

ORDINANCE NO. 2016-25

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 22 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 22-1 PERTAINING TO SOLID WASTE, DEFINITIONS; BY AMENDING SECTION 22-2 PERTAINING TO SOLID WASTE; PROHIBITIONS; VIOLATIONS; REPEALING SECTION 22-3 PERTAINING TO SPILLED REFUSE IN ITS ENTIRETY; REPEALING SECTION 22-4 PERTAINING TO DUMPING REFUSE IN ITS ENTIRETY; REPEALING SECTION 22-5 PERTAINING TO USE OF ANOTHER'S CONTAINERS IN ITS ENTIRETY; AMENDING SECTION 22-6 PERTAINING TO UNOBSTRUCTED PASSAGE IN STREETS AND ALLEYS; AMENDING SECTION 22-7 PERTAINING TO RESPONSIBILITY FOR SOLID WASTE AND RECYCLABLES; AMENDING SECTION 22-9 PERTAINING TO DISTURBING CONTENTS OF CONTAINER; AMENDING SECTION 22-10 PERTAINING TO INSPECTION OF CONTAINERS; CONDEMNATION AND REMOVAL; AMENDING SECTION 22-11 PERTAINING TO LICENSES; NON-EXCLUSIVE; TERM; INDEMNITY; AUDIT AND INSPECTION; REPEALING SECTION 22-12 PERTAINING TO LICENSE; ISSUANCE IN ITS ENTIRETY; REPEALING SECTION 22-13 PERTAINING TO SOLID WASTE; LICENSE; REPEALING SECTION 22-14 PERTAINING TO LICENSE CHARGE; AMENDING SECTION 22-15 PERTAINING TO PROHIBITED PRACTICES; AMENDING SECTION 22-16 PERTAINING TO LICENSE REVOCATION; REPEALING SECTION 22-17 PERTAINING TO HEARING BY CITY COUNCIL IN ITS ENTIRETY; AMENDING SECTION 22-20 PERTAINING TO RESIDENTIAL SOLID WASTE COLLECTION, AUTHORIZED COLLECTION; AMENDING SECTION 22-23 PERTAINING TO PRECOLLECTION PRACTICE GENERALLY; AMENDING SECTION 22-24 PERTAINING TO CONTAINER LOCATION FOR PICKUP AND STORAGE; AMENDING SECTION 22-25 PERTAINING TO RESIDENTIAL COLLECTION BY BINS; AMENDING SECTION 22-26 PERTAINING TO LIDS AND COVERS; AMENDING SECTION 22-27 PERTAINING TO COLLECTION HOURS; AMENDING SECTION 22-28 PERTAINING TO PICKUP OF SPECIAL ITEMS; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-1 pertaining to Solid waste; definitions and which shall read as follows:

Sec. 22-1. Solid waste; definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessment means the fee imposed for recovery of garbage collection costs incurred for benefiting particular property which is levied pursuant to this chapter.

Brush means leaves, twigs, grass, and weed cuttings and tree limbs and shrubbery clippings not exceeding three (3) feet in length.

Bulk rubbish means materials that cannot be placed in refusesolid waste containers and are not readily containable due to size or shape and cannot be picked up by regularly used collection vehicles. "Bulk rubbish" includes major appliances, furniture, building materials, tree limbs, and noncontained piles of trash.

City-owned container means those containers supplied to residential or commercial refusesolid waste generators by the city whether or not the cost of the container was paid for by a person other than the city.

Collection employee means any individual employed by the city for the purpose of effectuating the provisions of this chapter.

Commercial solid waste generator means any person in charge of owning, leasing, renting or occupying any business, industrial or commercial building ~~other than a mobile home park, single family and multifamily dwelling unit,~~ including a store, office or factory ~~who~~ which generates refuse, solid waste or recyclables and which refusesolid waste is picked up by the city or licensed solid waste collector ~~in large rectangular metal containers having a capacity of not less than three hundred (300) gallons each and which is of~~ has a waste stream not characterized as residential in nature.

~~*Construction waste* means materials from construction, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, brick, fill, plaster, and all types of scrap building materials.~~

Construction debris means solid waste derived from the construction, repair, or remodeling of buildings or other structures.

Containable rubbish means all putrescible and nonputrescible solid wastes including, but not limited to wrapped garbage, wrapped small dead animals, wrapped or boxed ashes, wastepaper, excelsior rags, bottles, crockery, bedding, clothing, carpets, leather, tin cans, metal scraps, small mechanical parts, shavings, floor sweeping, brush and other similar waste ~~or debris~~.

Demolition debris means materials derived from the demolition of buildings or other structures.

Filth means manure, excrement or any similar substance.

Garbage means putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Hazardous waste means any chemical, compound, mixture, substance, product or other material which is a hazardous waste pursuant to Arizona Revised Statutes, Title 49, Chapter 4, Article 2 and 40 C.F.R. Part 261 and polychlorinated biphenyls (PCB'S).

Household waste means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households, including single family and multiple family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas, not including construction debris, landscaping rubble or demolition debris.

Household hazardous waste means solid waste that would otherwise be a hazardous waste pursuant to Title 49, Chapter 5, Article 2, Arizona Revised Statutes and as described in Title 40 Code of Federal Regulations, section 261.4(b)(1) as incorporated by reference pursuant to rules issued by the Arizona Department of Environmental Quality, but is excluded as hazardous waste because it is generated by the normal day to day activities of households..

Licensed solid waste collector means any person, firm or entity holding a business license issued by the City of Peoria that permits the licensed solid waste collector to operate within the city for the purpose of providing solid waste collection services to commercial solid waste generators and multi-family dwelling units.

Lien means a charge which attaches in favor of the city to real property benefited by the collection of any brush, trash, bulk rubbish, containable rubbish, filth, construction waste, or ~~refuse~~other solid waste; and which also attaches to any other real or personal property of a person or any ~~refuses~~solid waste

generator, owning or in charge of benefited property to secure the payment of unpaid ~~monthly~~ collection costs.

