

CITY OF SOUTH TUCSON ORDINANCE NO: 11-06

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, RELATING TO CHAPTER 20, SOLID WASTE; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AMENDING THE SOUTH TUCSON CITY CODE BY AMENDING CHAPTER 20, ARTICLE I, SECTIONS 20-1(g) AND (y) 20-9; 20-25; 20-28; 20-29; AND 20-30; THEREOF; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA AS FOLLOWS:

Section 1: Adoption by Reference.

That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of South Tucson, being marked and designated as Amended Chapter 20 [SOLID WASTE] governing all business transactions for the purposes of revenue and regulation be and are hereby adopted, by reference.

State law reference — Adoption by reference, A.R.S. §§ 9-801 and 9-802

Section 2: Revisions, Additions, Changes and/or Renumbering.

(Code 1976, § 9.114) (Code 2009; Ord. 11-06, (August 1, 2011))

Chapter 20, Section 20-1 (g), (g); 20-9; 20-25; 20-28; 20-29; AND 20-30:

(Code 2006; Ord. No. 06-02, 4-10-06) (Code 2011; Ord. 11-06, (August 1, 2011))

Section 3: Adoption of Amendments Chapter 20, Sections **20-1 (g), (g); 20-9; 20-25; 20-28; 20-29; and 20-30** are enacted for the purpose of revising, updating and amending revenue and regulation provisions in those Chapters.

Section 4: That Chapter 20, Ord. 09-05, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of South Tucson,

Arizona hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase, irrespective of the fact that any sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6: That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of actions acquired or existing, under any section or ordinance or part of an ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7: That the various City Officers and Official(s) and/or any other duly appointed deputy are authorized and directed to perform all acts necessary or desirable to give effect and to carry out all the duties authorized under this Ordinance and the City Code.

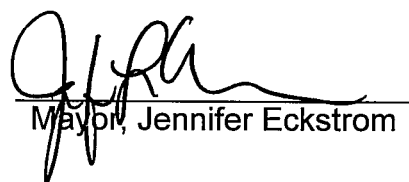
Section 8: That where this Ordinance conflicts or overlaps with any other statute, ordinance, code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

Section 9: The City Clerk is ordered and directed to cause this ordinance to be published.

Section 10: The City Clerk shall attest to the adoption of this Ordinance and cause same to be maintained as a public record as required by law. This Ordinance shall become effective thirty (30) days after the Mayor and Council perform a reading, conduct a public hearing, publication as required by law, passage and adoption thereof.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this 1st day of August, 2011.

APPROVED/EXECUTED



Mayor, Jennifer Eckstrom

ATTEST:

APPROVED AS TO FORM:



City Clerk, Veronica B. Moreno



City Attorney, Hector M. Figueroa

Chapter 20

SOLID WASTE*

* **State Law References:** Solid waste generally, A.R.S. § 49-701 et seq.; municipal authority relative thereto, A.R.S. §§ 49-704, 49-741 et seq., 49-765; public dumps, A.R.S. § 9-441 et seq.; municipal utilities generally, A.R.S. § 9-511 et seq.; littering prohibited, A.R.S. § 13-1603.

Art. I. In General, §§ 20-1--20-20

Art. II. Municipal Removal and Collection Service, §§ 20-21--20-40

Art. III. Accumulations and Deposits, §§ 20-41--20-45

ARTICLE I.

IN GENERAL

20-1 Definitions.

The following words and phrases, for the purpose of this Chapter, are defined and shall be construed as hereunder set out:

- (a) City Manager. "City Manager" shall mean the City Manager of the City of South Tucson ("City") or his or her designee.
- (b) Code Enforcement Official. "Code Enforcement Official" shall mean the Zoning Administrator or Building Code Enforcement Official of the City of South Tucson ("City") or his or her designee.
- (c) Collection. "Collection" shall mean the operation of gathering together within the City and/or transporting by means of a motor vehicle any solid waste or recyclable material.
- (d) Collector. "Collector" shall mean any person who has been issued a franchise, permit or license to provide residential or commercial/industrial solid waste or recyclable materials collection services in the City.
- (e) Commercial/Industrial Business Owner. "Commercial/industrial business owner" shall mean any person, firm, corporation or other enterprise or organization holding or occupying, singly or with others, commercial/industrial premises, whether or not the holder of the title of the commercial/industrial premises.
- (f) Commercial/Industrial Collector. "Commercial/industrial collector" means a collector providing solid waste collection services to commercial and industrial premises, including construction and/or demolition

sites.

(g) Commercial/Industrial Premises. "Commercial/industrial premises" shall mean all occupied real property in the City except residential premises, and shall include without limitation, wholesale or retail establishments, restaurants, other food establishments, bars, stores, shops, offices, manufacturing, repair, research and development, professional, services, sports or recreational facilities and construction and demolition sites.

(h) Construction Site or Demolition Site. "Construction site" or "demolition site" shall mean any real property in the City in, on or from which a building or structure is being fabricated, assembled, erected or demolished and which produces construction or demolition solid waste which must be removed from the property, and requires the use of commercial refuse containers.

