WEBB COUNTY



SOLID WASTE MANAGEMENT REGULATIONS

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ORDER ADOPTING RULES OF WEBB COUNTY, TEXAS FOR THE MANAGEMENT OF SOLID WASTE

ADOPTED: August 22, 2016

PREAMBLE

WHEREAS, the Legislature has enacted the County Solid Waste Control Act, codified as Texas Health and Safety Code, Chapter 364, which authorizes cooperative effort by counties, public agencies, and other persons for the safe and economical collection, transportation, and disposal of solid waste to control pollution in this state; and

WHEREAS, it is the mission and obligation of the Commissioners Court of Webb County to take all measures within their authority to ensure the health and safety of the citizens of Webb County; and

WHEREAS, Section 363.113 of the Texas Health and Safety Code mandates that counties with a population of more than 30,000 shall review the provision of solid waste management services in its jurisdiction and shall assure that those services are provided to all persons in its jurisdiction by a public agency or private person; and

WHEREAS, Section 364.011 of the Texas Health and Safety Code authorizes Texas Counties, by rule, to regulate solid waste collection, handling, storage, and disposal in areas of the county not in a municipality, or the extra-territorial jurisdiction of a municipality; and

WHEREAS, Section 364.031 of the Texas Health and Safety Code authorizes Texas Counties to contract with another public agency or a private contractor to furnish solid waste collection, transportation, handling, storage, or disposal; and

WHEREAS, Section 364.034 of the Texas Health and Safety Code authorizes Texas Counties to offer solid waste disposal services to persons within its territory, to require use of that service by those persons, and charge a fee for that service; and

WHEREAS, the Webb County Commissioners Court finds that the adoption of an Order Adopting Rules of Webb County for the Management of Solid Waste in the County of Webb, Texas is specifically exempt from the Texas Private Real Property Rights Preservation Act pursuant to provision of Government Code §2007.003(b)(4), §2007.003(b)(6), §2007.003(b)(11)(C), and §2007.003(b)(13); and

WHEREAS, a public notice was published in a newspaper of general circulation on the 17th day of July and the 31st day of July, 2016 in accordance with Chapter 364; and

WHEREAS, the Commissioners Court of Webb County, Texas has considered the matter and deems it appropriate to adopt Rules for the Management of Solid Waste to abate or prevent pollution or injury to public health in Webb County, Texas.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE WEBB COUNTY COMMISSIONERS COURT OF WEBB COUNTY, TEXAS that:

- The Rules attached and appended hereto, entitled "RULES OF WEBB COUNTY, TEXAS
 FOR THE MANAGEMENT OF SOLID WASTE" are hereby adopted and are incorporated
 herein as though fully set forth in writing in this Resolution and Order; and
- 2. These Rules shall apply to all areas of the county not in a municipality, or the extraterritorial jurisdiction of a municipality; and
- In order to equitably share the financial burden on all affected property owners, and to
 provide for the most efficient and cost effective service possible, the County of Webb
 shall contract with and grant exclusive rights to a public agency or private contractor for
 the collection and disposal of solid waste in said areas; and
- 4. All other current providers of such service, if applicable, shall be advised that they must cease all residential solid waste collection operations within said area, and release without penalty all residential solid waste customers from existing contractual obligations for such service effective <u>January 1, 2017.</u>
- 5. This Order shall be in full force and effect on January 1, 2017.