Medical waste means any solid waste that is generated in the diagnosis, treatment, or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals, but not including hazardous waste as defined in Title 49, Chapter 4, Article 2, Arizona Revised Statutes, other than conditionally exempt small quantity generator waste.

Multiple-family dwelling unit means a mobile home space within a mobile home park, a travel trailer space within a travel trailer park, rest home, apartment, assisted living care facility, townhome, condominium or any other buildings in which more than one (1) family may reside either temporarily or on a permanent basis and according to the statutory definition of "dwelling unit" in A.R.S § 33-1310, the Residential Landlord and Tenant Act.

Notice means a written instrument served by the city in one (1) of the following manners, with time commencing from date of mailing, serving, filing or recording:

- (1) By the use of ordinary mail to the last known address of the person to whom it is required to be given.
- (2) By personal service upon the person or his lawful representative.
- (3) By filing or recording with the clerk of the superior court or county recorder.

Open area means any park, street, gutter, sidewalk, sewer, boulevard, alley greenbelt, square, vacant lot, space, ground or other area where ~~refuses~~solid waste material may accumulate.

Prohibited substance means any of the following:

- (1) Any liquid, solid, or gas with an ignition temperature or flash point of less than two hundred (200) degrees Fahrenheit, including gasoline, benzene, naphtha, alcohol or other flammable substances or explosive.
- (2) Any material having a Ph lower than five and one-half (5 1/2) or higher than nine (9) or having any other corrosive property that could be injurious or hazardous to city collection employees or which could cause damage to equipment.

- (2) Any noxious or malodorous substance offensive to the senses and depriving a neighborhood or a considerable number of persons of the comfortable enjoyment of life or property.
- (4) Construction ~~waste~~debris.
- (5) Tree limbs and shrubbery clippings over three (3) feet in length and greater than three and one-half (3 1/2) inches in diameter.

Putrescible means solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause decay, obnoxious odors and to be capable of attracting or providing food for birds or animals.

Recyclables means any solid waste including, but not limited to, metals, plastics, glass or paper products that have been separated from other solid waste for the purpose of being collected and recycled under the city; licensed solid waste ~~contractor~~collector their agents, grantees or assigns recycling programs;

Residential noncommercial solid waste generator means any person generating ~~refuses~~solid waste other than a commercial ~~refuses~~solid waste generator.

Single-detached dwelling unit means a unit in which only a single-family may reside, other than a multiple-family dwelling unit.

Solid waste means any garbage, trash and other materials or products including putrescible and nonputrescible wastes, organic and inorganic wastes, combustible and non-combustible wastes and liquid non-hazardous waste, but not including construction debris, landscaping rubble or demolition debris, but ~~not including~~-hazardous waste or human body parts.

Solid waste collection services means the collection and disposal, including the cost of landfills, and other disposal technology required to dispose of solid waste and the collection, sorting, sale and disposal of recyclable materials.

Standard ~~refuses~~solid waste containers means a nonabsorbent enclosed receptacle of standard manufacture, which meets city specifications that are compatible to city's collection equipment.

Trash means rubbish, waste, debris, ~~refuses~~solid waste and all other nonputrescible wastes.

Vector means an insect, rodent, bird, or other living animal which is capable of transmitting an infectious disease from one organism to another.

Vehicle parts means automobile bodies, chassis, engines, transmissions or any large component of a vehicle, including but not limited to abandoned, wrecked or junk vehicles.

Vicious animal means ~~any animal of a vicious species or an animal of a domesticated species, including cats and dogs, which without provocation is prone to attack persons~~ the definition of "vicious animal" set forth in Chapter 4 of this Code.

SECTION 2. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-2 pertaining to Solid waste; prohibitions; violations and which shall read as follows:

Sec. 22-2. ~~Hauling solid waste~~ Solid waste; prohibitions; violations.

(a) It shall be in violation of this chapter 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 materials shall be so contained in vehicles or receptacles so constructed or covered so as to prevent the contents from falling, leaking or spilling and to prevent any obnoxious odor escaping therefrom. Solid waste that could blow or fall from a vehicle shall be transported in an enclosed vehicle or be completely covered. All vehicles engaged in the business of collecting, transporting or disposing of solid waste shall be subject to the approval and the Maricopa County Environmental Services Department. Any person hauling solid waste or recyclables shall immediately and safely pick up any of the contents that may fall from the vehicle used to haul the solid waste or recyclables.

(b) To protect the public health and welfare and to prevent a public nuisance, the city manager or his designee city engineer may designate streets in which haulage of specified obnoxious materials are Hazardous Waste is prohibited.

(c) Any person hauling any solid waste along the streets of the city shall immediately replace in the conveyance used for such hauling any solid waste which falls upon any street.

(d) It is unlawful for any person to place or cause to be placed any solid waste upon any public or private property within the city, except as specifically permitted in this chapter.

(e) It is unlawful for any person to deposit, or cause to be deposited, any solid waste in any container that they have not subscribed to receive service for from the city or a licensed solid waste collector pursuant to this code or are authorized to use as a tenant in a facility receiving solid waste disposal services.

(f) It is unlawful for any person, who is a customer of solid waste services from the City or the resident or occupant of a home having solid waste services from the City and who produce more garbage than what their assigned container can hold with the lid completely closed, to place the extra trash in the container of another home whether occupied or not.

(g) Violations of subsections (a) or (c) of this Section shall be punishable as a civil traffic violation. The Court shall impose a minimum civil sanction of not less than two hundred and fifty (\$250.00) dollars. Violations of subsections (d) or (e) of this Section shall be punishable as a class two misdemeanor.

