ARTICLE 9-5: COLLECTION OF RESIDENTIAL SOLID WASTE

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§ 9-5-1 LEGISLATIVE PURPOSE.

The purpose of this article and the regulations contained herein is to regulate the collection of residential solid waste to: (i) promote the public health, safety and general welfare of the city and its citizens; (ii) avert and mitigate any detrimental effects associated with the accumulation of trash, illegal dumping, insufficient solid waste collection receptacles, substandard collection vehicles and/or equipment.

§ 9-5-2 JURISDICTION.

Pursuant to A.R.S. §§ 49-704 and 765, the city manager or designee is authorized to implement and enforce the provisions of this article.

§ 9-5-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BULK WASTE - Any waste material too large, based on size or volume, for deposit in an approved solid waste container or recycling container (if provided) such as, but not limited to: yard waste, household or outdoor furniture, cardboard, and large appliances, not including any other unacceptable residential solid waste as defined in this article.

COLLECTION - The scheduled pickup of solid waste, recyclables, and bulk waste.

COLLECTION RECEPTACLE - A 96-gallon solid waste or recycling receptacle.

COLLECTION SERVICES - Curbside pick-up of solid waste, recyclable materials, and bulk waste.

CONTAMINANT – Something that contaminates, spoils, pollutes or makes unclean and unfit for use.

CONTRACTOR - A legal entity that collects solid waste pursuant to award of the contract by the city.

COVERED RESIDENCES - Refers to any residential property or properties that are located within the Apache Junction city limits including single family, duplexes, triplexes and four-plexes.

GARBAGE - Every accumulation of animal, vegetable or other matter that: 1) results from the preparation and consumption of edible foodstuffs; 2) results from the decay or storage of meats, fish, fowl, or vegetables, inclusive of the cans, containers or wrappers of such materials; 3) offal, animals or carcasses of animals, fish or fowl; and 4) any waste, material for where there is not currently or feasible collection system available.

HAZARDOUS WASTE - Any discarded material hazardous by reason of its pathological, explosive, flammable, radiological, corrosive, reactive or toxic nature, and any material that can cause damage or injury to property or persons to include, but not limited to: any chemical, compound, mixture, substance, product or other material which is a hazardous waste pursuant to A.R.S. § 49-921 (5) as may be amended from time to time, and as identified by the U.S Environmental Protection Agency.

NOTICE - A written instrument served by the city which indicates the process to be followed in order to comply with this article.

PERSON - Any individual, firm, corporation, association or group or any combination thereof acting as a unit.

PUBLIC WORKS DIRECTOR - The head of the city's public works department or designee thereof.

RESIDENTIAL SOLID WASTE - Any garbage, trash, rubbish or refuse, including solid, liquid, semi-solid liquid, or semi-solid or contained gaseous material, and any recyclable material collected from any structure or premises used as a domicile, dwelling or habitation, including single family, duplexes, triplexes and four-plexes.

RECYCLABLE MATERIAL OR RECYCLABLES - Any solid waste separated from other solid waste for the purpose of being recycled including, but not limited to: newsprint, printed material, pasteboard, paper and beverage containers, wood, brick, metals, plastics, glass, cardboard and paper.

RECYCLING - The process of collecting, separating, cleansing, treating and reconstituting post-consumer materials that would otherwise become solid waste and returning them to the economic stream in the form of raw material for reconstituted products which meet the quality standards necessary to be used in the marketplace.

RESPONSIBLE PARTY - Any person, owner, occupant, lessor, lessee, manager, licensee, tenant, inhabitant or other person having care and control over a structure or parcel of land that generates solid waste or recycling material.

RUBBISH - All nonrecyclable waste, cardboard, tree or shrub trimmings, rugs, straw, clothing, wood or wood products, crockery, glass, rubber, metal and plastic.

SOLID WASTE - Any accumulation of putrescible and non-putrescible, solid and semi-solid material to include trash, refuse, rubbish, litter or garbage.

SOLID WASTE GENERATOR - Property owner, occupant, lessor, lessee, manager, responsible party, or tenant that generate solid waste, as defined in this article, on the premises of the property.

TAGGING - Placement of a tag or label on receptacles with details of violation.

UNACCEPTABLE WASTE - (1) hazardous waste; (2) radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous or toxic waste as defined by applicable law; or (3) any otherwise regulated waste.

