



CITY OF SOUTH TUCSON ORDINANCE NO: 16-01

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 AND DELETING CHAPTER 20, ARTICLE I, II, III §§ 20-1 THROUGH 20-45 AND CREATING AND ADOPTING SECTIONS 20-1 THROUGH 20-27, SOLID WASTE BY REFERENCE; 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 general and miscellaneous regulations; 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.

That the following Chapter and Sections are created, added, changed and renumbered:

Chapter 20, Section 20-1 – 20-27;
(Code 2016; Ord. No. 16-01, 2-1-27), (February 1, 2016)

Section 3: Adoption of Amendments Chapter 20, Sections **20-1 – 20-27** are enacted for the purpose of revising, updating and amending regulation provisions in those Chapters.

Section 4: That Chapter 20, Ord. 16-01, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.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or any cause or causes of actions acquired or existing, under any section or ordinance or part of an ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.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 February 2016.

APPROVED/EXECUTED



Mayor, Miguel E. Rojas

ATTEST:

APPROVED AS TO FORM:



City Clerk, Veronica B. Moreno



City Attorney, Mark Raven

Chapter 20

SOLID WASTE*

* **State Law References:** Solid waste generally, A.R.S. § 49-701 et seq.; municipal authority relative thereto, A.R.S. §§ 49704, 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.

Definitions.

(A) The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where a different meaning is specified:

APC (Automated Plastic Containers) collection service means collection of refuse in APCs.

City means the City of South Tucson.

City of Tucson fuel price means the price the City of Tucson pays for equipment fuel.

Container means any receptacle built to hold refuse and to be emptied by solid waste collection equipment.

Customer means any person or business entity within the jurisdiction of South Tucson that receives or utilizes collection services offered by the City of Tucson.

Director means the director of the City of Tucson environmental services department, or the director's authorized designee(s).

Dwelling unit means an independent living space with its own permanent provisions for entrance/exit, living, sleeping, eating, cooking and sanitation.

Garbage means all animal and vegetable or food wastes resulting from the processing, handling, preparation, cooking or consumption of food or food materials, or other such matter the accumulation of which may create a nuisance or be deleterious to public health or offensive to sight or smell.

Green waste means waste derived from plants, including tree limbs and branches, stumps, grass clippings and other waste plant material. Green waste does not include processed lumber, paper, cardboard and other manufactured products that are derived from plant material.

Household hazardous waste means certain types of solid waste acceptable to the household hazardous waste program and facility in accordance with 40 CFR 261.

Lot means a separate parcel as recorded in county records.

Mobile home means a non-motorized dwelling, transportable in one (1) or more sections, constructed on a permanent chassis with wheels, suitable for year-round residential occupancy and requiring the same method of water supply, waste disposal, and electrical service as a site-built dwelling. This term does not include a recreational vehicle or a trailer with provisions for living. This term includes any lot with up to four (4) mobile homes.

Multi-family complex means any building or buildings, on abutting lots that have two (2) or more dwelling units and are commonly owned or commonly managed. This term is intended to apply to a duplex, triplex or four-plex.

Owner means one (1) or more persons, jointly or severally, in whom is vested all or part of the legal title to property, or all or part of the beneficial ownership of property. By way of illustration, and not limitation, the term includes any person who is a mortgagee in possession, a trustee, a truster, or a general or limited partner in a partnership.

Person includes a corporation, company, partnership, firm, association, society, governmental entity, or other legal entity, as well as a natural person.

Recyclable materials means materials that are diverted from landfill disposal facilities for beneficial use, as part of a public program or private endeavor.

Refuse means solid waste that contains garbage and is suitable for collection with standard containers and municipal waste collection equipment.

Resident means a person that lives in a dwelling unit and controls the generation and placement of solid waste.

Residential establishment means any building, lot, or complex whose primary use is for one (1) or more dwelling units. This term includes any single family residence and any multi-family complex with up to four (4) dwelling units.

Responsible party means an owner, occupant, tenant, lessor, lessee, resident, manager, licensee, or other person, corporation, company, partnership, association or society residing on, owning or having control over a building, lot or complex, or who possesses, handles, stores or disposes of solid waste.

