

TITLE III - JURIDICAL FRAMEWORK

CHAPTER I – SOLID WASTE MANAGEMENT

SECTION I – General provisions

Article 21: **Activities.** Solid waste management encompasses the storage, presentation, collection, haulage, sweeping and cleansing activities of public roads and areas, transfer, recovery, treatment and final disposal.

Article 22: **Modalities.** Solid waste management is classified in two modalities:

- a) Ordinary service
- b) Special service

Article 23: **Ordinary service.** The rendering of the ordinary service will have the purpose of managing the following type of solid wastes:

- a) domestic solid wastes;
- b) wastes that due to their nature, composition, size and volume they can be incorporated to the solid waste management by the provider of the public service, according to its judgement and operation capability.
- c) wastes not included in the special service category.

Article 24: **Special service.** The rendering of the special service will have the purpose of managing the following type of solid wastes:

- a) wastes coming from civil construction works, remodeling or demolition of public or private real estate, unusable goods and wastes from garden cleansing and trimming;
- b) other wastes that, due to their nature, composition, size and volume should be regarded as special ones, according to the opinion by the provider of the solid waste management service and to its capacity.
- c) solid wastes that, due to their location, present some difficulties in their management because of the inaccessibility of collection vehicles to get there.
- d) solid wastes not contemplated in the above points that require special conditions than those of the ordinary service to manage them.

SECTION II – Responsibility in solid waste issues

Article 25: **Responsibility.** The public solid waste management service will be handled by the municipalities, which will incorporate the private sector to render the service by means of the modalities and by following the procedures set forth in Title IV of this law.

Article 26: **Surveillance.**

Incorporation of private sector in the total or partial solid waste management does not relieve the municipality from the responsibility above mentioned and, therefore, the municipality has to strictly watch over the fulfillment of the activities of solid waste management.

The quality level of the service to be rendered must be permanently monitored to verify and demand that both parties are complying with the obligations agreed upon.

This surveillance function will be executed by means of communal associations within each municipality, which can be constituted according to the provisions of Article 120 of the Municipal Code.

Article 27: **Contract.** The contract entered between the municipality and the private provider will clearly stipulate and specify the conditions for rendering the service, as well as the activity(ies) to be conducted in solid waste management.

Article 28: **Program or basic general norms.** Regardless of who is rendering the service, solid waste management will stick to a program that meets the needs of the service, including the following aspects among others:

- a) Establishment of routes, frequency and schedules for the collection of solid wastes, and users will be informed about this information.
- b) Maintenance of vehicles and equipment devoted to the collection and final disposal of solid wastes.
- c) Training of the personnel in charge of solid waste management, in order to render a better service and safety measures to be observed.
- d) Activities to be developed in the event of failures by any circumstance, which make it difficult, restrict or hinder the rendering of the public solid waste management service.
- e) Information mechanisms to the users on the storage and presentation of wastes, as regards to the location, size, capacity and quality of the containers and other aspects related to the appropriate rendering of the service.

SECTION III – Storage of solid wastes

Article 29: **Obligations by the users.** The users of the ordinary solid waste management service will have the following obligations regarding the storage of the wastes:

- a) Store the solid wastes generated in a sanitary manner, according to what is set forth by this law.
- b) Avoid the disposal of liquid substances, excreta or solid wastes regarded for the special service into the recipients devoted for the collection in the ordinary service.
- c) Place the recipients at the collection place, according to the schedule established by the provider of the public solid waste management service.
- d) Keep recipients containers in good shape and;
- e) Any other provisions set forth in this law and its regulation, which is the responsibility of the users.

Article 30: **Returnable recipients.** Returnable recipients for the storage of solid wastes in the ordinary service will have the following characteristics, among others:

- a) A weight and construction that facilitate their handling during the collection.
- b) Built with waterproof material that be cleaned easily, with protection against corrosion, such as plastics or metal.

- c) The recipients will have caps that fit well and will not make the emptying process difficult during the collection.
- d) They will be constructed in such a manner that no water, insects or rodents can come into it, nor liquids will leak by its walls or at the bottom.
- e) Borders and corners will be rounded and with a greater surface at the upper part, in order to ease emptying.
- f) Capacity according to what is established for the public cleansing service provider.

Article 31: **Disposable recipients.** The disposable recipients used for the storage of solid wastes in the ordinary service will be plastic bags or similar, and will meet the following conditions at least:

- a) The resistance of the recipients will bear the stress generated by the solid wastes contained and by the handling of such recipients.
- b) Their capacity will go according to what is established by the provider of the cleansing service.
- c) Recipients must have an opaque color.
- d) Recipients will be closed by means of a fixed tying device or by making a knot.

SECTION IV – Collective storage of solid wastes

Article 32: **Collective storage system.** Any construction to be used by several families, institutions or businesses of any kind and others that the public collection service provider determines will have a storage system or a front or rear loader container for solid wastes, according to the norms set forth by the service provider or by those technical norms that apply according to the Ministry of Health.

Article 33: **Requirements.** The areas dedicated for the collective storage of solid wastes inside the constructions referred to in the previous article will meet the following requirements at least:

- a) The floor and wall tiles and roofs will have a smooth surface to ease their cleansing and prevent an environment where insects and microorganisms in general develop. The corners in between the walls and the floor corners will be rounded.
- b) The areas will have effective venting, water supply, drainage and fire-fighting systems.
- c) The constructions will be built in a way that insects, rodents and other animals cannot enter.

Article 34: **Utilization of pipes.** Those solid wastes discharged by means of pipes will be packed in water proof recipients that meet the features set forth in article 31 of this law.

Article 35: **Storage boxes.** In those constructions referred to in article 32 of this law that cannot be provided the ordinary collection service due to their location, solid waste storage boxes can be installed within the area of the property, according to the norms set forth by the public cleansing service provider and its previous authorization is required.

Article 36: **Responsibility for the cleansing.** Cleansing of the surroundings where the private storage boxes are placed will be the sole responsibility of the users.

Article 37: **Dimensions.** The size, capacity, number and load/unload systems of the storage boxes or containers will be determined by the provider of public solid waste management system, according to the features of the collection and haulage equipment utilized. The dimensions of the containers will meet international standard sizes.