(i) Construction or Demolition Waste. "Construction or demolition waste" shall mean any solid waste generated as the result of construction or demolition, including without limitation discarded packaging or containers and waste construction materials, whether brought on site for fabrication or used in construction or resulting from demolition, excluding liquid waste and hazardous waste.

(j) Disposal. "Disposal" means the complete operation of treating and/or disposing of solid waste after the collection thereof.

(k) Hazardous Waste. "Hazardous waste" shall mean and include waste defined as hazardous under applicable federal or state law, namely, a waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may do either of the following: (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" includes extremely hazardous waste, acutely hazardous waste, medical (biohazardous) waste and such other waste as may hereafter from time to time be designated as such by a Public Agency. *Hazardous waste* has the meaning assigned in A.R.S. § 49-921.

(l) Holiday. "Holiday" shall mean:

New Year's Day

Memorial Day

Independence Day

Thanksgiving Day

Christmas Day

"Holiday" shall also mean any other day designated as such in a permit and/or license between a collector and City.

(m) In the City or Within the City. "In the City" or "Within the City" shall mean within the City limits of the City of South Tucson as such limits now exist or may hereafter exist by virtue of the annexation of territory to or detachment of territory from the present limits of the City.

(n) Manure. "Manure" shall mean the waste droppings from any animal not disposed of through sewers.

(o) Person. "Person" shall mean any individual, association, firm, partnership, corporation, or any other group or combination thereof acting as a unit.

(p) Processing. "Processing" means the reduction, separation, recovery and conversion of solid waste.

(q) Public Agency. "Public agency" shall mean any governmental agency or department thereof, whether, Federal, State, or local.

(r) Public Works Director. "Public Works Director" shall mean the Public Works Director of the City of South Tucson ("City") or his or her designee.

(s) Recyclable Materials. "Recyclable materials" shall mean the following solid waste materials generated on or emanating from residential or commercial/industrial premises and no longer useful or wanted thereon: glass bottles and jars – any food or beverage container (excluding ceramics and chemical containers); aluminum cans, foil, pie tins and similar items (excluding dirt or organic material); steel or bi-metal cans not to exceed one (1) gallon size; PET – plastic soda bottles or other bottles with the designated "PET" symbol; HDPE – plastic milk and water bottles with the designated "PET" symbol (excluding detergent or bleach bottles and other plastic products); newspaper; cardboard – separated and not having waxed surfaces; computer printout (excluding carbon); and white ledger – white bond paper, office paper, white envelopes (excluding coated paper); and such additional materials as the City Council may designate from time to time.

(t) Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(u) Recycling Container. "Recycling container" shall mean a container provided to residential premises for use in collecting and moving recyclable materials to curbside for collection by the collector.

(v) Residential Collector. "Residential collector" means the collector who collects solid waste and recyclable materials from residential premises under a franchise, permit or license.

(w) Residential Renter. "Residential Renter" shall mean any person holding and/or occupying residential premises, whether or not the owner, singly or with his or her family, in the City.

(x) Residential Owner. "Residential owner" shall mean the owner of any residential premises within the City.

(y) Residential Premises. "Residential premises" shall mean all properties containing residential dwelling units, including single-family dwellings, duplexes, mobile home parks, trailer parks, rooming houses, boarding houses, and multifamily units such as apartments, condominiums, and townhouse complexes.

(z) Solid Waste. "Solid waste" shall mean all putrescible and nonputrescible solid and semisolid wastes, generated in or upon, related to the occupancy of, remaining in or emanating from residential premises or commercial/industrial premises, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, recyclable materials, yard waste, food waste and other solid and semisolid wastes, excluding liquid wastes and abandoned vehicles; provided however, that "solid waste" shall not include hazardous waste.

(za) Solid Waste Container. "Solid waste container" shall mean any vessel, tank, receptacle, box cart, bin, roll-off or compactor used or intended to be used for the purpose of holding solid waste for collection.

(zb) Standard Solid Waste Container. "Standard solid waste container" shall mean a metal or hard plastic cart or refuse container used in connection with residential premises, designed for either manual or automated pickup, a bin or refuse container used in connection with commercial/industrial premises, designed for mechanical pick-up by collection vehicles and equipped with a lid, or where appropriate for the commercial/industrial premises being served, a roll-off body or compactor, and shall include other types of containers suitable for the storage and collection of residential or commercial/industrial refuse.

Part 2. Permits, Licenses and Rates

20-2 License Requirement.

No person shall collect, process and/or dispose of solid waste or recyclable materials in the City unless such person has been awarded a solid waste collector permit or license by the City, except as otherwise specifically provided in this Chapter. The City may award an exclusive or non-exclusive license or permit to provide service to residential premises, and a non-exclusive license of permit to provide service to commercial/industrial premises.

20-3 Collector Fees.

Each collector shall pay an annual fee in an amount determined by resolution of the City Council.

20-4 Transfer of Permit or Franchise.

