

City of Bayard

ORDINANCE _____

AN ORDINANCE AMENDING THE CITY OF BAYARD MUNICIPAL CODE, SECTION 40-60 “LANDFILL SERVICE”, TO ESTABLISH A SOLID WASTE SANITATION FEE BASED ON REGIONAL LANDFILL OPERATIONAL CHARGES ASSESSED TO BAYARD.

WHEREAS the City of Bayard provides water, sewer, wastewater treatment, garbage collection, and landfill access to Bayard residents and to customers residing outside the City limits;

WHEREAS in 1995 the City of Bayard with other municipalities and Grant County entered into a Joint Powers Agreement with the regional Southwest Solid Waste Authority for solid waste disposal services at the Authority’s landfill facilities, which Agreement was amended and restated in 2019;

WHEREAS the Bayard City Council establishes annual utility service fees when it reviews the preliminary municipal budget for the coming fiscal year and any increase in the fees is based on the current consumer price index;

WHEREAS the Authority has recently increased the monthly member assessment it charges the government members of the Agreement, which far exceeds the current consumer price index.

WHEREAS the City of Bayard Council proposes an amendment to the City’s current landfill services ordinance to establish a strict pass-through rate for the Authority’s charges to the City and where the City will absorb its administrative costs.

NOW, THEREFORE, BE IT ENACTED BY THE GOVERNING BODY OF THE CITY OF BAYARD, GRANT COUNTY, NEW MEXICO:

SECTION 1. Title: This Ordinance may be cited as “2026 AMENDMENT TO CITY OF BAYARD’S LANDFILL SERVICES FEES AS A PASS-THROUGH RATE ONLY STRUCTURE.

SECTION 2. Ordinance. This Ordinance amends Chapter 40, Section 60 “Landfill service” of the Bayard Municipal Code (Ord. No. 3-2013, §3, 10-15-2013) by deleting the section in its entirety and replacing it with language basing the customer landfill fees on the regional Southwest Solid Waste Authority’s municipal monthly member assessment rates, without including any charge for the City’s administration costs.

SECTION 3. Municipal Code Sections: The amended Section 40-60 of the Bayard Municipal Code shall read as follows:

Sec. 40-60. – Landfill service.

- (a) Purpose And Authority:
 - (1) The purpose of this ordinance is to ensure the fiscal stability of the City of Bayard’s (“City”) solid waste disposal system through a reasonable, fair, and equitable customer fee structure.
 - (2) The City is a signatory on the 2019 amended and restated Joint Powers Agreement with the regional Southwest Solid Waste Authority (“SWSW Authority”) and is legally responsible for its proportional share of SWSW authority’s overall landfill operational, maintenance, and closure costs.
- (b) Establishment Of Landfill Services Fees:
 - (1) Mandatory Fee: The City establishes a mandatory monthly landfill fee for each active residential and commercial utility customer within and outside the Bayard City limits.
 - (2) Proportional Allocation: The City calculates each customer’s landfill services fee by dividing the total SWSW Authority’s monthly member assessment to the City by the total number of active utility customers.
 - (3) Utility Billing Cycle: The City sends to each utility customer a monthly bill that includes the customer’s landfill services fee, upon which the City charges gross receipt tax, but no City administrative costs.
 - (4) Customer Landfill Weight Exemption: Under the SWSW Authority’s regulations, the City’s member assessment lan fee is inclusive of tonnage, haul fees, and Tri City Convenience Center operations, which allows each City customer to transport and deposit a specified quantity of debris at SWSW authority facilities without additional charge. If a City of Bayard customer exceeds the exempt weight, the customer’s monthly utility bill includes the charge assessed by the SWSW Authority.

- (5) Application: The City landfill services fee shall apply regardless of whether the customer utilizes the City landfill services or generates physical waste during the billing cycle.

C. City of Bayard Pass-Through Adjustment:

- (1) Annual Review: At the beginning of each fiscal year, the Bayard City Council shall review the SWSW Authority's landfill rates assessed to the City of Bayard and, if necessary, adjust the City's landfill fees accordingly. This provision does not prohibit the Bayard City Council from amending the landfill fee at other times as needed.

- (2) Calculation Date: Fee adjustments shall become effective immediately after the Bayard City Council approves a resolution by majority vote at a duly noticed public meeting. The approved adjustment shall appear in the next utility billing cycle.

3. Public Notice: The published and posted meeting agenda of the Bayard City Council in accordance with the provisions of the New Mexico Open Meeting Act shall serve as sufficient notice of any proposed landfill fee change. Within twenty-four hours after adopting a resolution changing the landfill fee, the Bayard City Clerk or designee shall post the updated fee schedule at City Hall where agendas are posted and publish such notice on the City's web site. The notice shall remain posted and published for at least fourteen (14) days, or until the next billing cycle, whichever occurs first.

D. Billing, Collection, And Penalties:

1. Utility Integration: The landfill fee shall be itemized on the monthly City's utility bill with the charges for water, sewer, wastewater treatment, and garbage collection.

2. Non-Payment: Failure to pay the landfill fee shall subject the customer's account to standard utility discontinuation protocols, late fees, and property liens as authorized by state law and the Bayard Municipal Code.

FINDINGS:

1. The regional Southwest Solid Waste Authority ("Authority") as a government entity is not regulated by the New Mexico Regulatory Commission.

2. The reasonableness standard for public utilities requires that rates and fees be fair, just, and equitable, but New Mexico law mandates no particular methodology for making that determination (*Fleming v. Town of Silver City*, 1999-NMCA-149, 128 N.M. 295, 902 P.2d 308).

3. Section 3 of the 2019 amended and restated Joint Powers Agreement authorized the Authority to exercise powers and duties necessary to carry out its operations under the Agreement, including the following:

(K) On or before June 30th or each year, the Authority, shall prepare and submit for approval an annual budget to the New Mexico Department of Finance and Administration (“DFA”). The budget will be prepared on a fiscal year basis commencing July 1 through June 30 of each year.

(L) to set fees, rates, and charges for the use of the integrated solid waste management system necessary for adequate financing for the operation of the Authority.

4. Because the Authority substantially increased member contributions in 2026, the City’s municipal budget cannot absorb any or part of the Authority’s September 2026 increase.

5. To establish a fair, just, and equitable landfill fees, the City of Bayard’s only option is to adopt a pass-through ordinance under which the City will not recover administrative costs and will charge customers only their proportional share of the membership assessment imposed on the City of Bayard by the Authority.