SECTION V – Discharge of solid wastes

Article 38: **Discharge.** The discharge of solid wastes will meet the provisions set forth in this law.

Article 39: **Placement of recipients or containers.** The recipients or containers of solid wastes will be placed in a place where the ordinary service can easily collect them, according to their routes, frequency and schedules, but avoiding obstacles to pedestrians or vehicles.

Article 40: **Removal of recipients.** The solid waste recipients of the ordinary service will not stay at those sites where the days and time of collection are different to those established by the solid waste management service.

SECTION VI – Collection of solid wastes

Article 41: **Responsibility.** The public service provider is responsible for collecting all the solid wastes delivered or discharged by the users of the ordinary service, according to this type of service and as long as their discharge is based on the provisions of this law and its regulation for each zone or sector of the population.

Article 42: **Collection frequency and schedule.** The provider of the public solid waste management service will set the frequency and optimal collection time that will be conducted according to sectors and at the collection sites, in such a way that solid wastes suffer no alteration or adverse conditions are not generated against people's health or pollution of the environment.

The provider of the public solid waste management service, without detriment to its faculty to spread information by any social mass media, will inform the users about the frequency and schedule of collection through the collocation of a sticker, adhesive tape, signboard or any other means on the recipients or containers. The material used will have the resistance to prevent from being removed without the consent and authorization by the provider of the service.

Article 43: **Collection service.** The collection of solid wastes will be conducted by workers appointed by the public solid waste management service provider, according to the routes, frequency and schedule established for such activity.

Article 44: **Scattered wastes.** In the event that solid wastes are scattered during the collection process, the persons in charge of the service will pick them up at once.

Article 45: **Closed land plots.** When solid wastes accumulate inside land plots due to the absence or deficiency in their closing and maintenance, the

owner of the lot will carry out the collection and haulage to the final disposal site. In case the public solid waste management service provider conducts the collection, such service will be regarded a special and will be charged upon the owner of the plot.

SECTION VII – Haulage of solid wastes

- Article 46: **Vehicles.** The vehicles devoted to the collection and haulage of solid wastes will meet the conditions required for this activity and those set forth by this law and its regulation. The design will meet the specifications that guarantee a proper rendering of the solid waste management service. The requirements mentioned before apply both to the ordinary and special collection services.
- Article 47: **Vehicle replacement.** The vehicles and equipment devoted to the haulage of solid wastes that do not meet the required conditions will be adapted or replaced within the term set by the regulating entity. Such term will be determined according to the program proposed by each provider of the public solid waste management service.
- Article 48: **Maintenance.** Maintenance and operation of vehicles and equipment devoted to the haulage of solid wastes will be managed by the provider of the public solid waste management service, who will not be exonerated from this responsibility. Such vehicles and equipment will always be in appropriate conditions to render the service.
- Article 49: **Washing of vehicles.** At the end of the daily duties, the vehicles and the equipment will be washed in order to prevent any harms against people's health or aesthetics.
- Article 50: **Other vehicles.** The vehicles devoted to the transportation of soil, construction waste, papers or any other material that can be scattered by the wind will be furnished with the required mechanisms or devices to guarantee the proper haulage and isolation of such materials.
- Article 51: **Traffic.** The vehicles and equipment devoted to the haulage of solid wastes will meet the traffic norms in force of each place, in order to avoid being obstacles for other vehicles or people.

SECTION VIII – Transfer stations

- Article 52: **Transfer service systems.** The establishment of solid waste transfer systems will be subject to the requirements of the Sanitary code and to the technical norms pronounced by the Ministry of Health, in accordance with the norms of the General Law of Environment.
- Article 53: **Selection of the technique and location.** The provider of the public solid waste management service will be responsible for selecting the technique to be used in the transfer system and for the location of the transfer station.
- Article 54: **Requirements of the transfer service system.** Every transfer service system will meet the following requirements at least:
- a) The appropriate infrastructure for the integral management of solid wastes to be transferred.

- b) Guarantee that the transfer activities will not damage the people's welfare and health or the environment.
- c) Cut global haulage costs and labor costs employed in the collection.

Article 55: **Application requirements.** Every approval application of a transfer service system will meet the following requirements at least:

- a) Economic justification.
- b) Criteria to define the feasible location of the transfer station.
- c) Criteria to locate candidate sites.
- d) Diagnosis of the zone being studied: geographical location.
- e) Social and economic characteristics, urban and road structure.
- f) Capacity of the transfer station and design parameters.
- g) Selection of the transfer and haulage equipment.
- h) Washing and wastewater equipment.
- i) Noise and dust control system.
- j) Environmental Impact Assessment Study, including the environmental monitoring program.
- k) Cost analysis and,
- l) Layouts and technical specifications.

SECTION IX – Treatment

Article 56: **Treatment.** The establishment of solid waste treatment systems will be subject to the requirements of the Sanitary Code and to the technical norms pronounced by the Ministry of Health, in accordance with the provisions by the General Law of Environment.

Article 57: **Selection of the technique and the location.** The provider of the public solid waste management system is responsible for selecting the technique to be used in the treatment system, as well as for the location of the facilities.

Article 58: **Requirements of the treatments.** Every treatment system will meet the following requirements at least:

- a) Have the required infrastructure for the integral management of solid wastes to be treated.
- b) Guarantee that the treatment activities do not harm the people's welfare and health or the environment.
- c) Have an appropriate final disposal system for unutilized solid, liquid and gas wastes after the treatment.

Article 59: **Application requirements.** Every application of approval for a treatment system will have the following requirements at least:

- a) Description of the proposed treatment system.
- b) Experience of the system proposed in the country or abroad
- c) Criteria to locate candidate sites.
- d) Diagnosis of the zone under study: geographical location, social and economic characteristics and urban and road structure.
- e) Capacity of the treatment system.
- f) Design parameters.
- g) Utilizable by-products.
- h) Wastes from the treatment.
- i) Final disposal of wastes treated.

- j) Environmental Impact Assessment Study, including the environmental control and monitoring program.
- k) Cost analysis.
- l) Layouts and technical specifications.