SECTION 3. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-3 pertaining to Spilled refuse in its entirety:

~~Sec. 22-3. Spilled refuse.~~

~~Any person hauling any refuse along the streets of the city shall immediately replace in the conveyance used for such hauling any refuse which falls upon any street.~~

SECTION 4. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-4 pertaining to Dumping refuse in its entirety:

~~Sec. 22-4. Dumping refuse.~~

~~It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the city, except as specifically permitted in this chapter.~~

SECTION 5. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-5 pertaining to Use of another's containers in its entirety:

~~Sec. 22-5. Use of another's containers.~~

~~It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that they have not subscribed to receive service for from the city or a licensed solid waste contractor pursuant to this code or are authorized to use as a tenant in a facility receiving solid waste disposal services.~~

Secs. 22-3 – 22-5 shall be reserved.

SECTION 6. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-6 pertaining to Unobstructed passage in streets and alleys and which shall read as follows:

Sec. 22-6. Solid waste; collection; uUnobstructed passage in streets and alleys.

(a) It is the responsibility of the owner or legal occupant of the property to trim trees or shrubbery on their property and in the adjacent right-of way to their property when such vegetation interferes with the movement of solid waste collection vehicles or access to solid waste collection containers. Upon a violation of this section, an inspector ~~designated by the city manager~~ shall issue a notice of violation/citation in the manner provided for civil traffic violations and/or an order to the responsible party to trim or remove the vegetation. Failure to do so within ten (10) days after the order notice is issued may result in the ~~may result in a complaint being filed by the city attorney and the city may remove~~ ing the vegetation at the owner's expense. ~~in the manner provided for removal of trash and rubbish under this code. At the election of the City, the cost of such removal shall be awarded as restitution in any civil proceeding or may be added to the Solid Waste collection services account of the customer.~~

(b) It shall be unlawful to park a vehicle or have other obstructions within ~~fifteen (15)~~four(4) feet of a solid waste or recycling container placed out for collection service or to obstruct access to any residential or commercial collection bin. Violations of this subsection are deemed a civil traffic violation.

SECTION 7. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-7 pertaining to Responsibility for solid waste and recyclables and which shall read as follows:

Sec. 22-7. Solid Waste; owner, occupant Responsibility for solid waste and recyclables.

(a) The owner and occupants of any non-commercial and commercial establishments shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the city, licensed solid waste collectors, their agents and assigns. ~~The owner and occupants of p~~Persons receiving solid waste collection services from commercial solid waste generators shall be responsible for their solid waste or recyclables and shall comply with all provisions of ~~any solid waste license and this chapter~~ until the solid waste is picked up by the city or a licensed solid waste collector.

(b) The owner and occupant of any parcel, property or premises within the city shall be responsible for the proper storage, containment and placement for collection of all solid waste and recyclables.

(c) It shall be unlawful to place, deposit or allow to be placed or deposited on any premises, private or public property any solid waste or recyclables, except in facilities designated by the city. Items placed out for bulk trash collection should be placed in the gutter parallel to the curb no more than one (1) day prior to collection. Items shall not be closer than four (4) feet to any mailbox, utility box, or other obstruction.

~~(c) The owner and occupant of any parcel, property or premises within the city shall prior to the placement of any container for the collection of recyclables obtain a permit from the city. The city shall collect a fee for each permit for each container to collect recyclables. The applicant for a permit shall complete an application on a form prescribed by the city and containing, but not limited to the name, business address and telephone number of the person owning the container and a diagram indicating the location of the container and means of access to the container. The city may deny permits for containers located within the public right of way, or where access to the container is not sufficient or where the location is not consistent and compatible with other adjacent land uses.~~

SECTION 8. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-9 pertaining to Disturbing contents of container and which shall read as follows:

Sec. 22-9. Solid waste; dDisturbing contents of container; presumption; violation.

It shall be unlawful for:

(a) Any person not authorized by the city to utilize for other than its intended purpose the lid or wheels from any solid waste or recycling container.

(b) Any person not authorized by the responsible party to remove, collect or disturb the solid waste and recyclables stored in such containers or to remove from a solid waste or recycling container any solid waste or recyclables (i) set out for recycling or collection and disposal by the city, licensed solid waste collectors, their agents or assigns or (ii) deposited at a city recycling drop off center or scavenging garbage or recyclables. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.

(c) Any person to dump, litter, or scatter solid waste or recyclables upon any private or public property.

(d) It shall be presumed that unless a person has written authorization from the responsible party, customer, city or owner of the property that they do not have authorization from the responsible party.

(e) Violations of subsections (a) and (b) of this section are deemed a civil violation and shall be adjudicated in the same manner as civil traffic violations. Violations of subsection (c) of this section are a class one (1) misdemeanor. The Court shall order as part of any sentence full restitution for the cost of removal and or disposal of any solid waste dumped, litter or scattered upon any private or public property.

SECTION 9. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-10 pertaining to Inspection of containers; condemnation and removal and which shall read as follows:

Sec. 22-10. Solid waste; Inspection of containers; condemnation and removal; violations.

(a) ~~The Public Works Department, Sanitation Division, shall inspect not less than annually all containers used for the proper containment of solid waste and recyclables generated by commercial solid waste generators. If the container fails to meet the standards of this chapter, a notice of violation shall be issued by the city manager or his designee, to the responsible party of the property upon which the violation occurs. Notification consists of tagging the container with a violation notice or delivering a notice in person or by first class united states mail to the responsible party. The city shall have the right to enter upon commercial, industrial and institutional establishments for inspection purposes. Privately owned commercial containers must adhere to all state and federal requirements including but not limited to maintaining containers, ensuring lids are closed to minimize odors and vectors, and ensuring the garbage/waste is not over-flowing onto the ground.~~

(b) All non-city solid waste and recycling containers that are in excess of ~~three (3)~~two (2) cubic yards or accessible to the general public shall be identifiable by indicating the responsible party's name, ~~address~~ and telephone number on the container and shall meet all city zoning and permit requirements. The container identification must be readable from a minimum of ten (10) feet. All solid waste and recycling containers must contain lids that shall be kept closed at all times to minimize odors and vectors. Containers that contain graffiti should be changed out or painted/covered up by the vendor within four (4) business days after notice from the City. Commercial generators shall work with their collection vendor on an appropriate collection schedule so as to prevent over-flowing containers. It is a violation to have garbage or recycling containers without lids and or with openings by which vectors can enter.