Roll off collection service means collection of solid waste in metal containers that are loaded onto a truck and transported to a disposal facility to be emptied.

Scavenging means the removal of solid waste from a disposal facility, collection site, collection container, or collection equipment without the permission of the owner or the City of Tucson, or not in accordance with requirements set by the owner or the City of Tucson.

Single family residence means: a "single family dwelling, detached" as defined in state law.

Solid waste means discarded materials resulting from common activities in a municipal community. This term includes refuse, garbage, recyclable materials, construction debris, demolition debris, green waste, and food waste.

Standard residential collection services means APC collection service once per week for refuse and recyclable materials.

Town home means a dwelling unit that is designated for separate ownership on property commonly owned solely by the owners of the separate dwelling units. This term does not include separately owned dwelling units that are operated as a multi-family rental complex or apartment complex, however designated. The terms condominium and townhouse have the same meaning.

(B) Words, terms, and phrases used in this chapter and not specifically defined in this section shall have the meaning commonly understood in the solid waste industry.

Sec. 20-2. Public nuisances, enforcement.

(A) *Civil infraction declared.* Unless otherwise specifically stated in this chapter, a violation of any provision of this chapter shall be deemed a public nuisance and is punishable as a civil infraction pursuant to chapter ____ of this Code.

(B) *Authority to enforce.* Any police or peace officer or city code enforcement officer or designated refuse official (herein, citing official) who observes a violation of any provision of this chapter is empowered to issue a citation or seek a complaint. Prior to issuing a citation or seeking a complaint, the officer or official may, in his or her discretion, issue a written notice of violation allowing the alleged violator to remedy the complaint. An officer or official may issue a citation without first issuing a notice of violation.

(C) *Service.* Service of a written notice of violation shall be deemed effective on the date when written notice is hand delivered or on the date when written notice is mailed by first class mail. Any notice served by first class mail shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. If the premises are unoccupied, service may be made by posting the notice in a conspicuous place on the property such as a front door, entrance gate, or wall.

(D) *Proceedings.* Any civil infraction proceedings to enforce the provisions of this chapter shall be commenced, and summons shall be issued in accordance with the procedures set forth in Arizona Revised Statutes, city ordinance or as provided in the Local Rules of Practice and Procedure. If the city is unable to personally serve the complaint, the complaint may be served in the same manner prescribed for alternative methods of service by the Arizona Rules of Civil Procedure or by certified or registered mail, return receipt

Sec. 20-3. Parties liable.

Any resident or responsible party is jointly and individually liable for complying with the provisions of this chapter and for any violations thereof which may occur on or about or issue from the property upon which the solid waste, refuse, garbage, debris or recyclable material is kept, accumulated, stored, salvaged or disposed from. Multiple residents sharing a refuse container or containers shall be jointly and individually strictly liable for complying with all the provisions of this chapter with regard to the placement and use of refuse containers.

Sec. 20-4. Administrative appeal process.

Customers objecting to the actions, policies, or decisions of the City may appeal as provided in chapter 20-2 of this code.

Sec. 20-5. Standards for storage and removal of solid waste.

(A) Any person that generates refuse must place the waste materials into the container(s) designated by the City of Tucson for the property where the waste is generated. Refuse must be removed from the property frequently enough to maintain sanitary conditions.

(B) Each residential establishment that generates waste must have sufficient capacity in a sufficient number of containers to contain all waste with the lid closed. Except in the case of bulky material collection, storage of solid waste outside a container at the point of collection is prohibited.

(C) All garbage must be placed in plastic bags that are tightly closed before being placed in containers.

(D) The City may enter any property where waste is generated to inspect containers or stored solid waste for compliance with the requirements of this code.

(E) No person shall scavenge or otherwise disturb solid waste placed out for collection by the City of Tucson. Once placed out for collection solid waste becomes the property of the City of Tucson.

(F) Unless otherwise specifically stated in this section, the standards set forth in this article apply to any person, business or other entity that generates, stores, transports, or processes solid waste.

Sec. 20-6. Prohibited materials.

