

**ORDINANCE PROHIBITING
MUNICIPAL OR INDUSTRIAL SOLID WASTE DISPOSAL IN CERTAIN AREAS OF WEBB
COUNTY, TEXAS**

ADOPTED: _____

PREAMBLE

WHEREAS, Section 363.112 of the Texas Health and Safety Code authorizes a county to prohibit the disposal of municipal or industrial solid waste in certain areas of the county; and

WHEREAS, Section 364.012 of the Texas Health and Safety Code authorizes a county to prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare; and

WHEREAS, the Commissioners Court of Webb County, Texas has a responsibility and the authority to take action to protect the public health, safety, and welfare of the citizens of Webb County; and

WHEREAS, the Commissioners Court of Webb County understands the importance of protecting floodplains from landfill development in order to protect ground water and surface water resources from contamination; and

WHEREAS, the Commissioners Court recognizes the need to protect emergency secondary water sources such as the Casa Blanca Lake Reservoir from landfill contamination; and

WHEREAS, Commissioners Court of Webb County recognizes the long-term impacts of landfills due to their permanent nature; and

WHEREAS, the disposal of municipal or industrial solid waste in landfills in Webb County could negatively affect water and air quality, attract disease vectors, and result in the spread of refuse and pollutants that may be emitted from the transport and storage of waste; and

WHEREAS, the location of landfills within Webb County could hamper economic development within the county and may negatively affect property values in the county; and

WHEREAS, the Commissioners Court of Webb County finds that the disposal of municipal or industrial solid waste in the county is a threat to the public health, safety, and welfare, and the geographic scope of this threat should be minimized; and

WHEREAS, a majority of the Commissioners Court has determined that the resources of the County are best served by designating certain areas within Webb County, Texas as suitable and unsuitable for solid waste disposal sites; and

WHEREAS, pursuant to the provisions of Chapter 2007, Government Code a Takings Impact Assessment (TIA) was prepared for the proposed ordinance, found to be an exempt action, and public notice of the TIA and solicitation of public comments were published on **October 29, 2016** thirty (30) days prior to the Commissioners Court's proposed action; and

WHEREAS, this Ordinance has been published for two consecutive weeks in a newspaper of general circulation in the County; and

WHEREAS, the public hearing notices included (1) the proposed ordinance prohibiting solid waste and disposal in Webb County; (2) the time, place, and date that the Commissioners Court of Webb County was to consider the proposed ordinance; and (3) notice that an interested citizen of the county may testify at the hearing; and

WHEREAS, a public hearing on this ordinance was held on November 28, 2016 before the ordinance was considered by the commissioners court, and any interested citizen of the county was allowed to testify at the hearing; and

WHEREAS, a majority of the Commissioners approved this ordinance on _____ at a public meeting noticed and held in accordance with the Texas Open Meetings Act:

NOW, THEREFORE, BE IT ORDAINED, AND ORDERED BY THE COMMISSIONERS COURT OF WEBB COUNTY, TEXAS, that the following provisions be adopted this day of _____, 2016:

SECTION 1. GENERALLY

1.1. PURPOSE

The purpose of this Ordinance is to preserve and protect the public health, safety, and welfare of the residents of Webb County, Texas through the designation of areas which are suitable and unsuitable for the placement of solid waste disposal sites.

1.2. AUTHORITY

The Commissioners Court is authorized to enact this Ordinance by Chapters 363 and 364 of the Texas Health and Safety Code.

1.3. SCOPE

The Webb County Commissioners Court recognizes that it is not tasked with permitting solid waste facilities, and its intent here is not to approve the siting of any specific solid waste facility in Webb County, Texas. Thus, the designation of areas where solid waste facilities are not prohibited should not be interpreted as a finding that siting a solid waste facility in such an area is appropriate, recommended or otherwise compatible with surrounding land uses pursuant to 30 Texas Administrative Code Section 330.61.

SECTION 2. DEFINITIONS

- 2.1. **“Bird Hazard”** means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.
- 2.2. **“Disposal”** is defined as the discharge, deposit, injection, dumping, spilling, leaking, or placing of solid waste or hazardous waste, whether containerized or un-containerized, into or on land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the environment in any other manner.
- 2.3. **“Industrial Solid Waste”** is defined as waste resulting from or incidental to a process of industry or manufacturing, or mining or agricultural operations.