WHITE GOODS - Discarded appliances including refrigerators, freezers, oven ranges, water heaters, dishwashers, washers, dryers, kitchen compactors, window unit air conditioners, evaporative coolers, water softeners and other similar large residential appliances.

YARD WASTE - Organic yard waste from maintenance activities including but not limited to: brush, grass and vegetation clippings, weeds, twigs, leaves, limbs, branches, stumps, trunks from trees, palm fronds and general garden and tree rubbish.

§ 9-5-4 RESIDENTIAL SOLID WASTE COLLECTION CONTRACTOR.

The contractor that is awarded a contract by city council may collect residential solid waste within the city limits provided it complies with the provisions of this article, the city contract, request for proposals, and other applicable city regulations, including but not limited to, possessing a current valid city business license and current valid sales tax license and paying all applicable transaction privilege taxes pursuant to Apache Junction City Code, Vol. I, Chapter 8, and Apache Junction City Tax Code, Chapter 8A.

§ 9-5-5 VEHICLE AND COLLECTION EQUIPMENT MAINTENANCE.

(A) All vehicles and collection equipment used for residential solid waste collection shall be maintained in good condition and repair, of readily cleanable construction and be watertight, and

shall comply with all applicable state regulations. In addition, all drivers of residential solid waste collection vehicles shall be licensed in accordance with all applicable laws.

(B) The outside of each vehicle must be clearly identified with the contractor company name, logo and vehicle identification number. All vehicles must be kept in sanitary condition and in good repair. Hydraulic/oil fluid leaks must be monitored and corrected daily.

§ 9-5-6 CHANGES IN MARKET CONDITIONS.

If market conditions improve to a mutually agreed upon level, the city and contractor agree to meet in good faith to determine any necessary update on the rate of recycling services. However, if market conditions develop that limit or inhibit contractor or a third-party processor from selling some or all of the recyclable material, contractor may at its option and upon submittal of a written request to city: (i) redefine what is acceptable and unacceptable recyclable materials; (ii) suspend or discontinue any or all recycling services; or (iii) dispose of the acceptable recyclable material in a landfill and update the pricing to city accordingly. Any such actions, if taken, shall be mutually agreed upon by city and contractor and may be reversed or further changed as market conditions dictate.

§ 9-5-7 RESIDENTIAL SOLID WASTE COLLECTION REQUIREMENTS.

(A) Covered residences are required to subscribe to a weekly solid waste collection service provided through a contract with a contractor as awarded by city council and the residents thereon shall pay the cost of such collection services to the contractor. Failure to subscribe shall be addressed pursuant to section 9-5-16.

(B) Upon determination of eligibility by the city manager or designee, subsection 9-5-7 (A) shall not apply to homes where a homeowner association ("HOA") has a contract in place that was entered into prior to the effective date of the contract awarded by the city council for collection of residential solid waste. If deemed eligible, the date upon which subsection 9-5-7 (A) will become effective for each such home shall be the date of expiration for the HOA contract. To be eligible for delayed weekly collection service the HOA must provide a fully-executed and valid copy of the contract to the city manager or designee.

§ 9-5-8 PREPARATION OF SOLID WASTE FOR COLLECTION.

(A) The contractor will only collect solid waste that is properly prepared for pick up as described in the below subsections.

(B) Solid waste shall be prepared for pick up as follows:

1) Collection receptacles shall be used for curbside collection of residential waste.
2) Garbage must be drained of liquids and shall be placed in plastic bags and tied before being placed in receptacles.
3) Solid waste shall be placed in solid waste receptacles only.

4) Residential customers may dispose of yard waste in solid waste receptacles as long as there is room for the regular solid waste and such material does not interfere with emptying of the solid waste receptacle in any way.
5) The contents of an individual solid waste receptacle shall not exceed 200 pounds.
6) Waste from small animals or pets shall be placed in a bag, securely tied and placed in the solid waste receptacle.

(C) Recyclables shall be prepared for pick up as follows:

1) Recyclables shall be free of contaminants and must be reasonably clean, empty, dry and loose, and shall not be bagged or put in a sealed box when placed in recycling receptacles.
2) Only recyclables may be placed in recycling receptacles. Large boxes and cartons shall be cut up or collapsed before being placed in the receptacle.
3) Recycling collection services will only collect recyclables contained in the receptacles.
4) Shredded paper can be placed in receptacles unbagged.