(A) Prohibited materials may not be placed in refuse containers, in collection equipment, or in disposal facilities. Prohibited material is any waste which because of its amount, size, concentration, physical, chemical or infectious characteristics may pose a threat to human health or the environment as determined by the Director.

(B) Prohibited materials include but are not limited to materials prohibited by state or federal law and materials that the Director designates in administrative rule.

Sec. 20-7. Collection from residential establishments by persons or entities other than the City of Tucson prohibited.

The collection of refuse from any residential establishment by any person, business, corporation or firm other than the City of Tucson is prohibited.

Sec. 20-8. City of Tucson collection services at residential establishments.

(A) Residential establishments that are capable of being occupied are required to receive standard residential collection services from the City of Tucson and pay to the City of Tucson the commensurate fee as determined by the City of Tucson.

(B) The City of Tucson will provide to each customer the terms upon which the customer must agree to receive collection services.

(C) Residential establishments shall use only the containers issued by the City of Tucson for refuse and recycling collection, and shall not remove them from the intended establishment. Residential establishments are responsible

for removing containers from the point of service onto private property within 24 hours of the containers being serviced.

(D) The City of Tucson shall determine the point of collection, the method of collection, the volume, the frequency of service, the fees for service, and the number of containers issued to each residential establishment.

(E) The point of collection shall be immediately adjacent to or in a public right-of-way wherever feasible, as determined by the City of Tucson. A customer may request the point of collection be moved from the location determined by the City of Tucson to where collection vehicles must enter private property. Where the City of Tucson approves a request, a permission agreement is required and the customer is charged the private driveway fee in addition to other fees, unless waived.

(F) The City of Tucson may issue additional containers, and charge commensurate fees, to residential establishments that consistently demonstrate inadequate refuse container capacity to maintain sanitary conditions.

(G) Any residential establishment with an assisted living home license shall have a minimum of one hundred eighty (180) gallons of weekly-serviced refuse container capacity unless the City of Tucson determines that less capacity is adequate to maintain sanitary conditions.

Sec. 20-9. Customer responsibilities regarding recycling collection service.

Residential customers shall place in City of Tucson recycling containers only those recyclable materials designated as acceptable by the City of Tucson.

Sec. 20-10. Assisted collection service to residential establishments.

A resident who has a qualified disability, under the Americans with Disabilities Act, that prevents him/her using normal refuse or recycling collection services at a residential establishment may request assisted collection service. The requirements for assisted collection service shall be established by the director in administrative rule. Assisted collection service is provided without additional fee.

Sec. 20-11. Temporary suspension of service.

(A) The City of Tucson may temporarily suspend residential services and commensurate fees at a residential establishment when the resident

requests it and it is feasible. The suspension may last up to eight (8) months, after which time the fees will resume and service will resume when the customer requests it. The City of Tucson will pick up all containers when the suspension is requested. APC removal and delivery fee shall be charged when the City of Tucson picks up containers for a temporary suspension.

(B) A customer that attempts to use any residential services during the suspension period will be back billed for the entire suspension period.

Sec. 20-12. Violations of city collection service requirements.

(A) The City may issue notices to responsible parties at residential or commercial establishments when the City identifies violations of the requirements contained in this chapter or in an administrative rule or regulation under this chapter.

(B) If three (3) or more notices for the same or related violation are issued in any twelve (12) month period, then beginning with the third notice, the City shall impose the following fees for processing the violation notices the City issues:

(1) Third notice \$10.00

(2) Fourth or subsequent notice \$25.00

(C) A responsible party that has been issued three (3) notices for a recycling container contaminated with unacceptable material shall be designated a nonparticipant and charged a ten dollar (\$10.00) fee. The City of Tucson will remove the recycling container, deliver a substitute refuse container, and impose the fee for an additional refuse container. Recycling service will be restored and the additional refuse container removed with approval from the City of Tucson's representative.

(D) It is a civil infraction for a customer at a residential establishment to fail to pay fees for residential services and thereby causing a violation of any of the requirements of section 20-5. The fine for this infraction shall be between a minimum of seventy five dollars (\$75.00) and a maximum of three hundred dollars (\$300.00). In lieu of a fine, the court may substitute community service at a rate of ten dollars (\$10) per hour.