An existing solid waste collector permit or license issued under this Chapter shall not be transferred, delegated, sublet, subcontracted to or assigned to another person without the approval of the City Council. This restriction includes the transfer of ownership or the majority of the ownership or control of the collector, or transfer of a majority of the collector stock to another person, unless the transferee is an affiliate of the

collector.

20-5 Revocation of Permit or Franchise.

After a hearing as provided in this Chapter, the City Manager may revoke or suspend any solid waste collector permit or license for violation of a provision of this Chapter.

20-6 Notice of Hearing – Revocation.

The City Manager shall mail notice of a hearing to revoke a solid waste collector permit or license to the collector not less than fifteen (15) days prior to such hearing. In the event of the revocation of a permit or license, the City Manager shall notify the applicant in writing of the reasons therefore. Such notification may be made in person or by mail.

20-7 Appeals.

Within fifteen (15) calendar days after notice by the City Manager of revocation of a solid waste collection permit or license has been sent to the collector, the collector may file with the City Clerk an appeal of such decision to the City Council.

20-8 Council Action.

The City Council may either affirm the action of the City Manager, send the matter back to the City Manager for further consideration, or set the matter for hearing before itself. Notice of such hearing shall be sent to the collector not less than fifteen (15) days prior to the hearing.

20-9 Rates.

The City Council may, by resolution, establish rates to be charged to residential premises by the collector for the collection of solid waste and recyclable materials. Said residential premises rates shall apply to each residential dwelling unit within a residential premises. The City will determine the number of residential dwelling units at each residential premises. No collector shall charge any rate or fee which is greater than the rate established by the City Council, unless otherwise authorized in this Chapter. Every residential premises shall pay the rates established from time to time by the City Council, regardless whether collection services are rendered to such residential premises. The owner of each residential premises, including those having multiple dwelling units, shall be responsible for payment of such collection rates unless payment is otherwise made to the collector.

Part 3. Vehicles

20-10 Vehicle Identification.

No person may operate any vehicle for the collection of solid waste generated within the City other than a collector who has a valid solid waste collection permit or license and who has paid all required fees and charges.

20-11 Vehicle Standards.

Any vehicle utilized by a collector for the collection, transportation or disposal of solid waste and/or recyclable materials shall comply with the following standards:

- (a) Each vehicle shall be constructed and used so that no material amounts of solid waste, oil, grease, or other substance will blow, fall or leak out of the vehicle.
- (b) A broom and shovel shall be carried on each vehicle at all times.
- (c) Each vehicle shall comply with all applicable statutes, laws, or ordinances of any public agency.
- (d) All vehicles shall at all times be kept clean and sanitary, in good repair and well and uniformly painted to the satisfaction of the City Manager.
- (e) Each vehicle shall be equipped with watertight bodies fitted with close-fitting metal covers.
- (f) The collector's name or firm name, telephone number and truck number shall be printed or painted in legible letters or numbers on both sides of all of collector's vehicles used in the City.
- (g) All equipment shall be maintained at all times in a manner to prevent unnecessary noise during its operation.

20-12 Operation of Equipment.

All persons operating solid waste collection and transportation equipment shall do so in compliance with all applicable Federal, State and local laws and ordinances. Such vehicles shall not be operated in a manner which results in undue interference with normal traffic flows. No such vehicle shall be parked or left unattended on the public streets. No such vehicle shall be parked overnight on a public street or thoroughfare in the City.

20-13 Violations.

Should the City Manager give notification at any time to a collector that any of such collector's vehicles is not in compliance with the standards of this Chapter, such vehicle shall be forthwith removed from service by the collector. The vehicle shall not again be utilized in the City until it has been inspected and approved by the City Manager. The collector shall maintain its regular collection schedule regardless of such action.

Part 4. Exclusions

20-14 Residential Householder Exclusion.

No provision of this Chapter shall prevent a residential premises owner, lessee, tenant or occupant from collecting and disposing of occasional loads of solid waste generated in or on their residential premises, using their own vehicle, or from composting green waste, or from selling or donating recyclables generated in or on their residential premises.

20-15 Gardener's Exclusion.

No provisions of this Chapter shall prevent a gardener, tree trimmer or person engaged in a similar trade from collecting and disposing of grass cuttings, prunings, and other similar material not containing garbage as an incidental portion of providing such gardening, tree trimming or similar service.

20-16 Commercial/Industrial Exclusions.

(a) No provision of this Chapter shall prevent a commercial/industrial business owner from selling to a buyer, for a monetary or other valuable consideration, any source separated recyclables, including without limitation, any saleable scrap, discard, reject, by-product, ferrous or nonferrous metal, worn-out or defective part, junk, pallet, packaging material, paper or other similar item generated in, on or by a commercial/industrial premises or business and no longer useful to such commercial/industrial business but having market value, whether such buyer is a recycler, junk dealer, or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce, provided however, that such buyer is not engaged in the business of collecting solid waste for a fee or other charge or consideration and that no such materials are transported to a landfill or transfer station for disposition. "Source separated recyclables" within the meaning of this Section shall mean recyclables separated on the commercial/industrial premises from solid waste for the purpose of sale, not mixed with or containing more than incidental or minimal solid waste, and having a market value.