SECTION X – Final disposal of solid wastes

Article 60: Final disposal. The final disposal of solid wastes will be submitted to the requirements of the Sanitary Code and to the technical norms pronounced by the Ministry of Health, in accordance with the provisions of the General Law of Environment.

The final disposal of solid wastes will be carried out through the sanitary landfill technique.

Article 61: Location. The provider of the public solid waste management service will be responsible for selecting the appropriate site to build a sanitary landfill.

Article 62: Requirements of the sanitary landfill. Every sanitary landfill project will meet the following requirements at least:

- a) To have the sufficient infrastructure and mechanical equipment to handle the final disposal of wastes.
- b) Guarantee that its activities will not damage the people's welfare and health or the environment.
- c) To have enough coverage material for the covering activities, protect the surface and underground water resources and control gas and liquid emissions.

Article 63: Application requirements. Every application of approval for a sanitary landfill project will have the following requirements at least:

- a) Amount and composition of the solid wastes to be disposed of during the sanitary landfill useful life.
- b) Location and features of the candidate site to build the sanitary landfill.
- c) Diagnosis of the zone under study: social and economic characteristic and urban/road structure.
- d) Design parameters.
- e) Control and evacuation systems for rainwater, percolated liquids and gas management.
- f) Availability of coverage material at the site.
- g) Infrastructure of the system.
- h) Environmental Impact Assessment Study, including the environmental control and monitoring program.
- i) Cost analysis.
- j) Layouts and technical specifications.

Article 64: Infectious wastes. Infectious wastes may be disposed of at the sanitary landfill after being treated by means of autoclave or sterilization. These kind of wastes can be accepted without being treated in exceptional occasions, and disposed of in special cells. In this case, the authorization to locate such deposit and the procedures to conduct it will be granted by the Ministry of Health.

- Article 65: **MSPAS.** The provider of the service that manages the sanitary landfill will ease the entrance of the authorities from the Ministry of Health, in order to carry out the inspections that may be deemed necessary.
- Article 66: **Reports of the sanitary landfill.** The provider of the service that manages the sanitary landfill will present operation reports of the sanitary landfill to the Ministry of Health and to the regulating entity every 3 months. Such reports shall include the following information at least:
- a) Daily, weekly and monthly average of waste input, expressed in terms of volume and weight.
 - b) Recording of the waste haulage vehicles that enter to the site, and classifying them according to their source, weight and type of wastes.
 - c) Laboratory analysis, conducted every month to the effluents from the leachate treatment system.
 - d) Any other report defined by means of a technical norm.
- Article 67: **Occupational health.** The provider of the service that manages the sanitary landfill will watch for the occupational health of its employees, and the following measures will be applied at least:
- a) The personnel that works at the sanitary landfill will be required to have a record of their vaccines per day.
 - b) Safety working norms will be elaborated with the corresponding indications for the equipment use.
 - c) The staff will be provided of a locker room and showers to clean and change clothes after the end of the duties.
 - d) A medical examination program that allows the identification of potential pollution risks related to this activity and reduce them.
 - e) The workers will be provided gloves, boots and at least two (2) uniforms per year.
 - f) Any other requirement demanded by the Ministry of Health.

SECTION XI – Permissions to manage infectious solid wastes

- Article 68: **Approval.** Every solid waste management system with infectious features will be approved by the Ministry of Health.
- Article 69: **Previous permission.** The party interested or responsible for the transportation of infectious solid wastes will request and get the previous permission from the Ministry of Health, which will establish the minimum conditions to be met by the vehicles devoted to such transportation, as well as the required norms for the protection of the workers and the living beings.
- Article 70: **Protection equipment.** The operators in charge of infectious solid wastes will have the personnel protection equipment and the necessary devices, according to the provisions in hygiene and industrial safety set forth by the Ministry of Health.
- Article 71: **Treatment methods.** The treatment and sanitary disposal methods of infectious solid wastes will be previously authorized by the Ministry of Health.

SECTION XII – Storage of special solid wastes

Article 72: **Storage.** The storage of infectious solid wastes will be conducted in recipients different to those used for the ordinary service, clearly identified and special sanitary and safety measures will be followed to handle these wastes in order to protect the public health and environment.

Article 73: **Non-biological disposable wastes.** Non biological disposable wastes, which are considered pathological solid wastes such as needles and other types of instruments, will only be mixed with these kind of infectious wastes when they meet the measures required to avoid any when handling these wastes. Otherwise, they will be stored separately.

Article 74: **Recipients.** The storage recipients for infectious solid wastes will close hermetically and with clear measures to follow in case of an emergency.

Article 75: **Material of the recipients or containers.** The material(s) utilized in the manufacturing of recipients for the storage of infectious solid wastes will go according to the characteristics of the waste.

Article 76: **Temporary storage.** The temporary storage areas of pathological solid wastes at the buildings where these wastes are generated will meet the following requirements at least:

- a) Have an exhaust fan with biologic filter.
- b) The storage areas will be marked in such a way that they can be easily identified, and the entrance of people unrelated to this activity will be prohibited.
- c) These areas will be disinfected and deodorized as frequent as possible to ensure sanitary conditions.
- d) These areas will have the necessary devices and safety provisions to prevent and control accidents and fires.

Article 77: **Mixtures.** Every solid waste mixture that includes pathological or infectious solid wastes will be regarded as solid wastes with special characteristics.

SECTION XIII – Incinerators for special solid wastes

Article 78: **Incinerators.** Every project for the construction, modification or expansion of special waste incinerators requires the previous permission by the Ministry of Health, and the interested party will present the following information along with the application:

- a) Name, trade name and legal capacity of the applicant.
- b) Applicant's legal representation.
- c) Applicant's data to contact him, address and telephone number.
- d) A detailed list of the solid wastes to be incinerated with the average amount to be incinerated, weight and volume.
- e) Layouts and calculation notes.
- f) Environmental Impact Assessment.
- g) Any other requirement that the sanitary authority deems necessary

SECTION XIV – Recovery and recycling of solid wastes

- Article 79: **Recovery and recycling.** Recovery from and recycling of solid wastes has three (3) main purposes:
- a) Recover economic and energetic materials that have been utilized at the primary process of elaboration of products.
 - b) Reduce the amount of solid wastes generated that will be sanitarily disposed of.
 - c) Reduce environmental contamination through recycling of the materials recovered.