(c) If an imminent health or safety hazard exists from a solid waste or recycling container that dictates immediate removal, the city manager or his designee shall have the right to remove the solid waste or recycling container at the responsible party's expense as specified in this chapter. If the customer desires to appeal the removal, an appeal may be filed after the removal in the manner provided for license violations contained in Chapter 11 of this Code. If a violation of this section presents a serious health or safety hazard in the judgment of the city, the city manager or his designee, taking into consideration potential harm that may result based on the nature of the health or safety hazard, may notify the customer and/or solid waste provider of the City's intent to remove the solid waste or recycling container and dispose of it at the responsible party's expense as specified in this chapter. If a customer desires to appeal the removal, an appeal may be filed in the manner provided for license violations

~~contained in Chapter 11 of this Code. If an imminent health or safety hazard exists that dictates immediate removal, the city manager or his designee shall have the right to remove the solid waste or recycling container at the responsible party's expense as specified in this chapter.~~

(d) City-owned containers may be randomly inspected at the City's discretion for unbagged garbage disposed of in city-owned containers. All garbage must be bagged and tied so as to prevent putrid odors and vectors. Household hazardous waste should not be placed within city-owned containers or containers collected by the city. All customers of the City's solid waste collection services by subscribing for service give their consent to such random inspections.

(e) City-owned recycle containers shall contain only acceptable recycled materials as identified on the city website or by contacting the city for a list of acceptable items. Inspection of a garbage container that contains non-recyclable materials shall result in no service until the non-recyclable materials have been removed by the resident or commercial customer. Three (3) or more violations in a three hundred and sixty five (365) day period by contamination of recyclable containers shall be sufficient cause for the City to remove the recycle container. The City may elect not to restore a recyclable container service to such customer until the customer has demonstrated an intent to comply with the provisions of this section and such other rules and procedures adopted by the City.

(f) Random inspections of city-owned containers are conducted at the City's discretion. Violations of the city's codes, rules, procedures and standards are a violation of this section and shall be punishable as a civil violation in the manner provided for civil traffic violations. The Court shall include in any sanction restitution for the cost of removal of any materials improperly placed.

SECTION 10. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-11 pertaining to Licenses; non-exclusive; term; indemnity; audit and inspection and which shall read as follows:

Sec. 22-11. Commercial Solid Waste Collection; ~~L~~icenses; non-exclusive; term; indemnity; audit and inspection.

(a) It is the policy of the City of Peoria to encourage competition in the provision of solid waste collection services to commercial development.

(b) No business license granted by the City of Peoria for the operation of solid waste collection services to commercial development may be an exclusive license or promise in all or any part of the city that there will be no competition.

~~(c) No license shall be granted by the city for a term greater than ten (10) years.~~

~~(d) Any license granted for the operation of solid waste services to commercial development shall provide as a condition of granting the license, that the licensee agree to indemnify the city and hold the city harmless from any loss, harm, claim, cost or liability of any kind arising out of any operation of the licensee. The licensee shall agree to reimburse the city for all costs including litigation costs and attorney fees in connection with any such claim or liability.~~

~~(e)~~ At all reasonable times, the licensed solid waste collector shall permit any duly authorized representative of the city to examine all property of the licensed solid waste collector, together with any appurtenant property of the licensed solid waste collector situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the licensed solid waste collector or under its control which relate to license compliance and deal with the operations, affairs, transactions or property of the licensed solid waste collector.

SECTION 11. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-12 pertaining to License; issuance in its entirety:

~~Sec. 22-12. License; issuance.~~

~~(a) Definitions. The following terms shall have the meanings set forth in this section.~~

~~(1) Licensed solid waste contractor means any person or firm or corporation receiving the grant of a license under this chapter to provide solid waste collection services and shall include any lawful successor to the interest of such person, firm or corporation.~~

~~(2) License means any authorization granted under this chapter to a person or entity to provide solid waste collection services to commercial solid waste generators.~~

~~(3) License area means the incorporated area consisting of the City of Peoria, which licensed solid waste contractor is authorized to operate and any subsequent annexations thereto.~~

~~(b) All applications for a license to provide solid waste collection services to commercial generators shall be filed with the city clerk and each such application shall contain the following:~~

~~(1) The name, address and telephone number of the applicant.~~

~~(2) A detailed statement of the corporate or other business entity organization of the applicant.~~

~~(3) The names and business addresses of all officers, directors and partners of the applicant.~~

~~(4) — The names and business addresses of all persons and entities having controlling or being entitled to have or control five percent or more of the ownership of the applicant and the respective ownership share of each such person or entity.~~

~~(5) — The names and addresses of any parent or subsidiary of the applicant and of any other business entity owning or controlling in whole or in part or owned or controlled in whole or in part by the applicant and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to all solid waste collection systems owned or controlled by the applicant, its parent or subsidiary and the areas served thereby.~~

~~(6) — A detailed description of all previous experience of the applicant in providing solid waste collection service or related or similar services.~~

~~(7) — A detailed and complete financial statement of the applicant prepared by a certified public accountant for the fiscal year preceding the date of the application hereunder.~~

~~(8) — Evidence of financial responsibility consisting of the following:~~

~~(i) — Audited annual financial reports for the prior two years of applicant.~~

~~(ii) — A performance bond or letter of credit in an amount not less than one hundred thousand dollars acceptable to the city attorney, guaranteeing the performance of applicant during the license period that the applicant will comply with all provisions of the license and providing that city may recover from applicant all costs incurred by the city in the event of non performance by applicant of any of its obligations under a licensee or this chapter.~~

~~(9) — A copy of the form of any agreement, undertaking or other instrument that is entered into between licensed solid waste contractor and user.~~

~~(10) — Any other information deemed pertinent to the subject matter of such application and requested by the city manager or his designee.~~

~~(11) — An application fee in the amount of five hundred dollars (\$500.00), Which shall be in the form of cash, certified or cashier's check or money order to pay the cost of processing such application. The application fee is non-refundable.~~

Sec. 22-12 shall be reserved.