(b) No provision of this Chapter shall prevent a recycler, junk dealer or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce and who is not engaged in the business of collecting solid waste or providing solid waste collection services for a fee or other charge, or consideration, from buying any materials mentioned in this subsection (a) for a monetary or other valuable consideration and who buys such materials for marketing and not for disposition in a landfill or transfer station, nor shall any provision of this Chapter prevent such recycler, junk dealer or enterprise who buys such materials from removing and transporting such materials to a destination for marketing in the stream of commerce. No such buyer shall buy or transport such material without a business license issued by the City.

20-17 Contractors' Exclusions.

No provision of this Chapter shall prevent a licensed contractor having a contract for the demolition and/or reconstruction of a building, structure, pavement, or concrete installation from marketing any saleable items salvaged from such demolition or reconstruction, or from having such salvageable items or demolition waste removed and transported from the premises on which such waste is generated, pursuant to the provisions of the demolition and/or construction contract, using its own equipment and employees.

20-17 Document Destruction Service.

No provision of this Chapter shall prevent a confidential or sensitive document destruction service from transporting or disposing of documents by shredding, lumping, incinerating, or other means, as a part of such document destruction service.

Part 5. General Requirements

20-18 Workers' Compensation Insurance.

Each collector shall at all times provide, at its own expense, Workers' Compensation Insurance coverage for all its employees. Each collector shall file and maintain a certificate or certificates with the City Manager showing said insurance to be in full force and effect at all times that the collector conducts collection in the City.

20-19 Collector's Liability Insurance.

Each collector shall furnish the City a policy or certificate of commercial general liability insurance insuring the collector against bodily injury and property damage with limits not less than \$1,000,000 per occurrence/\$2,000,000 aggregate and automobile liability in the sum of not less than \$1,000,000 combined single limit. With respect to the operations performed by the collector for the City, such insurance shall be primary to any insurance maintained by the City, shall be procured from an insurer authorized to do business in the State of Arizona, shall name the City and its officers, employees and agents as additional insureds and shall not be cancelled without first giving the City thirty (30) days prior written notice (ten (10) days in the event of cancellation for non-payment). Each collector shall file and maintain a certificate or certificates with the City Manager showing said insurance to be in full force and effect at all times that the collector conducts collection in the City.

20-20 Noise.

A collector shall so conduct its operations as to minimize to the extent reasonably possible the obstruction and inconvenience to public traffic, or disruption to the peace and quiet of the area within which collections are made.

20-21 Office for Inquiries and Complaints.

Every collector shall maintain an office at some fixed location and shall maintain a telephone at the office, listed in the telephone directory including South Tucson in the name under which it conducts business in the City, and shall at all times during the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, except holidays, have some person at said office to answer inquiries and receive complaints. The telephone number shall be a toll-free number from all portions of the City.

20-22 Litter.

Any person who deposits or causes to be deposited any solid waste or recyclable material on the public right-of-way or on private property within public view, except in a container provided therefor as herein provided, shall immediately sweep up and remove the same.

Any person, firm or corporation violating any provision of this Section shall be guilty of an infraction and shall be punishable as provided in this Code.

20-23 Transfer of Loads on Public Streets.

No collector shall transfer solid waste or recyclable materials from one collection vehicle to another on any public street or road unless such transfer is essential to the method of operation and is approved by the City Administrator, or is necessary owing to mechanical failure or accidental damage to a vehicle.

20-24 Unauthorized Removal from Containers.

No person other than the collector who provides collection services at the premises, or the owner, lessee, tenant or occupant of a residential premises or commercial premises shall remove any material from any container that has been placed for collection.

Part 6. Residential Collection and Recycling

20-25 Residential Collection – Mandatory Service.

No owner, lessee, tenant or occupant of a residential premises shall enter into an agreement for residential solid waste or recyclable material collection services with a vendor other than a collector. No person, firm, corporation or other solid waste enterprise other than a collector shall negotiate or contract for, undertake to receive, collect or transport solid waste, including recyclable materials, from within the City except as provided in Part 4 above.

20-26 Residential Collection – Disposal and Status of Solid Waste or Recyclable Materials.

(a) Solid Waste. All solid waste collected by a collector shall be processed and/or disposed of by the collector in accordance with all Federal, State and local laws and regulations. Upon placement at the residential curbside for collection, all solid waste materials shall become the property of the collector.

(b) Recyclable Material. Upon placement at the residential curbside for collection, all recyclable materials shall become the property of the collector.

20-27 Residential Collection – Frequency and Hours of Collection.

(a) Frequency. The residential collector shall collect all solid waste and recyclable materials placed for collection in compliance with this Chapter from each occupied residential premises being serviced, in accordance with a route schedule. Said schedule shall identify the routes and days of pickup, and shall be provided to the City Manager for review and approval. Unless otherwise approved by the City Council, collection of solid waste shall take place no less than once in each calendar week. Collection of recyclable materials shall take place no less than once in each calendar week. Not more than seven (7) days shall elapse between solid waste collections, nor between recyclable material collections due to a change in the route schedule.