On motion of <u>Commissioner Galo</u>, seconded by <u>Commissioner Tijerina</u>, duly put and carried, this **THIS ORDER 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 <u>22nd</u> day of

August, 2016

Honorable Tano E. Tijerina

Webb County Judge

Honorable Frank J. Sciaraffa

Webb County Commissioner Pct. 1

Honorable John C. Galo

Webb County Commissioner Pct. 3

Honorable Jamie A. Canales

Webb County Commissioner Pct. 4

Honorable Rosaura "Wawi" Tijerina

Webb County Commissioner Pct. 2

APPROVED AS TO FORM ATTESTED BY:

Honorable Marco A. Montemayor

Webb County Attorney

Honorable Margie Ramirez barra

Webb County Clerk

RULES OF WEBB COUNTY, TEXAS

FOR THE MANAGEMENT OF SOLID WASTE

SECTION 1. GENERALLY

1.1 PURPOSE

These rules have been adopted for the purpose of protecting the environment, abating public nuisances, and controlling pollution through the regulation of solid waste collection, handling, storage, and disposal as mandated by Section 363.113 of the Texas Health and Safety Code.

1.2 APPLICABILITY

These rules shall apply to all areas of Webb County not in a municipality, or the extraterritorial jurisdiction of a municipality as set forth in Section 364.011(a) of the Texas Health & Safety Code. These rules may also apply to the extra-territorial jurisdiction (ETJ) of a municipality that has entered into an inter-local agreement with Webb County as provided by the Inter-local Cooperative Act, Chapter 791, Texas Government Code.

1.3 DEFINITIONS

- (1) "County Official" is defined as any employee of the County, whether elected, appointed, or hired.
- (2) "Extra-territorial Jurisdiction or ETJ" means the unincorporated areas designated by the Texas Legislature as having limited municipal governance for the promotion and protection of the general health, safety, and welfare of persons residing adjacent to municipalities. The extent of an extra-territorial jurisdiction is defined by Chapter 42, Texas Local Government Code.
- (3) "Permit", "License", or "Certificate" means permission from the applicable governmental authority to conduct an activity regulated by Federal, State, or Local Laws. Permits, Licenses, and Certificates shall include but are not limited to Certificates of Compliance with Plat Requirements, Utility Permits, Junkyard Licenses, Floodplain Development Permits or Exemption Certificates, Development Permits, etc.
- (4) "Private Contractor" means the public agency, public entity, private person, private corporation, or private partnership, performing solid waste collection and disposal as contracted or designated by the County.
- (5) To "Produce" or "Generate" solid waste means to perform or use property in such a manner that produces household garbage or municipal solid waste.

- (6) "Public Agency" means a district, municipality, county, or other political subdivision or state agency, as defined by Section 364.003, Texas Health and Safety Code, authorized to own and operate a solid waste collection, transportation, or disposal facility or system.
- (7) "Public Nuisance" has the meaning assigned by the Texas Health and Safety Code, Chapter 343.
- (8) "Putrescible Waste" has the meaning assigned by the Texas Health and Safety Code Section 361.091(j).
- (9) "Service Agreements" or "Service Contracts" means a contract for solid waste collection and disposal services between a Service Provider, and a person who generates solid waste subject to the provisions of this order.
- (10) "Service Area(s)" means the territory or zone receiving solid waste collection and disposal services within the County's jurisdiction. In order to minimize the fragmentation of homes and/or subdivisions, territories or zones may provide for slight deviations from ETJ boundaries in certain areas.
- (11) "Service Provider" shall mean the County's designated solid waste collection and disposal system provider whether such designated provider is the County, a public entity, or a private contractor selected by the County.
- (12) "Solid waste" has the meaning assigned by Texas Health and Safety Code, Chapter 361 (Solid Waste Disposal Act).
- (13) "Solid waste disposal system" means a plant, composting process plant, incinerator, sanitary landfill, or other works and equipment that are acquired, installed, or operated to collect, handle, store, treat, neutralize, stabilize, or dispose of solid waste, and includes the sites.
- (14) "Transfer Station(s)" means a site designated by the Service Provider for the temporary deposition of waste.

