

Chapter 28

SOLID WASTE¹

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ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Abate or abatement means to remove, remediate or terminate a public nuisance or violation of this chapter.

Abatement cost means any and all expenses, costs and fees expended by the city or its designee in removing, enjoining or terminating a public nuisance or violation, as well as any damage to persons or property caused by the public nuisance or violation.

Alley means any public space or thoroughfare twenty (20) feet or less in width which has been dedicated or granted for public use.

Commercial container means any solid waste or recycling container used by a commercial establishment.

Commercial establishment means any public or private place, building or enterprise utilized for the conduct of business or industrial enterprise, but not to include any residential establishments.

Commercial heavy waste means dirt, rock, concrete, carpet, tile, glass, wet or heavy green waste from landscapers, plaster, asphalt, roofing materials, large panes of glass/mirrors, heavy metals, and any other heavy waste material produced by a commercial establishment.

Commercial non-collectible items means tires, paint, motor oil, gasoline, car parts and batteries, propane tanks, computer parts, medical waste, liquid waste, and any other dangerous or hazardous waste.

¹**Cross references**—Placement of handbills in public places, § 3-18; Sewers and sewage disposal, Ch. 27.

State law reference—City to provide for solid waste disposal, A.R.S. § 49-741.

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Commercial solid waste means all acceptable garbage and trash generated by commercial establishments except hazardous wastes and commercial non-collectible items.

Construction waste and demolition debris means dirt, rock, concrete, construction and demolition debris, lumber, railroad ties, rolls of carpeting, large panes of glass/mirrors, plaster, asphalt, and roofing materials.

Contain means to place refuse in a puncture resistant bag or box, or bundle and stack uncontained items in an appropriate manner so as to aid in the collection process.

Container means any receptacles used for the collection of refuse or recyclable materials and as approved by the public works director. This shall include sixty-five (65), ninety (90) and three hundred (300) gallon containers; four (4), six (6) and eight (8) cubic-yard front loaders; ten (10), fifteen (15), twenty-five (25) and forty (40) cubic-yard roll-offs; and cubic yard compactors less than thirty-one (31), thirty-one (31) to forty (40), and more than forty (40) cubic yards.

Contamination means materials that are placed in a solid waste container, including but not limited to, hazardous waste and residential/commercial non-collectibles, or other materials that are not designated as recyclables.

Contractor means a person, persons or corporate establishment engaged in the business of collecting, hauling or transporting commercial solid waste or special material in the city for disposal or any other purpose.

Domestic animal waste means feces or discarded bedding or flooring materials such as straw, sawdust, or other materials from yards, pens, corrals, stables or other containment from domestic animals or permitted wild animals weighing less than one hundred fifty (150) pounds.

Fence means any barrier erected, installed or planted to mark the boundaries of any lot or parcel of land and made of posts and wire, boards or similar materials or formed by a dense row of shrubs or trees.

Freestanding wall means any masonry barrier erected or constructed to mark the boundaries of any lot or parcel of land and made of masonry, concrete or similar materials and standing alone on its own foundation free of supporting frame or attachment.

Garbage means all putrescible solid wastes, except sewage and body wastes, including all organic wastes that have been prepared for or intended to be used as food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.

Green waste means brush, tree trimmings, grass, leaves or similar landscaping or plant material of an organic nature.

Hazardous wastes means all wastes that are hazardous by reason of their pathological, explosive, flammable, radiological or toxic nature, including, but not limited to, all wastes defined as hazardous by A.R.S. § 49-921.

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Imminent health or safety hazard means any condition of real property, refuse or recycling container that places life, health, safety or property in high risk of peril when such condition is immediate, impending or menacing.

Industrial solid waste means any solid waste as defined in this section produced as a result of any industrial operations.

Injunctive relief means a court order temporarily or permanently enjoining any person or establishment from committing any act in violation of this chapter. Injunctive relief is in addition to all penalties and other remedies prescribed in this section.

Landscaper means any person or establishment who is in the business or profession of gardening or improving the appearance of land by planting or trimming trees, shrubs, grass, or other vegetation, or altering the contours of the ground.

Liquid waste means any waste material in the form of a liquid or that produces a liquid at any time, including but not limited to, grease, oil or food. This shall not include domestic sewage or hazardous waste materials.

Livestock waste means feces or discarded bedding or flooring materials such as straw, sawdust, or other materials from yards, pens, corrals, stables or other containment from livestock and fowl, including cattle, horses, pigs, chickens or other domestic or permitted wild animals weighing over one hundred fifty (150) pounds.