SECTION 12. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-13 pertaining to Solid Waste; license in its entirety:

~~Sec. 22-13 Solid Waste; license.~~

~~(a) — Upon receiving the application for a license for solid waste collection services to commercial generators, the city manager or his designee shall review the application. A copy of the report shall be filed with the city clerk and the matter placed on a city council agenda for action. A copy of the report and the date on which it will be before the city council shall be provided to the applicant. The city clerk shall cause notice of such application and hearing to be published once in the city's official newspaper, indicating the date, time and place of the meeting and that comments from the public on the application will be heard.~~

~~(b) — The council shall receive the report of the city manager or his designee. If no comments are received from the public in advance of the hearing, the council may waive the public hearing and proceed to shall consider the report, the application and comments from the public, if any. The council shall determine whether the license shall be granted or denied and shall consider the following:~~

~~(1) — Quality of service proposed.~~

~~(2) — Experience, character and financial responsibility of the applicant and its management and owners.~~

~~(3) — Willingness of the applicant to comply with requirements of this code and proposed license.~~

~~(4) — All requirements imposed by this ordinance, Title 40, Arizona Revised Statutes and any other considerations deemed pertinent by the council.~~

~~(c) — The decision of the council shall be deemed final and conclusive.~~

~~(d) — If the council determines that the application shall be denied, the determination shall be by resolution. If the council shall determine that the application shall be granted, it shall instruct the office of the city attorney to draft the appropriate license, which shall be executed by the applicant and approved by the city manager or his designee.~~

~~(e) — The license shall not become effective until the licensed solid waste contractor has executed the license and the council approved the license application and the city manager or his designee has executed the license.~~

~~(f) — Upon acceptance of the license by the applicant, the licensed solid waste contractor shall file and maintain in effect during the term of the license, a corporate surety bond, or some other form of financial guarantee acceptable to the city attorney providing that in the event the licensed solid waste contractor fails to comply with one or more of the conditions of the license there shall be recoverable by the city any damages or costs suffered or incurred by the city including the full amount of costs and attorneys fees.~~

Sec. 22-13 shall be reserved.

SECTION 13. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-14 pertaining to License charge in its entirety:

~~Sec. 22-14. License charge.~~

~~(a) — In consideration of the granting and exercise of a license to use the streets and public rights of ways and to operate within the city to collect solid waste from commercial solid waste generators for their use and benefit, the licensed solid waste contractor shall pay to the city a license charge as set forth below on the date of issuance of the license and on each subsequent anniversary date of the issuance of the license.~~

License charges

YEAR	ANNUAL LICENSE CHARGE
July 1, 1996 — June 30, 1997	2,000.00
July 1, 1997 — June 30, 1998	3,000.00
July 1, 1998 — June 30, 1999	4,000.00
July 1, 1999 — June 30, 2000	5,000.00

~~(b) — Commencing on July 1, 2000, the annual license charge shall be adjusted by the annual change in the Gross Domestic Price deflator as defined in A.R.S. '41-563.E.~~

Sec. 22-14 shall be reserved.

SECTION 14. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-15 pertaining to Prohibited practices and which shall read as follows:

Sec. 22-15. Solid waste; collection; pProhibited practices.

(a) It shall be unlawful ~~and a violation of a license~~ for any licensed solid waste collector ~~holding a license for solid waste collection services~~ to engage in any of the following practices:

~~(1) refusal by a licensed solid waste contractor to enter into a contract with a commercial waste generator for solid waste collection service that is located within the City of Peoria.~~

~~(2)~~—Failure to comply with any provision of this chapter or of a license between the city and licensed solid waste collector.

~~(32)~~ Provision of solid waste collection services to commercial waste generators in the City of Peoria without a license provided under the provisions of this chapter, and unless such license is in full force and effect.

~~(43)~~ Failure to comply with any of the provisions of Title 49, Arizona Revised Statutes or Arizona Administrative Code, Title 18, Chapter 8 or any applicable county regulation.

~~(54)~~ To contract, combine or conspire with one or more other licensed solid waste collectors under this chapter or persons for the purpose of restraining competition or limiting competition for the provision of solid waste collection services to commercial generators.

~~(65)~~ To engage in predatory pricing practices in violation of the Arizona Uniform Antitrust Act as set forth in A.R.S. §44-1401, et.seq.

~~(76)~~ To engage in any violation of the Arizona Uniform Anti-trust Act as set forth in A.R.S. §44-1401, et.seq.

~~(87)~~ To provide solid waste collection services to any commercial solid waste generator within one thousand (1,000) feet of any residence during the hours of ten (10) o'clock p.m. and six (6) o'clock a.m.

~~(98)~~ To provide solid waste collection services to any non-commercial (i.e., residential, multi-family, etc.) solid waste generator without a written agreement executed by the City. It is a prohibited practice for a licensed solid waste collector to serve any non-commercial solid waste generator in the City of Peoria.

(b) Any person violating any part of section 22-15 shall be guilty of a class one (1) misdemeanor.

(c) The city retains all jurisdiction granted political subdivisions under A.R.S. § 44-1408 for violations of this chapter.

SECTION 15. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-16 pertaining to License revocation and which shall read as follows:

Sec. 22-16. Solid waste; Commercial Solid Waste Collector License revocation.