SECTION XV – Sites where solid wastes can be separated and stored

- Article 80: **Separation.** The separation of solid wastes will only be allowed at the sources of origin and at those places authorized by the Ministry of Health.
- Article 81: **Temporary storage.** The gathering and temporary storage of recoverable elements can take place in warehouses, before being transferred to the site for their classification and baling, as long as sanitary conditions and protection of the environment and of those handling the wastes are observed.
- Article 82: **Location of recovery centers and recycling plants.** The location of warehouses, gathering centers and recycling plants of solid wastes will meet the urban planning norms in force of the corresponding place, and in accordance with the guidelines set forth by the Ministry of Health.
- Article 83: **Authorization.** The installation and functioning of warehouses, gathering centers and recycling plants of solid wastes will require the authorization by the Ministry of Health.
- Article 84: **Conditions.** The operation of warehouses, gathering centers and recycling plants of solid wastes will meet the following conditions:
- a) Meet occupational health, hygiene and industrial safety provisions, air, water and soil pollution control, according to the norms in force and those established by the Ministries of Health and of Environment.
 - b) Keep the facilities and its periphery free of any solid or liquid waste that might spread away.
 - c) Ensure isolation to avoid any aesthetic problem, proliferation of vectors and rodents and furious odors.
 - d) Conduct unloading, loading and handling of recyclable materials within its facilities.
 - e) Other conditions set forth by the Ministry of Health.

SECTION XVI – Responsibility in the sweeping and cleansing of public roads and areas

- Article 85: **Sweeping and cleansing.** The public road and area cleansing tasks are the responsibility of the public cleansing service provider, and these duties will be conducted as frequently as required so that public roads and areas are always clean.

Article 86: **Public recipients.** The public cleansing service providers will place recipients for the exclusive storage of solid wastes generated by the pedestrians on the curb sides of streets; the amount and capacity of these recipients will go according to the intensity of vehicle and pedestrian traffic.

Article 87: **Prohibition.** The recipients to store solid wastes referred to in previous articles will be for exclusive use of pedestrians, and solid wastes generated within the buildings will not be deposited inside them.

SECTION XVII – Solid wastes generated by on-street sales

Article 88: **Peddlers.** Peddlers, those with fixed stalls and those at public areas are obligated to keep the area surrounding their stalls clean.

Article 89: **Peddlers.** When, due to the nature of the products they sell, peddlers and those sellers with fixed stalls at public roads and areas generate solid wastes, recipients for the public to dispose of these wastes should be available for them.

SECTION XVIII – Obligations for not polluting public roads and areas

Article 90: **Responsibility.** Those responsible for unloading, loading and transporting any type of merchandises or materials will pick up the solid wastes generated by these activities, and they will prevent those wastes from scattering during their transportation.

Article 91: **Special events.** When special events or shows are conducted and in where people attend in great quantities, a storage and collection system of solid wastes generated at that place will be available, and the entity that organized such event will coordinate the actions along with the public solid waste management service provider.

SECTION XIX - Prohibitions

Article 92: **Prohibition.** The disposal of dead animals, construction waste and special solid wastes is prohibited in storage public or private recipients that are picked up by the ordinary collection service.

Article 93: **Prohibition.** The burning of wastes is not allowed under any circumstance however, the incineration of solid wastes is allowed according to the norms set forth by this law and its regulation.

Article 94: **Prohibition.** The discharge of solid wastes to the sweeping and cleansing workers of public roads and areas is prohibited.

Article 95: **Prohibition.** Any person unrelated to the collection service is not allowed to remove or extract the partial or total contents from the recipients for solid wastes, once these are placed at the site of collection.

Article 96: **Prohibition.** The disposal or abandonment of solid wastes, regardless of their origin, upon public roads or areas, lands or superficial and underground water bodies is prohibited.

- Article 97: **Prohibition.** The disposal of solid wastes of any kind on public roads, parks and collective leisure areas is prohibited.
- Article 98: **Prohibition.** The washing and cleansing of any kind at public roads and areas that bring about the accumulation or scattering of solid wastes is prohibited.
- Article 99: **Prohibition.** The staff of the cleansing service providers, the sweeping and cleansing personnel of the public road and area are not allowed to perform the separation of elements from solid wastes with recovery or recycling purposes.
- Article 100: **Prohibition.** The workers in charge of the sweeping and cleansing of public roads and areas are not allowed to collect solid wastes generated inside any building.
- Article 101: **Prohibition.** The storage of solid wastes within a same recipient that may interact between each other and bring about dangerous situations is prohibited.

CHAPTER II - TARIFF STRUCTURE AND POLICY OF COMPETITION

- Article 102: **Policy of competition.** The regulating entity will be the body that approves and audits the competitiveness of free competition processes in the collection zones. The regulating entity will set the rules for the division of the market and the policies of competition, based on the guidelines of the law herein.
- Article 103: **Regulation techniques.** The regulating entity will utilize technical regulation tools such as benchmarking, compared or subrogated regulation, comparison with the efficient model enterprise, in those open competition processes to award contracts for rendering the public collection service.

The municipalities will submit the list of charges and general conditions of the respective contracts.

- Article 104: **Presentation and approval of the list of tariffs.** The regulating entity will approve the list of tariffs of the contracts for rendering the public solid waste management service when the municipalities are directly rendering the service. In case the municipalities conduct a public tender and contract out the collection and sweeping service to private service providers, the municipality will show the regulating entity the list of tariffs for collection, sweeping, storage and commercial system categories separately, which will be approved by the regulating entity. This regulating entity will be responsible for reviewing and approving the tariffs.

In order to review the economic efficiency of the tariffs, the regulating entity will utilize the technical tools mentioned in the above article, along with the results from the open competition processes by means of which the participation by the private sector can be introduced.

The chapter about tariffs will be established based on the provisions of this chapter.