SECTION 2 REQUIREMENTS

2.1 COLLECTION AND DISPOSAL SERVICE AGREEMENT(S) REQUIRED

- (1) All persons who generate solid waste subject to this order shall contract with the County authorized service provider for solid waste collection and disposal.
- (2) All persons who generate solid waste subject to this order under Section 1.2 shall provide proof of a valid collection agreement/contract to any County Official upon request.
- (3) All Applicants for permits, licenses, or certificates that may be incidental to the causation, creation, or generation of solid waste, shall be required to provide proof of a valid collection service agreement/contract as a condition of approval/renewal.
- (4) Solid waste collection services by the Service Provider may be suspended until all delinquent fees have been paid.

(5) Any person who fails to either obtain a service contract or is suspended for nonpayment is subject to an enforcement action for non-compliance as further defined herein under Section 3 of this Order.

2.2 PROCUREMENT AND CONTRACTS

- (1) For purposes of efficiency and effectiveness, the County may execute inter-local agreements between itself and other local governments pursuant to the Inter-local Cooperation Act, Chapter 791, Texas Government Code, for solid waste collection and disposal services.
- (2) Should the County elect to contract with a Private Contractor for waste collection and disposal services, the County shall use competitive procurement practices pursuant to the County Purchasing Act, codified as Texas Local Government Code, Chapter 262, Subchapter C.
- (3) To maximize efficiency and effectiveness, the County may contract with a sole service provider or Private Contractor.

2.3 AMENDMENTS TO JURISDICTION AND SERVICE AREAS

- (1) On a yearly basis, the County of Webb shall evaluate and modify as necessary the boundaries of the area subject to these rules based on annexations, deanexations, or incorporations of municipalities within the County.
- (2) On a biennial basis, the County of Webb shall evaluate the Service Area(s) receiving solid waste collection and disposal services within its jurisdiction to determine if a more efficient and cost effective method of service delivery may be provided. The biennial evaluation may include the modification, addition, or removal of territories or zones from the Service Area(s).

2.4 DISPOSAL AND COLLECTION

- (1) Rules governing procedures and systems related to the pick-up, collection, and disposal shall be provided by the Service Provider.
- (2) To ensure compliance with 30 Texas Administrative Code § 330.103(a), solid waste containing putrescible waste shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. The observance of holidays may not impede the minimum weekly collection frequency but may occur on another day than normally scheduled.
- (3) All solid waste collected in the County's jurisdiction must be disposed of in a licensed solid waste disposal facility.
- (4) The County or private contractor may establish a transfer station(s) as solid waste disposal option. Use of a transfer station shall require permission from the County or private contractor.

2.5 FEES

- (1) All persons receiving solid waste services must pay fees for solid waste and collection services whether performed by the County or a designated Service Provider in an amount adequate to cover the cost of said service.
- (2) Fees for the collection and disposal of solid waste may be assessed and collected by a variety of methods including and not limited to inclusion in public utility bills, direct billing, annual assessments, voucher/license systems, or any other method determined by the Webb County Commissioners Court or the Service Provider.
- (3) Fees for the collection and disposal of solid waste may differ by Service Area and will be determined by the County or Service Provider providing solid waste collection and disposal services in their respective area(s).
- (4) The County, may contract with a third party for the assessment and collection of solid waste disposal fees. Third parties may include a Public Agency, Private Contractor, or a Public or Private Utility.

SECTION 3. PENALTIES AND ENFORCEMENT

3.1 PUBLIC NUISANCES, ILLEGAL DUMPING, AND LITTERING PROHIBITED

- (1) In order to promote and ensure compliance with the provisions of these rules, any property owner located within the unincorporated area of the County that commits a public nuisance, illegal dumping, or littering will be subject to the appropriate penalties.
- (2) An offense causing or creating nuisance conditions as defined by Section 343.011, Texas Health and Safety Code shall be subject to the criminal penalties of Section 343.012, Texas Health and Safety Code.
- (3) An offense causing or creating illegal dumping or littering as defined by Section 365.011, Texas and Health and Safety Code shall be subject to the criminal penalties of Section 365.012 and Section 365.013, Texas Health and Safety Code.
- (4) Citations for causing or creating public nuisance conditions, illegal dumping, and littering, may be issued by a peace officer as defined by 1 Texas Code of Criminal Procedures Art. 2.12.