~~(a) each license granted by the city shall state that a licensed solid waste contractor understands and shall agree that failure to comply with any time and performance requirements as stipulated in this chapter and the license will result in damage to the city, and that the city may revoke the license as provided by this chapter. Further,~~ The city may revoke the license for any one (1) or more of the following violations:

~~(1) Commission of a prohibited practice set forth in section 22-15 of this code.~~

~~(2) Failure to provide solid waste collection services within the time specified in the license.~~

~~(3) Failure to properly restore the public right-of-way or to correct related violations of specifications, code, or standards after having been notified by the city to correct such defects.~~

~~(4) Failure to cure any violation of section 22-15, following notice and an opportunity to cure pursuant to the provisions of that section; and~~

~~(5) Any other action or non-action by the licensed solid waste collector, as agreed upon between the city and licensed solid waste collector, and set forth in the license.~~

(b) Before proceeding with a revocation hearing, the city manager shall make a serve by first class U.S. Mail to the address on file with the City a written notice outlining the violations and the City's proposed action and the requirements for the Solid Waste Collector to come into compliance and a deadline for compliance written demand that the licensed solid waste contractor comply. If a violation by the licensed solid waste collector continues for a period beyond that set forth in the written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the city council appointed hearing officer may revoke the license.

(c) License revocation matters shall be heard in the manner provided in Chapter 11, Section 11-140 of this Code. If the city manager concludes that a licensed solid waste contractor is in violation of this code or the conditions of the license, the city manager may order one or more of the following:

~~(1) find that licensed solid waste contractor is in violation of the terms of the license, order corrective action and may recommend foreclosure on all or any appropriate part of the letter of credit.~~

~~(2) In the case of a material violation recommend that the city council appointed hearing officer terminate the license, provided that the city~~

~~council may take action on any such recommendation only after a public hearing.~~

~~(3) — Shall temporarily revoke the license effective twenty days from the date of the revocation order. The revocation shall be served by certified mail to the licensed solid waste contractor and shall set forth the nature of the violation. The licensed solid waste contractor shall, within twenty (20) days of receipt of such notice:~~

~~(a) — respond to the city in writing, contesting the city's assertion of violation and providing such information or documentation as may be necessary to support the licensed solid waste contractor's position; or~~

~~(b) — cure any such violation (and provide written evidence of the same), or, if, by the nature of the violation, such violation cannot be cured within such twenty (20) day period, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensed solid waste contractor shall report to the city, in writing, at thirty (30) day intervals as to licensed solid waste contractor's efforts, indicating the steps taken by licensed solid waste contractor to cure said violation and reporting the licensed solid waste contractor's progress until such violation is cured.~~

~~(c) — If the licensed solid waste contractor contests the city's revocation, within fifteen (15) days the city shall schedule a hearing. During this time, the temporary revocation order shall be stayed.~~

~~(d) — If the city manager determines that licensed solid waste contractor has committed a violation, the determination shall be accompanied by a detailed statement of reasons for the determination, including findings of fact.~~

~~(e) — The decision of the city manager shall become final unless licensed solid waste contractor requests a public hearing before the a hearing officer appointed by the city council within fifteen (15) days of its receipt of the statement of reasons and findings of fact by the city manager.~~

SECTION 16. Chapter 22 of the Peoria City Code (1992) is amended by repealing Section 22-17 pertaining to Hearing by city council in its entirety:

~~Sec. 22-17. Hearing by city council.~~

~~(a) — If a public hearing before a city council appointed hearing officer is requested by licensed solid waste contractor, it shall be de novo and it shall convene within thirty (30) days of the request therefor. All witnesses shall be sworn and shall be subject to cross examination; however, formal rules of evidence shall not apply. The hearing officer's decision, which shall include~~

~~findings of fact, shall be made not later than forty five (45) calendar days after the conclusion of the hearing. In that decision, the hearing officer may:~~

~~(1) find that licensed solid waste contractor is not in violation of the terms of the license;~~

~~(2) find that licensed solid waste contractor is in violation but that such violation was with just cause and waive penalty that may otherwise be imposed;~~

~~(3) find that licensed solid waste contractor is in violation of the terms of the license, take corrective action and foreclose on all of any appropriate part of the letter of credit or performance bond.~~

~~(4) In the case of a material violation of the license, declare the licensed solid waste contractor in violation and revoke the license.~~

~~(b) In addition to all other rights and powers retained by the city council under this chapter or otherwise, the hearing officer shall have the right to revoke the license and all rights and privileges of the licensed solid waste contractor thereunder upon a recurring or protracted substantial breach of the license terms and conditions, or this chapter, which substantially affects the provision or quality of solid waste collection services, the ability of the City of Peoria to effectively regulate the licensed solid waste contractor, or Peoria's collection of all fees and charges. The power of revocation shall not be used if the breach is a result of force majeure. The breaches appearing on the list set forth below in this section shall be considered substantial breaches. The list is not exhaustive:~~

~~(1) willful or grossly negligent repeated violations of this chapter, the license, or the representations made in the proposal process, or any rule, order or regulation of the City of Peoria made pursuant to this chapter;~~

~~(2) attempt to evade any material provision of the license or practice any fraud or deceit upon the city or its subscribers or customers;~~

~~(3) recurrent failures after notice by the city manager to provide service to any part of the licensed solid waste contractor service area;~~

~~(4) unlawful acts or omissions by licensed solid waste contractor or its servants, officials, agents, representatives or employees, which result in the city's refusal to award a license to any other person, partnership, corporation or other legal entity.~~

Sec. 22-17 shall be reserved.

SECTION 17. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-20 pertaining to Residential Solid Waste Collection, authorized collection and which shall read as follows:

Sec. 22-20. ~~Residential Solid Waste;~~ non-commercial generator cCollection, authorized collection.

