant to an appropriate ordinance and/or resolution adopted by the City council at a lawfully conducted meeting with prior notice regarding any proposed adjustments. Excluded items are listed under *Section D. Negotiation of Fees* shown above. (Ord. 1189, 7-13-2009)

- F. **Prevention of Litter:** Waste loads entering the landfill or solid waste transfer station shall be secured with an appropriate device such as a tarp or cover, capable of containing loose solid waste in transport and prevent solid waste from blowing off in transport. Waste loads shall also be secured or contained sufficiently that the contents do not shift during transport and fall out. If the waste load is unsecured or the cover deemed ineffective, the hauler will be assessed a fine of five dollars (\$5.00) and a receipt given. If the hauler does not pay or

contests the charge, a no traffic citation with notice to appear in municipal court will be issued by the designated solid waste personnel. (Ord. 1194, 12-14-2009)

G. Enforcement: The City reserves the right to provide full time enforcement specific to Chapter 9 of the City Code with Title 9, Chapter 1 (Solid Waste/Garbage Service/Landfill) as the primary focus for enforcement. Solid waste personnel so designated by the solid waste code enforcement officer or public works director are granted limited code enforcement powers pertaining to this ordinance. The City reserves the right to refuse service to any individual, or group of individuals, that are documented repeat offenders of the rules, regulations, stipulations or provisions of the solid waste ordinance.

H. Deming/Luna County Transfer Station: The City reserves the right to impose, implement and collect tipping fees at the Deming/Luna County Transfer Station, pursuant to an amendment to this ordinance by reference of resolution.

I. Penalty: Any person violating the rules, stipulations, and/or provisions of this ordinance shall be, upon conviction, punished as provided by *Section 1-4-1* of this code. (Ord. 1189, 7-13-2009)

9-1-9 Solid Waste Review Committee: A six-person committee will review solid waste questions related to Title 9 Chapter 1 - Solid Waste/Garbage Service/Landfill ordinance. Committee members may review questions, items of concern, negotiate fees for government entities, negotiate fees for projects benefiting the City, provide guidance or clarification of language as it relates to the solid waste ordinance and assess alleys for mandated curb side collection transition. Disputes regarding solid waste provisions and regulations outlined in this ordinance will be resolved by majority vote of the committee. Committee members will be comprised of the Mayor Pro-Tem, City Administrator, Public Works Director, Solid Waste Foreman and two members of the general public appointed by the Mayor. The Solid Waste Foreman will attend as a non-voting member in an advisory position only. Said committee will meet as needed or as directed by the Mayor.

PASSED, ADOPTED, AND APPROVED, this 29th day of September, 2016.



CITY OF DEMING, NEW MEXICO


Benny L. Jasso, Mayor

ATTEST:


Aaron Sera, Clerk