3.2 PROSECUTION

(1) The Webb County Attorney shall serve as the prosecuting attorney for any violations of this order.

SECTION 4. SEVERABILITY

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 5. FORCE MAJEURE

Neither the County, Public Agency, or Private Contractor shall be required to perform any term, condition, or covenant in these rules so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by a governmental authority, civil riots, floods, and any other cause not reasonably within the control of the County, Public Agency, or Private Contractor, and which by the exercise of due diligence the County, Public Agency, or Private Contractor, is unable, wholly or in part, to prevent or overcome.

SECTION 6. EFFECTIVE DATE

This Order shall be in full force and effect on January 1, 2017.

Appendix I Public Notices, Publications, Etc.

P.O. BOX 2129 LAREDO, TEXAS 78041

STATE OF TEXAS COUNTY OF WEBB

Before me, the undersigned authority, on this day personally appropriate Nelson who on his/her oath states.

I am the BOOKKEEPING CLERK of the LAREDO MORNING a newspaper published in Webb County, Texas, and knows the in this affidavit.

Advertisement for:

Acct #: 071800002 WEBB CO/ LEGAL ACCT.

Inv #: 184688003 L-57

Appeared in the LAREDO MORNING TIMES on the following da

07/17/2016 07/31/2016

The charge for such publication being \$ 377.70

WEBB COUNTY

PUBLIC NOTICE

REVIEW AND COMMENT PERIOD
FOR A TAKINGS IMPACT ASSESSMENT
AND PROPOSED UNDER FOR THE MANAGEMENT OF SOLID WASTE

Pursuant to the requirements of the Texas Private Real Property Preservation.

under Chapter 2007, Texas Government Code, the County of Webb has prepared a Taxta Impact Assessment in order to provide the public an opportunity to review and comment on the Proposed Order for the Management of Solid Waste. The proposed order has been develop for the purpose of protecting the environment, abating public nuisances, and controlling polition through the regulation of solid waste collection, handling, storage, and disposal in all are of Webb County not in a municipality, or the extraterritorial jurisdiction of a municipality. For thermore the proposed order is to be adopted pursuant to Section 363.113 of the Texas Heat and Safety Code which mandates that counties with a population of more than 30,000 review the provision of solid waste management services in its jurisdiction and assure that the services are provided to all persons in its jurisdiction by a public agency or private person.

Pursuant to the provisions of Chapter 2007, Texas Government Code the Webb County Comissioners Court will hold a public hearing to secure public comments and consider the action of the proposed order at 9:00 a.m. on August 22, 2016.

Written comments may be submitted to Ms. Rhonda M. Tiffin, Webb County Planning Dire located at 1110 Washington Street, Ste. 302, Laredo, Texas 78040. Copies of the Takings pact Assessment or proposed order may also be obtained from the Webb County's Purcha website at:

http://www.webbcountytx.gov

For more information you may contact the Planning Department at (956) 523-4100. L-57

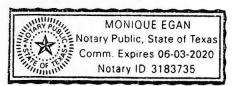
Lynette Melson

Subscribed and sworn to before me on

August 1, 2016

Notary public in and for the State of Texas

Notary: Monique Egan



P.O. BOX 2129 LAREDO, TEXAS 78041

STATE OF TEXAS COUNTY OF WEBB

Before me, the undersigned authority, on this day personally ap Lynette Nelson who on his/her oath states.

I am the BOOKKEEPING CLERK of the LAREDO MORNING T a newspaper published in Webb County, Texas, and knows the in this affidavit.

Advertisement for:

Acct #: 071800002 WEBB CO/ LEGAL ACCT.