FEEES AND CHARGES FOR RESIDENTIAL COLLECTION SERVICES

DIVISION 1. GENERAL PROVISIONS

Sec.20-13. Responsibility for residential fee.

(A) The fees specified by the City of Tucson for services provided to residential establishments are imposed on the customer of record of each residential establishment. The customer of record is responsible for paying all charges for the provision of services to a residential establishment, regardless of whether the customer of record or another person has actually used the services. Where the establishment receives City of Tucson water service, the customer of record for City of Tucson waste collection services shall be the same person as the customer of record for City of Tucson water services, unless the City of Tucson accepts an alternate person designated by the owner.

(B) The City of Tucson may elect to pursue collection of any outstanding charges from the owner of the property if the customer of record does not pay for any outstanding charges. In such a case, ownership of the property or premises shall be determined by reference to public records maintained by the Pima County Recorder's Office.

Sec.20-14. Requirements for payment of residential fees.

(A) *Initiation.* Initiation of billing for services to a residential establishment shall coincide with initiation of billing for City of Tucson water service, except where water service already exists. The charges for residential services for an account that does not have City of Tucson water charges shall begin when the customer becomes responsible, by virtue of being the owner, renter, or authorized occupant, for the generation of solid waste. The charges for residential services to a newly-constructed establishment shall begin when the containers are delivered. The City of Tucson, as a condition precedent to providing collection services to any customer, shall collect any amounts the customer owes the City of Tucson. The account activation fee shall be charged when billing is initiated.

(B) *Deposit for accounts without City of Tucson water service.* A

customer who does not have a City of Tucson water account shall pay the residential account deposit specified by the City of Tucson when the account for residential services is established, unless waived by the City of Tucson. When the account is terminated, the deposit may be refunded.

(C) *Termination.* Termination of billing for the fees herein shall coincide with termination of billing for City of Tucson water service when both are provided. The charges for residential services for an account that does not have a City of Tucson water account shall end when the services are stopped due to the customer notifying the City of Tucson or due to delinquency.

(D) *Container delivery fees.* The APC delivery fee shall be charged when the number of containers at an establishment is increased. The APC removal/delivery fee shall be charged when the City of Tucson delivers containers at the initiation of an account that does not have City of Tucson water charges, and when the City of Tucson picks up containers from a customer who has requested a temporary suspension of residential services.

Sec. 20-15. Low income assistance program.

(A) Residential customers with an income at or below one hundred percent (100%) of the U.S. Department of Labor western region lower living standard, adjusted for family size, shall be eligible for the low income assistance credit if they meet the requirements established by the City of Tucson which include, but are not limited to, the following.

(1) Customers must reside in a residential establishment that receives standard residential collection service and must directly pay the fee on their utility bill. Each customer may receive the credit for services to only one dwelling unit.

(2) Customers must apply for the credit on the established application forms approved by the City of Tucson. Applications must include written proof of income in the administratively acceptable form. Eligibility will be determined on an annual basis with the credit expiring at the end of each twelve (12) month period.

(B) Once eligibility is verified, the credit shall be applied against each

monthly bill. A prorated credit shall be applied whenever the customer is eligible for only part of a month or receives service for only part of a month.

(C) Customers may appeal determinations of eligibility or timing of credit with the Director.

Exclusions

Sec. 20-16. 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.

Sec. 20-17. 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.

Sec. 20-18. 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.

Sec. 20-19 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.

Sec. 20-20 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.

Sec. 20-21. 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.

Sec. 20-22. 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 there from 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. 20-23. 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. 20-24. Inspection of private property.

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.

(a) 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. 20-25. Emergency lot clearing.

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

(b) *Waiver of notice.* Notwithstanding any requirements for notice the city manager may declare certain violations of section 20-12 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.

(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 20-12. Upon determination by the city manager that the owner, lessee, tenant or occupant was in violation of section 20-12 and that they, jointly or severally, should be assessed the costs to collect and remove the nonconforming refuse, debris or hazardous waste, 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 20-12.
- (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 20-12.
- (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 20-12 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. 20-26. 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 20-12, 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 20-12 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 20-12, 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 20-12, 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 20-12 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.

(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.20-27. 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 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).