- 2.4. “**Municipal Solid Waste**” is defined as solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste.
- 2.5. “**Processing**” means activities including, but not limited to, extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including treatment or neutralization of hazardous waste designed to change the physical, chemical, or biological character or composition of hazardous waste so as to neutralize hazardous waste; recover energy or material from hazardous waste; or render hazardous waste nonhazardous or less hazardous, safer to transport, store, or dispose of, amenable for recovery or storage, or reduced in volume.
- 2.6. “**Solid Waste**” means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.
- 2.7. “**Solid Waste Facility**” means all contiguous land, structures, other appurtenances, and improvements on the land used for processing, storing, or disposing of solid waste. The term includes publicly or privately owned facilities consisting of several processing, storage, or disposal operation units such as one or more landfills, surface impoundments, or a combination of units.

SECTION 3. PROHIBITIONS

- 3.1. The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is prohibited in all portions of Webb County, Texas that are within:
- (1) the watershed of the Casa Blanca Lake Reservoir;
 - (2) a minimum of 1,500 L.F. (linear feet) from the boundary of any floodplain or Special Flood Hazard Area (SFHA) as currently depicted on the Webb County FIRM (Flood Insurance Rate Map) or an adjacent county FIRM currently in effect and any future expansion of the boundaries thereto;
 - (3) a minimum of 1,500 L.F. from the boundary of any wetland as currently depicted on the U.S. Fish and Wildlife Service, National Wetlands Inventory and any addition thereto;
 - (4) a minimum of 1,500 L.F. from any water well as depicted on the following databases currently retained by the Texas Natural Resources Information System (TNRIS):
 - a. Texas Water Development Board (TWDB) Submitted Drillers Reports Database;
 - b. Well Locations from TWDB Groundwater Database; and
 - c. Texas Commission on Environmental Quality (TCEQ) Public Water System Wells and Surface Water Intakes.
 - (5) a minimum of 25,000 L.F. from any recognized existing or future subdivision intended primarily for residential use that is platted, replatted or required to be platted or replatted by the provision of Chapter 232, Subchapter B, Texas Local Government Code or the model rules adopted through Section 16.343 of the Texas Water Code;

- (6) any location restriction enacted by EPA under 40 CFR, Subpart B §258.10 – 258.16.
- (7) a minimum of 10,000 L.F. from the nearest public or private aircraft runway used by turbojet aircraft for the purposes of minimizing bird hazard; and
- (8) a minimum of 5,000 L.F. from the nearest public or private aircraft runway used by only piston-type aircraft for the purposes of minimizing bird hazard.

SECTION 4. AREAS NOT PROHIBITED

- 4.1. The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is not prohibited in all other portions of Webb County, Texas not included in Section 3 above.

SECTION 5. APPLICABILITY

- 5.1. This Ordinance does not apply to applications for municipal solid waste permits or other authorizations, as defined in 30 Texas Administrative Code Section 330.57(a), that have been filed with, are administratively complete and are pending before the Texas Commission on Environmental Quality as of the date that this Ordinance is effective.
- 5.2. This Ordinance does not apply to municipal solid waste permits or other authorizations that have already been issued by the Texas Commission on Environmental Quality as of the date that this Ordinance is effective.
- 5.3. This Ordinance does not apply inside the corporate limits of any municipality.

SECTION 6. ENFORCEMENT

- 6.1. Violations of this Ordinance are subject to criminal penalties to the extent allowed by state law and a civil penalty of \$10,000 for each violation. Such penalty is to be forfeited to Webb County, Texas. Each day that a violation continues constitutes a separate ground for recovery.
- 6.2. The Webb County Commissioners Court may bring a legal action to enjoin violations of this Ordinance and seek judgment for civil penalties.

SECTION 7. CONFLICTING LAWS; CUMULATIVE EFFECT

- 7.1. In case any or more of the provisions contained in this Ordinance are found to be in conflict with any other provision of local, state, or federal law, the more stringent conflicting rule or law shall control.
- 7.2. The authority under this Ordinance is cumulative of other laws, rules, and regulatory authority, that Webb County may have to regulate municipal or solid waste disposal within its jurisdiction.

SECTION 8. SEVERABILITY

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

SECTION 9. EFFECTIVE DATE

9.1. This ordinance shall be in full force and effect on _____.

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

Honorable Tano E. Tijerina
Webb County Judge

Honorable Frank J. Sciaraffa
Webb County Commissioner Pct. 1

Honorable Rosaura “Wawi” Tijerina
Webb County Commissioner Pct. 2

Honorable John C. Galo
Webb County Commissioner Pct. 3

Honorable Jamie A. Canales
Webb County Commissioner Pct. 4

APPROVED AS TO FORM:

ATTESTED BY:

Honorable Marco A. Montemayor
Webb County Attorney

Honorable Margie Ramirez Ibarra
Webb County Clerk