Inv #: 184688004 L-58

Appeared in the LAREDO MORNING TIMES on the following date

07/17/2016 07/31/2016

The charge for such publication being \$ 377.70

CONDADO DE WEBB

AVISO PÚBLICO

PERIODO DE REVISION Y COMENTARIO PARA RECAUDACION DE EVALUACION DE IMPACTO Y PROPUESTA DE ORDEN PARA LA GESTION DE RESIDUOS SOLIDOS

En conformidad con los requisitos de la Ley de Preservación de Texas privada de bienes inmuebles en virtud del Capítulo 2007, verigo del Gobierno de Texas, el Condado de Webb ha preparado una evaluación de impacto recaudado con el fin de ofrecer al público la oportunidad de revisar y comentar sobre la Propuesta de Ordennara la Gestión de Residuos Sólidos. El orden propuesto ha sido desarrollado con el fin de proteger el medio ambiente, disminuir molestias a la población, y e control de la contaminación a través de la regulación de la recolección de residuos sólidos, manejo almacenamiento y eliminación de todas las áreas del Condado de Webb no en un municipio, o la jurisdicción extraterritorial y un municipio. Además, la orden propuesta debe ser adoptada de conformidad con la Seccióna3.113 del Código de Salud y Seguridad de Texas, que ordena que los condados con una poblado de más de 30,000 revisión de prestación de servicios de gestión de residuos sólidos en su juris jón y asegurar que esos servicios se presten a toda persona en su jurisdicción por parte de un o sismo público o una persona privada.

De conformidad con lo dispuesto e Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionados del Condado de Web Capítulo 2007, Código del Gobierno de Texas la Corte de Comisionado de Condado de Verta de Comisionado de Condado de Verta de Comisionado de Condado de Verta de Con

Los comentarios escritos pueden ser prescación del Condado de Webb ubicado en 15 a la Sra. Rhonda M. Tiffin, Directora de Planificación del Condado de Webb ubicado en 15 a la Sra. Rhonda M. Tiffin, Directora de Planificación del Condado de Verbusa de Ve

http://www.webbcountytx.gov

Para más información puede comunicarse con el Dep L-58

de Planificación al (956) 523-4100.

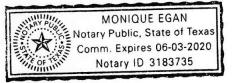
Lynette Nelson

Subscribed and sworn to before me on

August 1, 2016

Notary public in/and for the \$tate of Texas

Notary: Monique Egan



Appendix II Takings Impact Assessment

WEBB COUNTY TAKINGS IMPACT ASSESSMENT FORM

This form has been established by the Webb County Commissioners Court in an effort to comply with the assessment requirements mandated by the Texas Private Real Property Preservation Act adopted under Chapter 2007, Texas Government Code.

Identify the Proposed Action and Give a Brief Description:

An Order of the Webb County Commissioners Court establishing provisions for Solid Waste Management as mandated by Section 363.113 of the Texas Health and Safety Code, and authorized pursuant to the County Solid Waste Control Act, codified as Texas Health and Safety Code, Chapter 364.

Copies of the proposed Order are available with the contact person identified below.

County Department: Planning Department

Contact Person: Ms. Rhonda M. Tiffin, CFM Phone: (956) 523-4100

Address: 1110 Washington Street, Ste. 302, Laredo, Texas 78040

I. Stated Purpose

The proposed Order and Rules have been developed for the safe and economical collection, transportation, and disposal of solid waste in areas of Webb County, not in a municipality, or the extraterritorial jurisdiction of a municipality.