(D) Bulk Trash shall be prepared for pick up as follows:

1) Bulk trash is collected on an on-call basis once a month.
2) A pile up to four (4) feet by four (4) feet by eight (8) feet and shall be considered a single load of bulk trash. Larger amounts or additional scheduled bulk pick-ups in the same month shall be subject to an additional fee.
3) Sticks/branches/vegetation must be bundled. Dimensions of bundles not to exceed five (5) feet in length by twelve (12) inches in diameter.
4) Bulk trash shall be placed on private property within plain view as seen from the public right-of-way for pick up no earlier than the day immediately preceding the designated collection day.
5) Items must be placed parallel to the street adjacent to the owner's property line for collection.
6) Bulk trash may not be placed on sidewalks, curbing or public right-of-way in any manner as to interfere with or be hazardous to pedestrians or vehicles, or with any mechanized collection vehicle.
7) Appliances, air conditioners and other items that involve refrigerant will not be accepted as part of the bulk trash service.
8) Items not accepted for collection will be left. The following are unacceptable materials: disposable or unwanted material resulting from construction, repair or demolition of the premises; large auto parts; tires; used oil; rocks, soil-like and concrete materials; and unbagged leaves and grass clippings. These items shall be disposed of in a landfill by the responsible party.
9) Century plants, cacti and similar plants that could harm collection employees shall be contained in cardboard boxes with a total weight not to exceed forty (40) pounds per box.

§ 9-5-9 SPILLING OF SOLID WASTE DURING TRANSPORT.

(A) It is unlawful for any person to haul, or cause to be hauled, on or along any public street, right-of-way or alley in the city, any solid waste or recyclables unless such material is contained in the vehicle or receptacle in a manner that prevents the contents from falling out, leaking or spilling, and prevents obnoxious odor from escaping. If any solid waste or recyclables fall out, leak or spill, such hauler shall immediately clean up the refuse, recyclables or liquid.

(B) Failure to properly secure a load and any covering of the load to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the roadway could result in a violation of A.R.S § 28-1098 or applicable city codes which may be amended from time to time.

§ 9-5-10 USE OF ANOTHER'S RECEPTACLE.

It is unlawful for any person to deposit, or cause to be deposited, any solid waste or recyclables in any collection receptacle not assigned to that person by the contractor.

§ 9-5-11 GENERAL RESIDENT RESPONSIBILITIES.

Every responsible party shall:

1) Provide for the collection, control and disposition of solid waste in or upon any and all premises owned, leased or occupied by or for them.
2) Keep lids for collection receptacles down in a closed position at all times in order to prevent flies, except when a collection receptacle is being filled, emptied or cleaned.
3) Maintain collection receptacles to accommodate the solid waste and recycling disposal needs of such residence.
4) Maintain collection receptacles in good repair and in sanitary condition, free of any markings or decals not placed on the receptacles by the city or contractor. Receptacles that have become unserviceable due to ordinary wear and tear will be replaced by the contractor at no cost to the customer. If receptacles supplied by the contractor require repair or replacement for reasons due to customer tampering or mishandling, the cost of such work may be charged to the customer.

§ 9-5-12 HAZARDOUS WASTE AND SPECIAL REFUSE.

(A) No person shall deposit or cause to be deposited in any collection receptacle hazardous waste that may damage the collection equipment or be a threat to the health, safety and welfare of the collection employees or general public.

(B) Hazardous waste shall be placed in an appropriate, closed container and plainly and properly marked in accordance with applicable law and industry standards and shall only be disposed of in a manner directed by the city's public works director or designee.

(C) Explosives such as firearms, ammunition, souvenirs or explosive items or powder of any kind and highly flammable materials shall not be placed in any collection receptacle and shall only be disposed of in a manner directed by the city's police department.

(D) Acids, caustics and rapid oxidizers, including chemicals used in swimming pools, shall not be disposed of in collection receptacles and shall only be disposed of in a manner directed by the city's public works director or designee.

(E) Dead animals and livestock may not be placed in plastic bags, tied and placed in a solid waste receptacle and shall only be disposed in a manner directed by the city's paws and claws center of the police department.