- Article 105: **Objectives of the regulated tariffs.** The regulated tariffs will be based on appropriate studies and adjusted to the following objectives or principles:
- a) **Conservation of resources:** promote the rational and efficient use of resources, according to the objective of required coverage to render the appropriate service;
 - b) **Sustainability:** ease the balance between supply and demand of the services, so that the provider cannot restrain the supply of such services to any kind of users;
 - c) **Economic efficiency:** show the level of competitive prices based on a suggested efficient investment, avoiding the transference of inefficient management costs from the public service provider to the user;
 - d) **Financial stability or sufficiency of the enterprise:** allow the provider of the service, when it operates efficiently, to obtain enough revenues in order to meet all the implicit costs, such as operation and maintenance costs, depreciation, expansion of the services provided, as well as the return rate on the own capital and debt capital according to the comparable risk of the activity;
 - e) **Equity:** for the calculation of tariffs, the importance of the costs corresponding to each type of user must be determined, according to the real efficient cost for providing the service and avoiding an unnecessary discrimination among the users;
 - f) **Simplicity and transparency:** tariffs should be simple and comprehensible for the user. They should also be easily applicable and/or implemented. The tariffs must be explicit and public for all the parties involved in the public service, specially the users.

The tariffs addressed in this chapter will be the top or maximum prices allowed, and they will be calculated by using the tariff formulas according to what is set forth in this law.

The tariff structure will be established in the corresponding contract for rendering the service, if such is the case.

- Article 106: **Users, costs and tariffs:** Tariffs will be based on appropriate studies and adjusted to the following principles:
- a) For industrial, commercial, institutional and service users, the calculation of the tariff will be based upon volume, in order to foster efficiency and reduction;
 - b) For domestic and building users, be it apartments or condominiums where there is the technical feasibility to install a collection system, the tariff will be based on volume. The tariff will be based upon a fixed monthly charge only if the installation of containers is not feasible;
 - c) For the domestic one-family residential complexes and rooms in low-income areas, the charge will be fixed.

The allocation of costs to users will be based on the real cost for providing the service, in accordance with the average generation of each user or kind of users, and according to the corresponding generation studies.

- Article 107: **Periodic revision of tariffs:** The tariff structure will be in force during (5) years for both the collection and sweeping system as well as for the final disposal system. The provider of the service will show the regulating entity the list of tariffs for the next period for its approval,

within the three (3) months prior to the expiration of the tariffs in force at that time.

Article 108: **“Force majeure” revision of tariffs and assignment of costs:** No assignment of costs will be accepted for the collection and sweeping activity nor for final disposal due to climatic events such as tempests or hurricanes, unless this type of events occur every 50 years or more and it is proven that the dumping site facilities suffered from damages. In order to determine the period of occurrence of such event, an statistical frequency analysis of the maximum average daily and annual precipitation in the last thirty (30) years will be conducted, and a normal or Gumbell-type logarithm distributing function will be applied.

Article 110: **Calculation of the rate of average cost of capital.** For the tariffs for final disposal and/or collection and sweeping, in case there is no public tender for this service and it is rendered by the municipality, the rate of average cost of capital will be calculated by means of the following formula:

$$R_c = R_d \times (1-t) \times (D/A) + R_{cp} \times (OC/A)$$

Where:

t= percentage fraction of the tax paid regarding the debt capital, in case there was a tax related to the debt services.

(D/A)= debt to total assets ratio

(OC/A)= own capital to total assets ratio

Article 111: **Debt-total capital ratio allowed.** The provider of the public solid waste management service will be allowed to keep their borrowing ratio (Debt/total capital) to a maximum of (80%).

Article 112: **Calculation of final disposal tariffs.** In case the service is provided by the municipality or a private individual, the final disposal tariff will always be regulated by the regulating entity based on stop prices. The calculation of tariff formulas for final disposal will be made based on average long-term costs. For purposes of amortization of the initial investment on the land and infrastructures, such investment will be depreciated within a minimum period of (20) years.

The methodology to calculate the efficient development investment costs will be defined by the regulating entity based on the model efficient enterprise. The final price for final disposal will be verified by the regulating entity using the techniques described in article 103 of this law.

Article 113: **Automatic tariff indexing.** While tariffs are in force, both for regulated prices (final disposal activity) as well as for the tariffs or competitive prices by means of open competition processes for the collection activity, tariffs will be readjusted once per year automatically. The readjusted tariffs will be applied as from January of the next year.

The providers that readjust the tariffs by means of the automatic indexing system will inform the regulating entity before January (15) of each year, and the readjustments will be published during (3) consecutive days on a nationwide newspaper.

Tariffs will be readjusted by using the consumer price index (CPI), as long as the variation is less than (2%) per year. If the annual consumer price index ranges between (2%) and (5%), tariffs will only be indexed in a value equivalent to (66%) of the CPI value. In case the variation of annual CPI is greater than (5%), tariffs will be indexed in only (60%) of the CPI value.

The information on variations of the consumer price index will be provided by the General Directorate of Statistics and Census.

Article 114: **Approval of tariff studies.** In order to determine the final tariffs, the regulating entity will review the study presented by provider of the service. The results will be informed to the providers. With the results from the studies, the regulating entity will set up a group of basic preliminary tariffs for each provider for the different services, hereafter known as efficiency tariffs, which will be calculated based on the calculation methodology of this chapter. The regulating entity will compare the annual income obtained from applying the efficiency tariffs to the annual updated demand for the period to set tariffs, taking into account the rate of capital cost with the total long-term cost. If there is no difference between the annual income and the total long-term cost, the tariffs will be accepted. Otherwise, these tariffs will be adjusted.

In the event of discrepancies between the results of the study by the regulating entity and the study by the provider (municipality or private party), such difference will be settled by a commission of (3) experts: one (1) appointed by each one of the parties involved and a third one appointed by the regulating entity from a list previously agreed on with the provider.

The resolution of such commission will be definitive and fulfillment will be compulsory. The commission fees will be paid by the regulating entity and the provider on equal share.

CHAPTER III - PAYMENT OF THE SERVICES

Article 115: **Collection of the services.** The provider will be responsible for and in charge of collection for the services. The invoices, settlements or certificates of indebtedness issued for the services rendered, according to the established tariff system, will have an executive nature and their judicial collection will be conducted by means of the procedures set forth in the Judicial Code.