When the collection day falls on a holiday, the collector shall choose one (1) of the following options:

(1) Collect on the holiday.

(2) Collect one (1) day prior to or one (1) day after the holiday, providing regular weekly collection can be maintained as provided in the first paragraph of this Section.

(b) Hours. No collection shall take place between the hours of 7:00 p.m. and 6:00 a.m.. No collection shall be made on Sunday unless specifically authorized in writing by the City Manager.

20-28 Residential Collection – Solid Waste Containers.

The collector shall provide each residential premises with one (1) standard solid waste container, or such other amount or size as determined by collector. Additional containers may be provided for an additional cost, if requested by the residential premises or necessary to handle the volume of solid waste generated at a residential premises. Such containers shall be the property of the collector. No cardboard box or paper bag may be used as a container for solid waste.

Every collector who provides a solid waste container used for the storage of residential solid waste shall place and maintain on the outside of such container, bin or other equipment, in legible letters and numerals said collector's name or firm name, and telephone number.

20-29 Residential Collection – Recyclable Materials Containers.

At no additional cost, the collector shall provide each residential premises with one (1) recycling container, or such other amount as determined by collector. Additional recycling containers may be provided for an additional cost, if requested by the residential householder or necessary to handle the volume of recyclable materials generated at a residential premises. Such containers shall be the property of the collector. No cardboard box or paper bag may be used as a container for recyclable materials.

20-30 Residential Collection – Placement of Containers.

Every single-family residential premises shall place each solid waste container and/or recycling container for collection at the curb in front of the premises. No person shall place such containers or bundles for collection prior to 7:00 p.m. on the day prior to the day on which collection is scheduled to commence. No person shall leave such containers or bundles at the place of collection after 10:00 p.m. on the day of collection. Residential premises other than single-family premises shall locate each solid waste container or recycling container at a location mutually agreeable to such residential premises and collector.

20-31 Residential Collection – Care of Containers.

Upon collection, all solid waste and recycling containers shall be replaced in an upright position, at the approximate location where found by the collector.

20-32 Residential Collection – Special Collections.

The collector shall provide, upon request from a residential householder, special collection of solid waste, at such times and at such rates as may be agreed upon by the collector and the person requesting the service.

Part 7. Commercial/Industrial Collection

20-33 Commercial/Industrial.

No person, firm, corporation or other solid waste enterprise other than a collector shall negotiate or contract for, undertake to receive, collect or transport solid waste from a commercial/industrial premises within the City except as provided in Part 4 above.

Except as otherwise provided in this Chapter, each owner, lessee, tenant or occupant of a commercial/industrial premises shall utilize the services of a collector for the collection of solid waste from the commercial/industrial premises and shall pay for such services for the fees agreed to with the collector, or, if applicable, the fees approved by the City Council. No owner, lessee, tenant or occupant of a commercial/industrial premises shall enter into an agreement for solid waste collection services with any person, firm, or corporation other than a collector.

20-34 Commercial/Industrial – Disposal and Status of Solid Waste.

Collectors shall collect, process and dispose of all solid waste generated and presented for collection at each commercial/industrial premises in conformity with the provisions of this Chapter. Any such collection and/or disposal shall be in accordance with all applicable Federal, State, and local laws and regulations.

20-35 Commercial/Industrial – Frequency and Hours of Collection.

(a) Frequency. Commercial/industrial collectors shall collect solid waste from commercial/industrial premises on a schedule which is agreed upon between the commercial/industrial business owner and the collector. In no event shall such collection schedule permit the accumulation of solid waste in quantities detrimental to public health or safety.

(b) Hours. No collection of solid waste from multiple housing or within five hundred (500) feet of occupied residential property shall be made between the hours of 7:00 p.m. and 6:00 a.m.. No collection shall be made on Sunday unless specifically authorized in writing by the City Manager.

20-36 Commercial/Industrial – Containers.

Every commercial/industrial business served by the franchised collector shall have the option to: (i) provide the necessary standard solid waste container or containers to accommodate solid waste generated from said commercial/industrial business; or (ii) to use the container or containers provided by the collector. Any such solid waste containers shall be a standard solid waste container which is compatible with the collector's collection equipment.

Every collector who provides any container or other equipment used for the storage of commercial/industrial solid waste shall:

(a) Place and maintain on the outside of such container, bin or other equipment, in legible letters and numerals said collector's name or firm name, and telephone number; and

(b) Provide containers on casters and/or hasps or locks upon request by the commercial/industrial business owner, subject to collector's fee.

20-37 Commercial/Industrial – Maintenance and Placement of Containers.

Solid waste containers provided by the collector shall be maintained in a clean and healthful condition by the collector. Solid waste containers which are not provided by the collector shall be maintained in a clean and healthful condition by the commercial/industrial business owner. Every commercial/industrial business owner shall provide a solid waste container location on the commercial/industrial premises, subject to collector's approval, and shall keep said area in good repair, clean and free of refuse outside of the container. Every collector shall remove any solid waste or litter that is spilled or deposited on the ground as a result of the collector's emptying of the container or other activities of the collector.