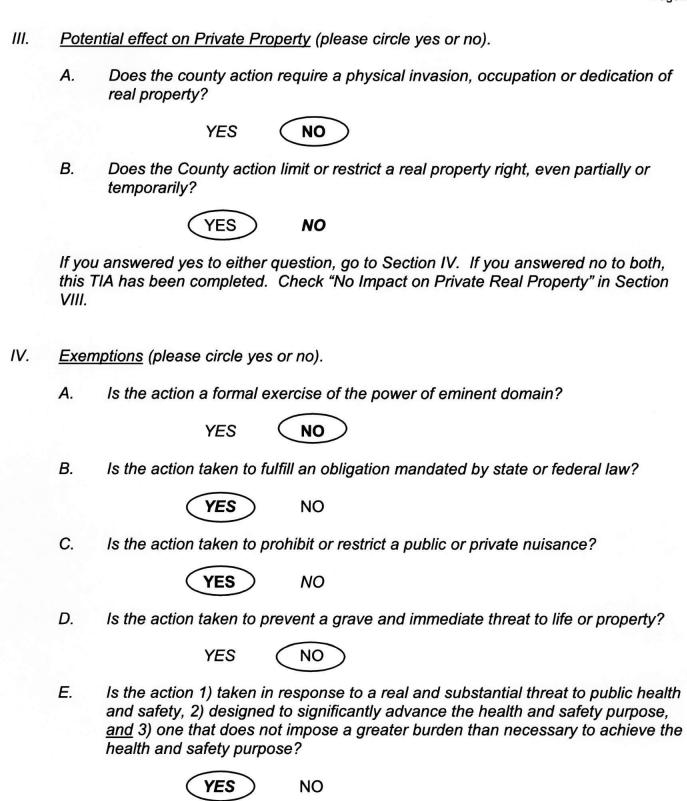
II. The Nature of the Action (please circle yes or no).

A takings impact assessment is required only for two types of governmental actions. State whether the proposed action is one of the following:

- A. the adoption or issuance of an ordinance, rule, regulatory requirement, resolution, policy, guideline, or similar measure; or
- B. an action that imposes a physical invasion or requires a dedication of private real property (please circle yes or no);



If you answered yes to this question, go to Section III. If you answered no, this TIA has been completed. Check "Not a Covered Action is Section VIII.



F. Is the action taken to regulate construction in a floodplain?

NO

G. Is the action taken to regulate on-site sewage facilities?

YES

YES NO

H. Is the action taken pursuant to the county's statutory authority to prevent waste or protect rights of interest in groundwater?



I. Does the action simply discontinue or modify a program or regulation that provided a benefit which does not rise to the level of a recognized interest in private real property?



If you answered yes to any question in Section IV., the TIA has been completed. Check "Proposed Action is Exempt" in Section VIII, and provide explanation in the space provided below. If you answered no to all questions above, complete the analysis requested in Section V below and check "Proposed Action Fully Assessed for impact of Private Property" in Section VIII.

Explanation:

Section 363.113 of the Texas Health and Safety Code, mandates that counties with a population of more than 30,000 shall review the provision of solid waste management services in its jurisdiction and shall assure that those services are provided to all persons in its jurisdiction by a public agency or private person.

The proposed Order Adopting Rules for the Management of Solid Waste complies with the mandate established by Section 363.113 of the Texas Health and Safety Code by establishing rules for solid waste collection, handling, storage and disposal within its jurisdiction. The proposed order for the Management of Solid Waste has been designed to lessen public nuisances, advances the public health purpose and does not impose burdens greater than necessary to limit dangers to life and property and reduce public nuisance characteristic of unregulated solid waste.