Article 116: **Cutoff of services.** The provider will be empowered to cut off the services when the payment of the amount set by the corresponding tariff is delayed, according to the circumstances established in the applicable contracts and without detriment to the payment of the corresponding interests or fines.

This power will only be executed upon industrial and commercial customers and special services, be it public or private ones.

Under unforeseen circumstances such as epidemic, earthquakes and floods, the State, by means of the regulating entity, will call the suspension of this power and will properly indemnify the providers.

Article 117: **Obligation to pay.** The following are obligated to pay according to what is set forth in this law, and will pay the corresponding services they are being provided:

- a) The owner of the real estate or association that owns the real estate;
- b) The owner or holder during the period of such possession or tenancy;
- c) The State, municipalities, autonomous and semi-autonomous public entities, public enterprises and any other state entity, whatever the juridical shape it takes.

Article 118: **Exemptions and subsidies.** The State and the municipalities can grant exemptions or subsidies when they consider such to benefit the public. Such exemptions and subsidies, in case they are direct ones, should be contemplated within the corresponding budget item from the general budget of the State or respective municipality to pay the provider in accordance with the approved tariff.

The exemptions and subsidies will be granted according to the following concepts and rules:

- a) The exempted or subsidized service will be specifically indicated.
- b) In case of a direct subsidy to the demand, such subsidy will be granted to the eligible customer as a discount upon the amount in the invoice that such customer will pay. The provider will apply the referred discount only as long as it has received the guarantees of the corresponding consideration by the State or respective municipality;
- c) In case of choosing a cross-subsidy in the tariff to benefit the poor, such subsidy will only help low-income families; therefore, no cross-subsidy will be assigned to the entire class of residential users;
- d) Both for subsidies to the demand and cross-subsidy, these will only benefit low-income houses and, under no circumstances will the subsidy surpass (50%) of the real cost of the service; and
- e) The exemptions and subsidies granted will be reviewed periodically, and in no case will such reviewing exceed (5) years.

In case of a cross-subsidy in the tariff, it will meet what is established in this article, and the technical basis for the calculation of the tariffs, the duration and the control and supervision ways will be presented along with the list of tariffs. The municipality, with the previous authorization by the regulating entity, will establish a cross-subsidy system that will be based on the concept of revenues required to meet the costs efficiently.

The executive power, through the Ministry of Health or the municipalities according to the case, will be responsible for implementing the mechanisms to carry out exemptions and subsidies, and the regulating entity will supervise and verify the conduction of such mechanisms.

CHAPTER IV – INFORMATION

Article 119: **Rule of information.** The providers of the public solid waste management service will deliver the regulating entity the following information:

- a) General accounting information that includes the following: balance sheet, profit and loss statement, real estate status statement, cash flow, separate detail of all the assets, separate detail of depreciation, separate detail of accounts payable;
- b) Detail of separate operation costs and capital costs per functional category;
- c) Number of invoices issued, collected and delayed payments, with the detail of due date of the invoice, separated by customer category or type and location at the corresponding jurisdiction;
- d) Separate monthly invoicing per category or location at corresponding jurisdiction;
- e) Monthly detail of the number of employees and separated by qualification, salary and functional and administrative category;
- f) Monthly detail of tons processed separated by category or type of service, category or type of customer and the location at the corresponding jurisdiction and neighborhood;
- g) Detail of customers served separated per category or type of customer and the location at the corresponding jurisdiction and neighborhood;
- h) Detail of collection routes;
- i) Detail of collection frequency and schedule per route and location at the corresponding jurisdiction and neighborhood;
- j) Detail of the number, type and capacity of the trucks used for collection, separated by zone where the service is rendered, and
- k) Monthly detail of the number of trucks used, separated by mechanical-operative features.

The regulating entity will establish the form and periodicity with which the providers of the service will deliver such information or any other deemed as necessary through a regulation or solution.

TITLE IV - PARTICIPATION BY PRIVATE SECTOR, INTEGRATION AND BID RULES AND OTHERS

CHAPTER I - GENERAL PROVISIONS

Article 120: **Target.** In order to improve the quality of the services rendered to the customers and achieve a better efficiency when rendering such services, several modalities of participation by private sector will be incorporated for providing the solid waste management services.

Participation by private sector will be granted to private and experienced service providers or associations headed by private providers that meet the condition above.

Article 121: **Modalities.** The following modalities for participation by private sector can be adopted:

- a) Short-term contracts of services and for certain limited functions that are related to the services between the state enterprise or entity and private enterprises;
- b) Contracts of management or administration for a limited time (maximum (4) years) for all the functions or part of them from the state enterprise or entity;
- c) Long-term contracts of concession, exclusively for the final disposal activity
- d) Contracts of concession, leasing, administration or service for a defined time to provide services not rendered by the state enterprise or entity
- e) BOO (builds-operates-own), in which the ownership is kept in the private sector;
- f) BOT (build-operates-transfers) or BOOT (builds-operates-owns-transfers) contracts inverse contracts, in which the ownership is transferred from the private sector to the public one;
- g) BOT inverse contracts; in which the ownership is transferred from the public sector to the private one;
- h) Contract of franchise
- i) Any other modality deemed as convenient, as a result of the studies that be conducted.

The modalities of participation by private sector will be implemented by applying the free competition procedure of this chapter, as well as the general provisions for public contracting set forth in the Law of Acquisitions and Contracting of Public Administration.

Article 122: **Prohibition of vertical integration.** The solid waste collection, sweeping, haulage and recycling activities will be executed by the same provider in an integrated manner.

The provider who, by means of a contract, conducts the activities of the above paragraph will not be able to carry out disposal or final disposal activities.

For purposes of the article herewith, the definitions of article 5 of this current law will be followed, particularly the definitions of enterprise control and horizontal and vertical integration.

Article 123: **Prohibition of horizontal integration.** The providers of the public solid waste management service in any modality will be able to render such service in more than one geographical area, as long as an economic concentration that hinders competition is produced.

For such purpose, the economic concentration will be assessed by the "C4" concentration index, which measures the concentration by the 4 largest enterprises in the market; the Herfindahl-Hirschman index; and the concentration rules and guidelines issued by the Department of Justice (Anti-monopoly division) and the Federal Trade Commission from the United States of America.