20-38 Commercial/Industrial – Care of Containers.

Upon collection of solid waste by the collector, all containers shall be replaced, upright, where found. Collectors shall not break, damage, roughly handle or destroy containers owned by said commercial/industrial business owner.

20-39 Commercial/Industrial – Overflowing Containers

Solid waste containers may not be overfilled by the commercial/industrial business owner beyond their capacity. Where the collector identifies instances of overfilling, it shall clean up any solid waste that is spilled or deposited, and may document the overfilling through the use of film or digital photography. The collector may present the evidence of overfilling to both the City Manager and the commercial/industrial business owner. Where such evidence is presented to the commercial/industrial business owner on two occasions, but the collector documents a third instance of overfilling within one year of the most recent presentation, the collector is authorized to deliver the next larger-sized container to the commercial/industrial premises and/or to adjust the service rate to the rate then in effect for the next larger-sized container.

20-40 Commercial/Industrial – Special Circumstances.

If particular commercial/industrial business premises require collections at times, frequencies or in a manner such that the franchised collector is unable to perform said collection in the normal course of its business, or where unusual quantities of solid waste or special types of material are to be collected and disposed of, or where special methods of handling are required, the collector and the commercial/industrial business owner may make arrangements for such collection and rates on mutually agreeable terms.

Sec. 20-41. Violations.

(a) *Criminal penalties.* Violation of any part of this chapter is a misdemeanor.

(b) *Civil remedies.* The city may employ any remedies available at law, including the lien provisions of subsection (c) of this section, to collect fees or costs assessed for the regular or compulsory collection and removal of solid waste, recyclables or other materials under this chapter or the cost to repair or replace damaged

or stolen containers independent of any criminal penalties under subsection (a) of this section.

(c) *Lien.* The filing and recording of an assessment under section 20-45, subsection (c) in the office of the county recorder shall constitute a lien against the residential or commercial/industrial premises. Any such lien shall be subject to and inferior to any lien for general taxes assessed and unpaid, and to all previously recorded mortgages and encumbrances. A prior assessment for costs under sections 20-43, subsection (c) and 20-44, subsection (c) shall not bar a subsequent assessment of costs and liens for subsequent collection and removal of solid waste, recyclables or other materials by the city under sections 20-43, subsection (c) and 20-44, subsection (c). The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof.

The city may bring an action to enforce the lien in a court of competent jurisdiction. Judicial sale of the property to satisfy the lien shall be made upon a judgment of foreclosure and order of sale. Failure on the part of the city to so enforce the lien shall not affect the validity of the lien.

(Code 1976, § 10.110; Ord. No. 87-08, 1-25-88)

State Law References: Liens, A.R.S. § 9-499(D), (E).

Sec. 20-42. Rules and regulations; administration and enforcement.

(a) The director shall implement and enforce the provisions of this chapter to promote the public health and safety, regulate and control the collection and disposal of solid waste, and provide, or select, a public solid waste disposal site for solid waste originating within the city.

(b) The director shall cause to be formulated rules and regulations necessary to the efficient implementation and enforcement of all provisions of this chapter. When approved by the common council, such rules and regulations shall be binding upon and obeyed by all persons affected by this chapter after any such rules and regulations shall have been filed in the office of the city clerk as a public record and there kept for use or inspection by any member of the public at any time during the regular office hours of that office. A printed copy of such rules and regulations shall be furnished any member of the public upon request and payment of a reasonable charge therefor as set forth in such printed copy.

(c) The director shall establish and publish a schedule of days and hours for the regular removal of refuse and debris as well as a policy for the removal of refuse and debris on an "as-needed" basis.

(Code 1976, §§ 10.101(2), 10.103; Ord. No. 87-08, 1-25-88)

Sec. 20-44. Authorized collection agencies.

It is unlawful for any person, other than an agency of the city, or other person licensed by the city, to engage in the business of collecting and transporting solid waste generated within the city, except as otherwise provided in this chapter.

(Code 1976, § 10.102; Ord. No. 87-08, 1-25-88)

Sec. 20-45. Removal and transport by persons in business; license, etc.

Any person who engages in the business of removing, transporting, and disposal of refuse and debris from private property located within the city shall obtain a license to conduct such business from the city and shall comply with all city, state, county and federal statutes and regulations including all provisions of this chapter.

(Code 1976, § 10.106(1); Ord. No. 87-08, 1-25-88)

Sec. 20-46. Hauling of refuse and debris.

It is unlawful for any person to haul, or cause to be hauled, on or along any public street or alley any refuse or debris unless it is contained in vehicles or receptacles so constructed and maintained to prevent the contents from falling, leaking, spilling or being otherwise lost or ejected from such vehicle or receptacle, or to prevent insects and animals from having access to its contents. Each such vehicle or receptacle shall have securely fastened thereto a cover, which may be a tarpaulin, netting or similar material of sufficient density and strength to prevent ejection or loss of any refuse or debris from the vehicle or receptacle. Every person hauling refuse or debris, on or along any street or alley shall replace immediately in the conveyance used for such hauling any of the contents which fall therefrom in or upon any street, alley, or other public or private property.