(a) The city ~~sanitation service~~ Solid Waste Division or its agents and contractors authorized by the city shall collect all solid waste generated by non-commercial generators within the city. Except as provided in this chapter, no person shall collect or gather solid waste or recyclables within the city from non-commercial generators.

(b) Effective July 1, 2016, private enterprise may deliver recycling or solid waste services to multifamily residential properties. "Multi-family residential dwelling units" are defined as a property with one (1) or more structures that contains five (5) or more dwelling units. The city shall follow the statutory definition of "dwelling unit" found in A.R.S § 33-1310, the Residential Landlord and Tenant Act.

SECTION 18. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-23 pertaining to Precollection practice generally and which shall read as follows:

Sec. 22-23. Solid waste; ~~p~~Precollection practices generally.

(a) ~~Except as otherwise provided, residential refuse generators not equipped with city-owned containers shall place containable refuse in refuse cans with tightfitting covers or approved plastic bags having a gross weight not exceeding sixty (60) pounds. All containers or bags shall be suitable for handling by one (1)-collecting employee. Container lid must be completely closed with no trash or recycling pushing the lid open. Open lids attract vectors such as roaches, flies and rodents, and contribute to putrid odors. Waste protruding from a container /propping the lid open shall not be serviced until the container complies with the Code requirements. All refusesolid waste placed in containers not owned by the city, such as a compactor, for collection by the city shall be subject to the same storage procedures as prescribed in subsection (b) of this section.~~

(b) City-owned containers shall be distributed and positioned as scheduled by the city. Containers serving more than one (1) residence shall be positioned along rear of side alley not more than one hundred (100) feet from the property line of any residence so serviced. If there are no alleys, individual portable containers may be supplied by the city.

(c) Residential ~~refusesolid waste~~ generators equipped with city-owned containers shall first place or cause to be placed in such containers all garbage followed by other containable rubbish. Before being placed in city-owned containers, garbage shall be drained and securely wrapped, ashes shall be

thoroughly cooled, drenched with water, and placed in a leak-proof container stout sack, animal and bird droppings, vacuum sweeper dirt, soot, feathers, sawdust and products used for packing materials shall be securely wrapped bagged and tied to prevent the items from falling out of the container.

(d) Trash, yard waste and brush. ~~In areas served by the mechanized collection system~~ Except as provided in Chapter 22, Section 22-7(c) of this Code, all trash, and other materials must be bagged and tied securely and placed in the city-owned refuse solid waste containers. Bags must not prevent lid from closing securely. Cardboard boxes shall be ~~crushed or flattened~~ broken/cut down into smaller pieces before being placed in the container to prevent recycling from getting stuck in container. ~~In areas where refuse~~ When solid waste cannot be entirely handled in city-owned containers or where city-owned containers are not provided, the resident may request a special haul or request additional containers to meet their needs. Grass clippings, leaves, small tree cuttings and similar material shall be placed, bagged and tied to prevent putrid odors and vectors, in disposal boxes, cartons or plastic bags At no time shall the weight exceed a weighing a maximum of sixty (60) pounds and not to exceed three (3) feet in length. ~~Such uncontained refuse shall be placed next to the property line parallel to the alley or street in as orderly a fashion as possible.~~

(e) Bulk trash collection branches shall not exceed three (3) feet in length or three (3) inches in diameter. Such uncontained solid waste shall be placed neatly along the curb/gutter of the street so as to not block the sidewalk. Whereas this is not possible, due to a major thoroughfare fronting the residence, the pile shall be placed as close to the curb as possible without creating a safety hazard, and shall not be located within four (4) feet of any mailbox, cable box, wall, decorative stationary items, trees, low voltage landscape lighting, borders or other items that can incur damage due to the vehicle's gripper reach.

(ef) ~~The city manager or his designee may prescribe, amend, or modify requirements for the sorting and collection of recyclable materials, upon reasonable notice to customers.~~ Such requirements shall be imposed of solid waste customers after thirty (30) notice to such customers.

SECTION 19. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-24 pertaining to Container location for pickup and storage and which shall read as follows:

Sec. 22-24. Solid waste; ~~c~~Container location for pickup and storage.

(a) ~~Where there is an alley in the rear of the premises that is accessible for mechanized collection service, containers shall be placed at the alley.~~ City-owned containers must be placed in a manner such that the opening is toward the street/ collection vehicle mechanized servicing a ~~alley~~ to facilitate the proper dumping of containers by the mechanized collection trucks. ~~The three-hundred and six-hundred gallon city-owned containers shall be located on one~~

~~(1) side of the alley as determined by the director of public works. The sixty (60)- and ninety (90)-gallon containers shall be placed with a minimum four (4) feet between containers in the street or parkway in a manner such as not to block the sidewalk or bike lanes. Individual residences that have an alley shall place their container in the curb at the front of their residence unless the residence faces a major thoroughfare or would block bike lanes.~~

(b) ~~Where an alley does not exist or is inaccessible, the City-owned~~ refusesolid waste ~~containers shall be placed on the sidewalk, curb or parkway at the front of the premises. Containers must be placed in such a manner that the lids open toward the solid waste vehicle street in order to facilitate proper dumping of the container by the mechanized collection vehicles. Containers must also be located in areas free of parked vehicles in order to ensure the collection vehicle has adequate maneuvering area. Blocked containers may not be serviced. A minimum of four (4) feet of clearance all the way around the container is necessary for automated/mechanized collection. Mailboxes, fences, parked or temporary delivery vehicles, landscape statues, ornamental décor and any other obstructions will prevent container service if located within the four (4) feet safe collection area. It is the resident's responsibility to maintain a clear and open four (4) foot service area between containers for collection.~~

~~(c) — Underground containers shall receive collection service only if the containers are removed from the underground receptacle and placed at the curbline by the owner. This subsection does not apply to homes located in subdivisions with such underground receptacles provided service to such homes was commenced prior to November 1, 1984.~~

~~(d) — Privately owned containers shall be a maximum of thirty (30) gallons, weighing a maximum of sixty (60) pounds.~~

~~(c) The Director of Public Works may designate any street as having traffic, access or service restriction conditions and may direct placement of containers on such streets on the sidewalk, notwithstanding any other provision of this code.~~

(ed) Each city-owned refusesolid waste container shall be assigned to the property and not to the occupant of the property. No person who occupies any property to which the container has been assigned may remove the container from the assigned property for any reason.