For the purposes of this article herewith, the definitions of article 5 of this current law, particularly the definitions of enterprise control and horizontal and vertical integration, will be used.

Article 124: **Integration.** The municipalities and the regulating entity will consult the Commission of Free Competition and Consumer Affairs about the feasibility of economic concentration.

The enforcement of the two previous articles is an exception for those municipalities that render all the solid waste management activities in an integrated manner and by their own means.

Article 125: **Declaration.** The municipal Mayor, with the approval by solution from the municipal council and a previous technical and economic-financial analysis, will formulate through a declaration the modality of participation by private sector.

Article 126: **Contents of the declaration.** The declaration will establish the following at least:

- a) The modality, the areas of enforcement and implementation schedule of participation by private sector, indicating the maximum term to adapt such participation;
- b) The terms and conditions of the pre-qualification process and the list of bid terms conditions, and
- c) The evaluation methodology and the selection process of the winning bid.

CHAPTER II - BID AND CONTRACTING PROCESS

Article 127: **Formalities of the process.** Participation by private sector will be arranged through free competition processes that will include the following stages:

- a) Preparation of the list of pre-qualifications;
- b) Invitation to pre-qualification;
- c) Pre-qualification of firms or associations interested,
- d) Elaboration of the list of works and tender documents;
- e) Confirmation of the list of works and tender documents by pre-qualified enterprises;
- f) Invitation of pre-qualified associations or firms to tender, based on the lists above mentioned;
- g) Presentation of technical and financial bids;
- h) Technical and economic-financial assessment of the bids presented; and
- i) Awarding of the winning bid.

- Article 128: **List of charges.** The list of charges will have the following minimum requirements:
- a) Detailed explanation of the service to be rendered by the private operator;
 - b) Detailing of the privileges, advantages, exclusiveness or special conditions that the private operator who is awarded the bid will enjoy, and establishing their duration;
 - c) Description of the investment requirements, if any, and the standards of tariff policies to which the private operator will be subject to;
 - d) Description of the methodology and the procedures to calculate tariffs and prices;
 - e) Indication of coverage goals and service levels;
 - f) Indication of special conditions, if any, regarding the ownership or tenancy of the goods that the private sector will incorporate;
 - g) Description of the form of payment to the municipality, if any, for the incorporation of private participation;
 - h) Node and procedure to transfer the services; and
 - i) List of goods that will be employed to render the services and the conditions of reversion at the end of such services.
- Article 129: **Commission of Evaluation.** A Commission of Evaluation will be set up, which will be in charge of pre-qualifying the participants and assessing the proposals presented for the public tender. This Commission of Evaluation will be neither integrated by less than (3) nor more than (5) members appointed by the municipal Mayor, with the approval by the Municipal Council. At least one (1) of the members will belong to the regulating entity.
- A copy from the Final Evaluation Report will be sent to the regulating entity and to the Commission of Free Competition and Consumer Affairs.
- Article 130: **Pre-qualification.** The Commission of Evaluation, by means of a solution, will pre-qualify the parties interested by following the procedure stated in this law. This solution will be informed to the interested parties through a proclamation visible during two (2) working days at the general secretary of the corresponding municipality.
- Article 131: **Awarding.** Awarding will be made by the municipal Mayor within a peremptory term, if he/she considers that the formalities established by law and the presentation in advance by the Commission of Evaluation have been complied with. The awarding will be formalized through duly motivated solution, which will be informed to all the participants by means of a proclamation visible during two (2) working days at the general secretary of the corresponding municipality.
- Article 132: **Appeal.** The appeal to reconsideration will apply against the pre-qualification and awarding solutions, which will be presented within a term of five (5) working days after the notice. In this manner the governmental way of solution will be over and the contentious-administrative way will then rule.
- Article 133: **Municipal and regulating entity jurisdiction.** The municipal Mayor will award or declare abandon of the bid process, as corresponds. The

municipality preserves the right to declare abandon of the tender or not award it when it considers that public interests are jeopardized.

Likewise, the regulating entity will be empowered to order the declaration of abandon or not awarding the bid that was granted by the municipality for the collection and/or disposal due to the following reasons:

- a) There is not sufficient competition;
- b) The financial bid has a collusion price.

CHAPTER III – PERMISSIONS

Article 134: **Permissions.** Any person or juridical person will request the regulating entity a permission to operate services for own consumption and sales to third parties, as long as there is no incompatibility between the permission and the contracts granted through the provisions of this Title.

The regulating entity will promote the granting of permissions to encourage a free and self-sufficient market for special services.

TITLE V - INFRINGEMENTS, SANCTIONS AND SANCTION PROCESS

Article 135: **Infringements.** The following are infringements to the law herein:

- a) The rendering of services without the corresponding permission or contract;
- b) Breach of the requirements to grant permissions and licenses;
- c) Perpetration of prohibitions;
- d) Breach in the obligations both by the provider of the service and the customer;
- e) Breach in the quality standards by the providers of the service;
- f) The refusal, resistance or lack of cooperation for supplying reports and information in general, based on enforceable provisions;
- g) The fraudulent or unlawful use of solid waste management services, without detriment to the corresponding civil or penal liabilities;
- h) Breach in the rights and obligations foreseen in the norms in force regarding solid waste management issues.

Article 136: **Quality standards of the service providers.** The breach in the quality standards by the providers of the public solid waste management service are infringements to this law.

Without detriment to the power by the regulating entity of setting the service quality standards for the providers of the service, the following behaviors by the provider of the service or its employees will be infringements to this law:

- a) Leave some wastes in private or public containers;
- b) Change the route of the collection vehicles without authorization;
- c) Make excessive noise;
- d) Abandon the collection vehicle on public thoroughfare;
- e) Collect solid or recyclable wastes in unauthorized hours;
- f) Deposit or dispose of solid wastes at unauthorized locations;
- g) Operate the vehicle without the corresponding identification;
- h) To forge the weight of solid wastes in collection vehicles;
- i) Leave solid wastes on public thoroughfare due to an inappropriate loading of the collection vehicle;
- j) Not providing the collection service at the specified day and time;
- k) Ask for contributions or gifts;
- l) Change of clothes by the staff on public thoroughfare;
- m) Not using uniform;
- n) A rude behavior by the staff or being impolite to customers;
- o) Search and select materials in the wastes collected and during transport;
- p) Not collecting the additional wastes generated from street sweeping;
- q) Not conducting street sweeping on the day and frequency established;
- r) The presence of collection vehicles is not standardized;
- s) Spilling of percolated liquids from the collection trucks on public thoroughfare;
- t) Deficiencies in the maintenance, replacing and disinfecting of containers;
- u) Not collecting vegetal waste from persons or from public areas;
- v) Parking of collection vehicles on public thoroughfare;
- w) Any other provision set through a technical norm issued by the regulating entity or municipality.