(Code 1976, § 10.106(3); Ord. No. 87-08, 1-25-88)

ARTICLE III.

ACCUMULATIONS AND DEPOSITS*

* **State Law References:** Lot clearing, A.R.S. § 9-499.

Sec. 20-47. Unlawful deposits.

(a) The owner, lessee, tenant or occupant of any private property shall be responsible for the sanitary condition of the property. No person shall keep in or about any property occupied by such person any refuse, or debris unless the same is kept in authorized containers or receptacles.

(b) It is unlawful for any person to deposit, or cause to be deposited, any refuse or debris upon public property (other than in containers specifically provided for such purpose), or upon the private property or refuse container of another without the written approval of the city or the owner, occupant or lessee of the private property.

(c) It is unlawful for any person to authorize the deposit, or to deposit, refuse or debris on public or

private property for the purpose of circumventing the payment of any city fees provided for under this chapter.

(Code 1976, § 10.107; Ord. No. 87-08, 1-25-88)

State Law References: Mandatory provisions, A.R.S. § 9-499(A)(3); littering prohibited, A.R.S. § 13-1603.

Sec. 20-48. Inspection of private property.

(a) The Public Works Director or Code Enforcement Officials may enter onto private property within the city to inspect for actual or potential hazards to the public health and safety, including hazards resulting from the accumulation of refuse, debris, or hazardous waste. If the director is denied access to the property for the purpose of conducting such an inspection by the owner, occupant or lessee of the private property, the director may file a complaint, under oath to a magistrate, pursuant to A.R.S. § 36-603. The complaint shall specify the necessity of entry onto the property for inspection for and/or abatement of any hazard to the public health and safety. Upon the issuance by a magistrate of a warrant to enter and inspect, the Public Works Director or Code Enforcement Officials may enter and inspect the property between the hours of sunrise and sunset when accompanied by a peace officer.

(b) The lessor of property or the agent thereof may enter the property of the lessee to inspect for and/or abate any hazard to the public health and safety pursuant to A.R.S. § 33-1343.

(Code 1976, § 10.108(1); Ord. No. 87-08, 1-25-88)

Sec. 20-49. Emergency lot clearing.

(a) *Scope.* This section applies to emergency situations.

(b) *Waiver of notice.* Notwithstanding any requirements for notice provided under section 20-44, subsection (b), the city manager may declare certain violations of section 20-21, subsection (d) or section 20-41 to be an extreme and present danger to the public health and safety, which requires the city to take immediate action for the public welfare. The city manager shall make the determination in writing, describing with particularity the reasons for such determination.

(c) *Removal by city.* Upon decision by the city manager under subsection (b) of this section, the city manager may then order the director to remove, or cause to be removed, the subject refuse or debris and shall subject the owner, lessee, tenant or occupant to liability as provided in section 20-45.

(d) *Notice of assessment for violations.* The city will assess the owner, lessee, tenant, or occupant, either jointly or severally, for all costs associated with the removal of the refuse, debris, or hazardous waste under subsection (c) of this section if the city manager determines that the owner, lessee, tenant or occupant was, jointly or severally, responsible for the presence of the refuse, debris, or hazardous waste constituting a violation of section 20-41. Upon determination by the city manager that the owner, lessee, tenant or occupant was in violation of section 20-41 and that they, jointly or severally, should be assessed the costs to collect and remove the nonconforming refuse, debris or hazardous waste, as provided under section 20-45, the city manager

shall serve notice of the assessment upon the owner, lessee, tenant or occupant of the property. The notice shall be served personally or by certified or registered mail to the owner of the property at the owner's last-known address or to the lessee, tenant or occupant, and if unoccupied, by posting notice in a conspicuous place on the property. The notice shall, at a minimum:

- (1) Explain the nature of the violation.
- (2) Provide a copy of the city manager's written determination of "extreme and present danger" to the public health and safety.
- (3) Provide an explanation of the costs incurred to bring the property into conformance with section 20-41.
- (4) Provide that the city manager has determined that the owner, lessee, tenant or occupant are jointly or severally responsible for the presence of the refuse, debris or hazardous waste constituting a violation of section 20-41.
- (5) Demand payment of all costs incurred.
- (6) Inform the owner, lessee, tenant or occupant of their right to appeal the city manager's determination of extreme and present danger and/or the assessment under subsection (e) of this section.

(e) *Appeals.* The owner, lessee, tenant or occupant may appeal the city manager's determination of violation of section 20-41 and/or the notice of assessment under subsection (d) of this section to the common council. The appeal shall be made in writing to the common council within thirty (30) days of receipt of notice of the assessment under subsection (d) of this section. Filing of the appeal shall stay any requirement to pay the assessment by the appellant until the common council has rendered its final decision. The written appeal shall, at a minimum:

- (1) Request a hearing before the common council at its earliest convenience.
- (2) Cite with specificity, the decision being appealed.
- (3) Provide an address where appellant may receive notice of the hearing date.