(F) Dead animals in the public right-of-way will be removed and disposed of by calling the city's police department.

(G) Medical sharps may not be placed in collection receptacles and shall only be disposed in a manner directed by the city's police department.

(H) Lead acid batteries, such as automobile or other vehicle batteries, shall not be disposed of in collection receptacles and shall only be disposed of in a manner directed by the public works director or designee for disposal options.

(I) Waste soil, sand, concrete, masonry block, rock and similar materials shall not be placed in a collection receptacle nor stored in the right-of-way and shall only be disposed of in a legal manner by the responsible party.

(J) Warm or hot coals or ashes shall not be placed in any collection receptacle.

§ 9-5-13 PERMITTED DAYS AND HOURS OF COLLECTION.

(A) Residential solid waste and recycling shall be collected at a minimum once per week, but no more than twice per week. The contractor may collect recyclable materials from the same customer on the same day as residential solid waste. Collection may take place between the days of Monday through Friday. Where such collection day(s) falls on a federal or state holiday, the contractor shall communicate to customers the changes in the scheduled pickup due to a holiday as waste must still be collected that week. In the event of changes in the scheduled pick up due to inclement weather related events the contractor shall also communicate to customers the changes in the scheduled pickup.

(B) Residential solid waste shall be collected between the hours of 6:00 a.m. and 6:00 p.m. mountain standard time ("MST"), on authorized collection days referenced in subsection (A) of this section. In the case of an emergency, the contractor may request extended hours. Such request must be submitted to the public works director or designee, and, if subsequently approved, the contractor must within 24 hours thereafter submit a written request to the public works director or designee substantiating the need for the extended hours.

(C) Nothing in this article restricts the city from allowing special collection days in connection with community cleanup programs, bulk, recyclables, or white goods.

§ 9-5-14 RECEPTACLES; STANDARDS FOR PLACEMENT, REMOVAL, AND STORAGE; EXEMPTIONS.

(A) All receptacles used by covered residences to store residential solid waste and for collection thereof shall be constructed out of plastic and have a capacity of 96 gallons. Upon agreement between the contractor and the responsible party of a multi-family dwelling unit a dumpster may be used instead of individual receptacles. On all receptacles there shall be identifying marks with the name of contractor. It is unlawful to place residential solid waste outside of the appropriate receptacles awaiting collection, even if contained in plastic bags, paper boxes or other receptacles.

(B) Residential solid waste receptacles shall be placed for collection as follows:

1) All residential solid waste receptacles shall be located, positioned, and placed for collection in a manner to facilitate the safe handling of receptacles by contractor vehicles according to the following:

    a. Solid waste receptacles must be placed in front of the property of the solid waste generator.
    b. Solid waste receptacles must not be located more than six inches from the edge of the street or on sidewalks.
    c. Solid waste receptacles must not obstruct any mailboxes, fire hydrants, or the entrance/exit to any unassociated properties.
    d. Solid waste receptacles lids must be closed to avoid the generation of windblown refuse or nuisance vectors.
    e. City shall not be responsible for damage to or loss of receptacle.

2) Residential solid waste collection receptacles shall be placed at the curb in front of the premises, except that at any corner lot, such receptacles shall be placed at the curb of the side street. Receptacles may be positioned curbside beginning at 4:00 p.m. the day before collection, but must be removed no later than 6:00 a.m. after the day of collection. Receptacles shall not be placed on sidewalks, curbs or anywhere within the public right-of-way, in a manner so as to interfere with or be hazardous to pedestrians, vehicles or other residences or other structures.

3) Residential solid waste receptacles shall not be stored as to be visible from the street or adjacent property and shall be placed in a garage or behind a fence or decorative screen wall.

(C) **EXEMPTIONS** - With the exception of subsection (B)(1), the provisions do not apply to mobile/manufactured home/recreational vehicle, trailer parks/subdivisions in which a common receptacle is placed, maintained or is otherwise controlled or provided by the operator, manager or homeowner's association of the park or subdivision, provided such receptacle is located within the boundaries of the park or subdivision and is not located within the city's right-of-way.

§ 9-5-15 INSPECTIONS.