Article 137: **Sanctions-Providers.** The infringements by the providers of the service will be administratively sanctioned by the regulating entity as follows:

- a) With fines from _____ colons up to _____ colons, depending on the severity of the infringement, with no detriment to the obligation of repairing the corresponding damages. The amount of the sanction will be set by taking into account the aggravating or extenuating circumstances, the degree of disturbance and alteration of the services and the extent of the damage caused. These fines will be enforced without detriment to the administrative solution of the contract of concession or license, whichever case applies; or
- b) By means of fines of _____ colons to _____ colons per day, depending on the severity of the infringement. Such fines will be reiterative; i.e., they will be imposed every day until the order by the regulating entity is complied with. In such cases, the sanction will entail the order of doing or not doing something to mend the breach of the rules in force on solid waste management matters, or an order to suspend any activity.

The amount of the fines imposed to the providers of the service will be shared between the municipality and the customers or users through the tariffs. The regulating entity will establish the procedures for putting this into effect.

Article 138: **Sanctions – Customers or users.** The infringements by customers or users will be punished by the regulating entity as follows:

- a) A fine from _____ colons up to _____ colons, depending on the severity of the infringement, with no detriment to the obligation to pay for the value of the service being unlawfully used, as well as the damages caused. The amount of the sanction will be set by taking into account the aggravating or extenuating circumstances, the degree of disturbance and alteration of the services and the extent of the damage caused.

The amount of the fines will enter the municipality's treasury and will be imposed with no detriment to other legal actions to favor third parties.

Article 139: **Sanctioning procedure-Providers.** The regulating entity will impose the sanctions foreseen in letter a) of article 137 upon the providers of the service, by enforcing the following procedure:

- a) The administrative process will be promoted *ex officio*, adjusting to legal economy, expeditiousness, efficacy, simplification of formalities, absence of formalism, publicity and impartiality principles, always respecting the right of initiative and defense by the defendant.
- b) Once the corresponding accusation is received of *ex officio* or acknowledgement of an action or omission that might represent an infringement to the current law or an administrative contravention, the regulating entity will appoint a trying commission which will advance the investigation formalities and request whatever evidence or actions that lead to the elucidation of the facts and determining the corresponding responsibilities. Such powers can be endowed to an assistant official. No appeal against the decisions by the trying

- committee will proceed. For the investigation the trying committee will have a time of up to 30 days with no prorogation to conduct it.
- c) In view of the formalities conducted, the charges will be delivered in writing, explaining the facts for the accusation and the defendant will be informed or its representative, granting him a term of 15 days to answer such charges and attach to such document his evidence and other pleas. If the defendant accepts the charges against him, the imposition of the corresponding administrative sanction will be immediately enforced.
 - d) Relevant facts to make a decision on the sanction will be proven by any means, but sticking to the following rules:
 - i) The investigator of the file will agree in opening a probatory term neither longer than 20 nor less than 8 days, so that whatever tests can be practiced for judgement.
 - ii) The defendant will be informed in advance about the beginning of the formalities required to analyze the evidence that might have been admitted
 - iii) The respective notice will inform of the place, date and time where the evidence will be analyzed.
 - e) Once the file has been investigated, the defendant will be able to present his arguments in writing within the 10 days after the corresponding probatory term has expired.
 - f) Once the trying official receives the corresponding arguments, the regulating entity will solve the case, by briefly exposing the proven facts, the evidence that shows the liability by the defendant, the legal provisions infringed or the discharge of such liability, such being the case. This solution will be notified to the defendant personally. Solutions will always be explained.
 - g) In case of an emergency or irreparable damage, the regulating entity will, until the governmental way can go, order the temporal suspension of the act that the sanctioning procedures is enforcing.

Article 140: **Sanctioning procedure-Providers.** The regulating entity will impose, *ex officio* or by receiving the corresponding accusation, the sanctions foreseen in letter b) of article 137, previous hearing with the violator, through an expeditious procedure that will take no longer that five (5) days.

Once the sanction is enforced, the fine is paid and the order by the regulating entity has been issued, any other measure imposed due to such infraction will be suspended.

Paragraph: In order to file the contentious-administrative appeal against the decisions made by the regulating entity, the interested party will bring the evidence, such being the case of having complied with the suspension foreseen in letter g) of the previous article or having paid the fine and execute the order referred to in this article.

Article 141: **Sanctioning procedure- Customers or users.** The regulating entity will impose the customers or users the sanctions foreseen in article 138, previous compliance with the following procedure:

- a) Once the corresponding accusation is received, the regulating entity will appoint a trying commissioner, who will advance the investigation formalities and will request the evidence that helps elucidate the facts.

- b) He will set a date for a hearing within the five (5) days after receiving the accusation, with the participation by the provider of the service and the customer. The versions of both parties will be heard and a decision will be made.
- c) In case one of the parties does not attend the hearing, the hearing will be held with the party that did come and a decision will be made according to the evidence at hand.

Article 142: **Appeal.** The appeal to re-consideration will only apply against the decisions made at the sanctioning processes and, once such appeal terminates, the governmental way will be over and the contentious-administrative one will be available only.

TITLE VI - FINAL PROVISIONS

SINGLE CHAPTER - MODIFICATIONS, DEROGATION AND ENFORCEMENT

Article 143: **Derogation.** Any legal provisions that oppose to this current law are derogated.

Article 144: **Regulation.** This law will be regulated.

Article 145: **Enforcement.** This law will be put into force three (3) months from its promulgation.