(fe) No person, unless authorized by the city, may move or relocate any City-placed and~~three hundred-gallon or six hundred-gallon~~ city-owned container from its assigned location.

(gf) Residential and commercial refusesolid waste containers which are provided by the city shall be kept in good repair by the city. Containers will be replaced when found to be no longer serviceable through disrepair or breakage.

~~maintained in an insanitary condition.~~ Residents are responsible for cleaning the city-owned container assigned to their residence to prevent odors. Bagging and tying trash is required to help minimize odors. Recycle materials are not bagged with the exception of shredded paper which shall be contained in a clear bag. Commercial ~~c~~Containers not owned by the city shall be kept in good repair by the owner. Containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition shall be condemned for future use. Legal notice of such condemnation shall consist of a label or tag affixed to the unsatisfactory condition within ten (10) days shall be removed and destroyed by the city. All customers shall maintain their alleys and the area surrounding the ~~refusesolid waste~~ refusesolid waste containers free from ~~refusesolid waste~~ refusesolid waste and other health hazards.

(hg) All residential ~~refusesolid waste~~ refusesolid waste containers of one-hundred- (100) gallon size or less shall be placed in the curb/ street after 6 p.m. on the evening prior to collection, but no later than 6 a.m. on the day of collection, and removed from curbline by the owner by 6:00 pm on the curb/ street and returned to private property located behind the residence setback (front of house) by the day following collection. Containers placed in the curb/ street or parkway after 6 a.m. on the day of collection are considered late put-outs and may not receive service. All such containers shall be stored no closer to the street right-of-way than the building setback. No containers shall be placed between the front of the residence and the sidewalk for storage at any time. It is preferred that containers are stored so as not to be visible from the street whenever possible. This requirement may be waived by the city upon application based upon hardship due to difficult terrain, ~~physical problems~~ disabilities, or advanced age.

SECTION 19. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-25 pertaining to Residential collection by bins and which shall read as follows:

Sec. 22-25. Solid waste; rResidential collection by bins.

(a) — ~~Motels, hotels, apartments, condominiums, townhomes, mobile home parks, care homes, or travel trailer parks may submit an application to the city requesting garbage and trash collection for the facility involved to receive collection by commercial front-load~~ be effective by use of city bins instead of individual residential unit collection. The number and size of bins required shall be determined by the city, and must be of such number and size so as to contain all garbage and rubbish within entirely enclosed bins for a minimum of twice weekly collection, unless otherwise authorized by the director for good cause shown. Before authorizing bin collection, the city must find all of the following:

- (1) A sufficient number of units and other considerations involved that would make it economical for the city to provide bin service.

(2) Bin collection may be made under conditions of sanitation and cleanliness so that no adverse health impact exists and that all state and county health requirements are complied with.

(3) The applicant has provided a location for the bins that does not interfere with traffic, meets city enclosure standards, and is not unsightly.

~~(b) The city may require the facility requesting bin service to make advance payment covering the cost of the bins. The facility purchasing the bins shall receive a credit against future collection fees up to the amount of the bin. Not more than fifty (50) percent of each monthly collection fee shall be applied against the price of the bins.~~

SECTION 20. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-26 pertaining to Lids and covers and which shall read as follows:

Sec. 22-26. Solid waste: Lids and covers.

The lids or covers of all containers required by this article shall at all times be kept secure so that flies and other insects may not have access to the contents, and shall only be removed while the containers and receptacles are being filled, emptied, or cleaned. Lids on all containers shall remain completely closed at all times to prevent putrid odors and vector issues. Lids that are not completely closed are considered overflowing and can't be collected by automated collection vehicles due to risk of unsanitary spillage.

SECTION 21. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-27 pertaining to Collection hours and which shall read as follows:

Sec. 22-27. Collection hours.

(a) The city may include in any commercial solid waste license hours for the collection of solid waste from commercial users, other than those provided in Section 22-15.

(b) The city manager or his designee shall establish dates and times for the collection of solid waste from residential and non-residential users. The city shall provide all users ~~thirty (30) days~~ reasonable notice of intent to change dates and times of collection.

SECTION 22. Chapter 22 of the Peoria City Code (1992) is amended by amending Section 22-28 pertaining to pickup of special items and which shall read as follows:

Sec. 22-28. Solid Waste: collection Pickup of special items.

(a) In this section "special items" means appliances and ~~vehicles~~ furniture; building materials such as lumber scraps, shingles, plaster, brick, stone, concrete, and other building materials; ~~by-products; dangerous waste; soil, masonry blades, sod and rocks.~~ Special containers and vehicles are utilized for this collection. This does not pertain to the residential bulk trash collection offered to residential utility customers with current city solid waste accounts.

(b) Residences having a city utility account desiring a special haul pickup of special items from any property may request a special pickup from the city. The city shall establish a charge for such special pickups, as set forth in chapter 2 of this code. The city may require pre-payment of the charge or may collect the charge in the same manner as other utility payments.

SECTION 23. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 24. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 5th day of July, 2016.

Dated: July 12, 2016

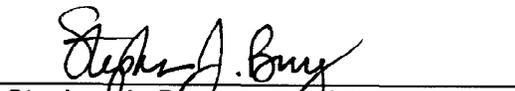

Cathy Carlat, Mayor

ATTEST:


Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:


Stephen J. Burg, Acting City Attorney

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