The hearing shall be held before the common council in open session. The appellant shall be given an opportunity to present oral and documentary evidence in support of the appeal. The appellant may be represented by legal counsel or other competent representative. The common council shall uphold, modify or reverse the city manager's decision, and common council's decision shall constitute exhaustion of all administrative remedies.

(Code 1976, § 10.108(5)--(8); Ord. No. 87-08, 1-25-88)

Sec. 20-50. Nonemergency lot clearing.

(a) *Scope.* This section applies to nonemergency situations.

(b) *Notice to remove.* Upon determination by the director that the condition of private property violates section 20-41, the owner, lessee, tenant, or occupant of the private property shall be served with written notice of such violation. The notice shall be served personally or by certified or registered mail to the owner of the property at the owner's last-known address or to the lessee, tenant or occupant, and if unoccupied, by posting the notice in a conspicuous place on the property. The notice shall also:

- (1) Demand that the property be brought into conformance with section 20-41 within thirty (30) days of service of the notice.
- (2) Inform the owner, lessee, tenant or occupant that if the property is not brought into conformance with section 20-41, within the time provided, that the city will exercise its authority under subsection (d) of this section.
- (3) Provide the owner, lessee, tenant or occupant with an estimate of the cost which the city will incur to exercise its authority under subsection (d) of this section.
- (4) Inform the owner, lessee, tenant or occupant that they shall be jointly or severally liable for the costs or expenses, under section 20-45, in addition to any penalties which may be imposed.
- (5) Inform the owner, lessee, tenant or occupant of their right to appeal this notice under subsection (c) of this section.

State Law References: Notice required, A.R.S. § 9-499(A)(1).

(c) *Appeals.* The owner, tenant, lessee or occupant may appeal the director's notice, in writing, to the city manager within thirty (30) calendar days after the notice was served on any of the mentioned persons or was properly posted. The appeal shall be delivered personally or by registered or certified mail. Appellants filing of an appeal, as provided hereunder, shall stay any further action pursuant to the director's notice until the city manager renders his decision on the matter. The appeal shall, at a minimum, identify the appellant, describe his interest in the property, and explain the appellant's basis for objection to the notice. The city manager shall uphold, reverse, or modify the director's notice and notify appellant, by certified or registered mail, of his decision. The city manager's decision shall constitute an exhaustion of all appellant's administrative remedies for purposes of this section. If the city manager upholds or modifies the director's decision, he shall provide the owner, tenant, lessee or occupant with an additional thirty (30) days from the date of mailing the decision to appellant, to the address provided by appellant, to bring the property into compliance with section 20-41 in accordance with the decision.

State Law References: Provisions for appeal required, A.R.S. § 9-499(A)(2).

(d) *Compulsory removal.* If within thirty (30) days after the director has given notice, as provided under subsection (b) of this section, the refuse or debris described in the notice is not removed, and the owner, lessee, tenant or occupant has not appealed the notice to the city manager, as provided under subsection (c) of

this section, the director may then remove or cause to be removed, the refuse or debris and shall subject the owner, lessee, tenant or occupant to liability as provided in section 20-45.

(Code 1976, § 10.108(2)--(4); Ord. No. 87-08, 1-25-88)

State Law References: Authorized provisions, A.R.S. § 9-499(B).

Sec. 20-51. Collection of city's expenses in lot clearing.

(a) The owner, lessee, tenant or occupant of private property, jointly or severally, from which the city collects and removes or causes to be collected and removed any refuse, debris, or hazardous waste under section 20-43, subsection (c) or section 20-44, subsection (e) shall be liable to the city for all costs incurred by the city to bring the property into conformity with law. The liability shall include all costs incurred by the city to collect and remove any refuse, debris and hazardous waste plus a fee of five (5) percent. The city shall retain such fee to cover administrative, inspection, and incidental costs incurred by the city to bring the property into conformance with law.

(b) Once the city has had the refuse, debris or hazardous waste collected and removed or caused it to be collected or removed, under section 20-43, subsection (c) or section 20-44, subsection (e), the city clerk shall prepare a verified statement accounting for all costs and fees incurred by the city. The statement shall also provide the dates that the work was commenced and completed, the street address of the property, the legal description of the property, the name and address of the property owner, the name and address of any private agency that collected and removed the refuse, debris or hazardous waste, and any other information which the city clerk believes is of importance.

(c) The city clerk shall serve the owner, lessee, tenant or occupant of the private property personally or by certified or registered mail at the property address with a copy of the assessment and demand that full payment be made within thirty (30) calendar days of making the service of the demand. If the owner is not the occupant of the property, the owner shall be served personally or by certified or registered mail at his last-known address. A duplicate copy of the assessment shall be filed and recorded against the property in the office of the county recorder in accordance with section 20-2, subsection (c).

(Code 1976, § 10.109; Ord. No. 87-08, 1-25-88)

State Law References: Authority to assess costs, A.R.S. § 9-499(C), (D).