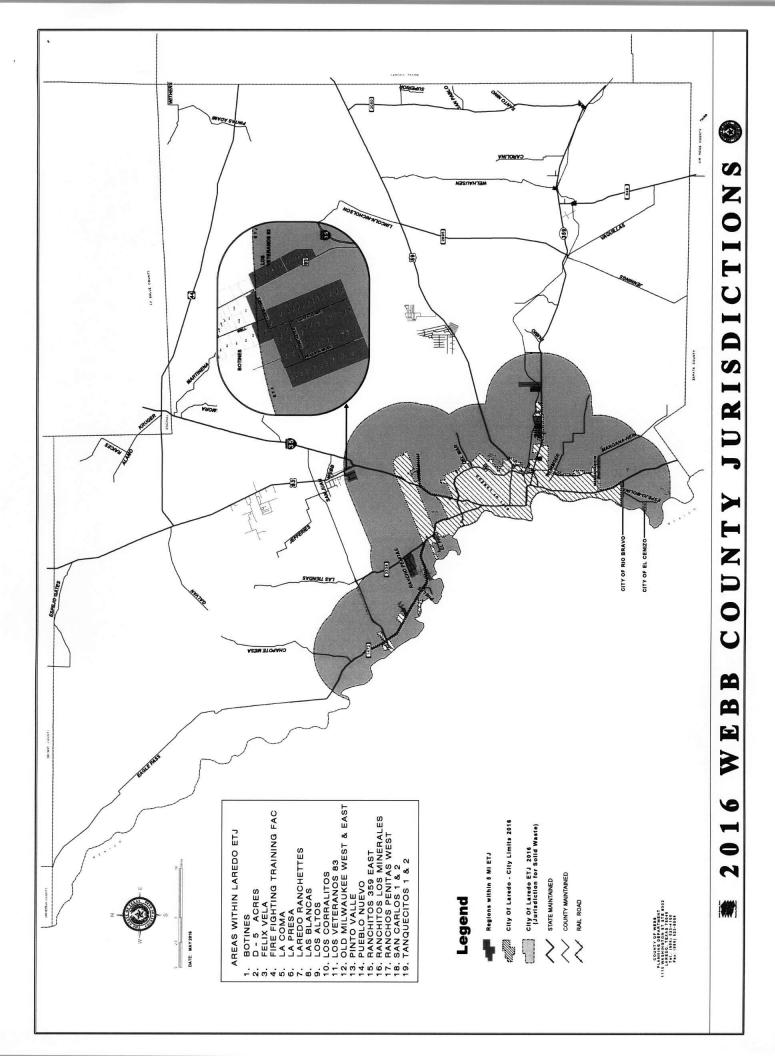
V	<u>Anal</u>	ysis of Purpose, Burdens and Benefits - SECTION NOT APPLICABLE
	A	Referring to the purpose of the county action in Section I above, state how the action achieves or advances its purpose.
	₽.	Describe the benefits to society resulting from the county action.
	C.	Describe the burdens that may be imposed on private real property by the county action.
		In assessing the proposed action for its potential to burden private real property, consider the following:
		1. Whether the proposed action will result indirectly or directly in a permanent or temporary physical occupation of private real property;
		2. Whether the proposed action requires a property owner to dedicate property or grant an easement;
		 Whether the proposed action deprives the owner of all economically viable use of his property;
		4. Whether the proposed action denies the owner the right to possess his real property, enjoy it, exclude others from it or sell it; and
		 Whether the proposed action will serve to reduce the market value of the owner's property.

VI. <u>Alternatives</u> - <u>SECTION NOT APPLICABLE</u>

- A. Describe alternative actions that could accomplish the same purpose as the proposed action.
- B. Would these alternatives impose a lesser burden on the property which is the subject of the proposed action?

VII.	Potential Impact on Value - SECTION NOT APPLICABLE		
	A. Will the county action reduce the market value of any parcel of private real property by 25% or more?		
	——————————————————————————————————————		
	Please explain how you reached this conclusion, including whether a real estate appraiser or other expert consultant was utilized.		
	If the answer to Question A is "YES", the proposed action could constitute a taking of the affected property. The county should estimate the amount that the property value will be reduced, and consider that prior to taking the proposed action.		
VIII.	Conclusion:		
	Not a Covered Action		
	No Impact on Private Real Property		
	XX Proposed Action is Exempt		
	Proposed Action Fully Assessed for Potential Impact on Private Property		

Appendix III Map (Effective August, 2016)



Appendix IV Fee Schedule

Reserved