The city manager or designee may conduct inspections in response to reports of violations of this article, within the daily duties of their job requirements, or with reasonable cause that a violation has occurred or is occurring. The city shall seek voluntary compliance prior to issuing a notice of violation. Voluntary compliance may be sought by notifying a responsible party stating the violation by tagging a collection receptacle, or by personal delivery, or by first class U.S. mail.

For the purpose of investigation of violation(s), enforcement officer(s) or city representatives may only inspect private residential property with the responsible party's consent. In the event that access is denied or cannot be reasonably obtained, private residential property can only be entered with a court-ordered warrant.

§ 9-5-16 ENFORCEMENT AND PENALTIES.

(A) Contractor shall notify each responsible party of the subscription requirements, to include all fee plans and options. The notice shall be in writing sent by first class U.S mail. Once subscription is secured, contractor shall provide waste and recycling services.

(B) Failure of a responsible party to subscribe to residential solid waste collection services shall be pursued by the contractor in writing by certified mail/return receipt requested and first class U.S. mail to the responsible party and notification shall be made to the city manager or designee on a quarterly basis.

(C) Failure of a responsible party to comply with this or any other provisions of this article may be issued a notice of violation by certified mail/return receipt requested and first class U.S. mail by the city containing the following information:

1) Identification of property in violation.
2) Detailed statement of violation in reference to article provisions.
3) Date violation occurred.
4) Business contact information of the citing officer or official.
5) The action required to come into compliance.
6) Time period to come into compliance and re-inspection date.
7) Consequences for continued non-compliance.
8) Procedure for appeal of notice.

(D) Should the responsible party fail to comply, the city manager or designee may direct compliance as per subsection (E).

(E) Civil citations may be pursued only after the notice set forth in subsection (C) has been refused, ignored, or full compliance has failed. The civil penalties are as follows:

(F) Civil/criminal citations and complaints.

1) If the responsible party fails to comply with the notice of violation, a civil/criminal action to enforce the provision of this article may be commenced and a summons shall be issued in accordance with the procedures set forth in Arizona Revised Statutes and applicable

city ordinances. Jurisdiction of proceedings in this article shall be in the municipal court of the city.

2) The city manager or designee shall be responsible for filing civil and criminal citations with the municipal court with the following minimum penalties:
    a. First offense during a 24-consecutive month period: civil penalty of $350;
    b. Second offense during the same 24-consecutive month period: civil penalty of $600;
    c. Third offense and subsequent offenses within the same 24-consecutive month period: class 1 misdemeanor criminal fine of not less than $1,000 up to $2,500, and other penalties as a result of the conviction.

3) The 24-consecutive month period shall be calculated from the first violation is committed. The responsible party shall receive the progressively higher civil penalty upon a finding of responsibility for which the responsible party was found responsible or was convicted. In no event shall the court reduce the minimum dollar penalties referenced above. A criminal case shall only be filed only after 2 successive civil violations have been committed within the 24-consecutive month period.

4) Every day any violation of any provision of this article continues shall constitute a separate violation or offense. The owner of record, as reflected in the Pinal or Maricopa County Recorder's Office, may be presumed to be a person having lawful control over the building, structure or parcel of land that is the subject of the violation. If more than 1 person is recorded as the owner of the property, the persons may be jointly and severally presumed to be the persons having lawful control over the building, structure or parcel of land.

(G) Civil and criminal hearing procedure. A person lawfully served with a civil citation or complaint shall appear at the time and place stated in the citation or summons, or may appear prior to the time and admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted. If the allegations are admitted, the court shall enter judgment for the city and impose the minimum dollar sanction as noted above. If the defendant denies the allegations, the court shall set the matter for hearing/trial. Civil hearings are to be held informally and held without a jury, and the city is required to prove the allegations by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions related to privileged communications. If the defendant elects to be represented by counsel, the defendant shall so notify the court at least 10 court days prior to the hearing date. If the court finds in favor of the defendant, the court shall enter an order dismissing the citation or complaint. If the court finds in favor of the city, the court shall enter judgment for the city and impose the minimum civil and criminal fines referenced above and other terms if the violation is criminal such as up to 3 years of probation, compliance deadlines, community service, up to 6 months jail time.

(H) *Appeal of civil/criminal court hearing/trial*. Any party may appeal the judgment of the municipal court to the superior court under A.R.S. § 12-124. Appeals from civil proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure- Civil. Appeals

from criminal proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure- Criminal.