Medical waste means any solid or liquid waste generated in the diagnosis, treatment, testing or immunization of a human being or animal, or in any research relating to the diagnosis, treatment or immunization, or in the production or testing of biologicals, including but not limited to, medical sharps and biohazardous medical waste.

Material recovery facility (MRF) means any location designated as a drop-off location for recyclables.

Nonparticipant means a residential or commercial customer within any area of the city where the city recycling program is in effect who is not participating in the recycling program, either by choice or by action of the city.

Notice of violation (NOV) means a form notifying a responsible party of a violation of this chapter with reasonable specificity, the date and time of the violation, a deadline for compliance if applicable, and the right to a hearing to contest said violation.

Public nuisance means anything which is injurious or obnoxious to health or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by any considerable number of persons, or which obstructs the free passage or use, in the customary manner, of any street, alley, sidewalk or public property.

Public works director means the head of the public works department or designee.

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Putrescible solid waste means solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or other animals capable of transferring a diseased bacterium or virus from one organism to another.

Recyclables means any solid waste as designated by the city from time to time, that has been separated from other solid waste for the purpose of being collected and recycled.

Recycling container means any container, whether operated for profit or not, where the public is asked to bring any materials to be donated or left to be recycled, reclaimed, processed or reused, including, but not limited to, newspapers, bottles, metal cans, and used clothing and furniture.

Refuse means any garbage, trash and collectible contained items.

Residential container means any solid waste and recycling container used by a residential establishment.

Residential establishment means any structure or premises used as a domicile, dwelling, or habitation, including residential single-unit dwellings, residential multi-unit dwellings, duplexes, patio homes, mobile home parks, trailer courts, rooming houses, boarding houses, assisted living facilities, apartments, condominiums, townhouses, combination residential and commercial structures, or any complex of the foregoing.

Residential multi-unit dwelling means a domicile, dwelling or habitation, including a rental dwelling, that contains more than one complete living space, duplex, mobile home park, trailer court, rooming house, boarding house, assisted living facility, apartment, condominium, townhouse, combination residential and commercial structure or any combination of the foregoing. However, this shall not include a residential facility pursuant to A.R.S. § 36-582.

Residential non-collectible items means dirt, rock, concrete, bricks, asphalt, roofing material, plaster, construction and demolition debris, lumber, railroad ties, rolls of carpeting, tires, paint, car parts, motor oil, gasoline, household/hazardous chemicals, car batteries, propane tanks, computer parts, large panes of glass/mirrors or any other dangerous or hazardous materials.

Residential single-unit dwelling means a building or structure or any parts thereof, used as a residence by one or more persons, including a domicile or habitation that contains only one complete living space. It also includes a residential rental dwelling unit and residential facility, pursuant to A.R.S. §§ 9-1301(10) and 36-582(b).

Responsible party means an occupant, lessor, lessee, manager, licensee, owner or other person having control over a structure or parcel of land. Also, in the event that remediation of property is required, any lien holder whose lien interest is recorded in the official records of the Maricopa County Recorder's office relating to said property.

Sanitary container means a container that does not have uncontained putrescible waste, an odor detectible within ten (10) feet with lid closed emanating from it, or vectors populating within it.

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Scavenge means to collect by searching and removing solid waste items, including any items inside or around a container, public right-of-way or solid waste facility.

Sharps means objects such as syringes, needles and lancets that are used for insulin intake, blood samples or for other medical purposes.

Solid waste means any refuse, green waste, liquid waste, medical waste, domestic animal waste, and other discarded material, including solid, liquid, semisolid or contained gaseous material but not including domestic sewage or hazardous wastes or swimming pool drainage water.

Solid waste containers means any refuse or recycling container, for either residential or commercial use.

Solid waste fee means any fee associated with solid waste services provided by the city as established by city council resolution (see Appendix A).

Special collection means solid waste collection service provided by the city of collectible items only, over and above the usual level, including Freon containing white goods. Associated fees are established by city council resolution (see Appendix A).

Tare weight means empty weight of vehicle with driver.

Trash means combustibles such as paper, wood, yard trimmings or brush and noncombustibles including metal and glass.

Uncontained items means all large trimmings from trees and shrubbery, furniture, major appliances (excluding white goods), mattresses and other acceptable materials that are too large to be deposited into containers, that are generated by a residential single-unit dwelling within the city.

Waste means material of any kind that constitutes solid waste, refuse, animal or livestock waste, or medical waste. Waste includes abandoned or unidentified personal property left unattended on public sidewalks and rights-of-way or other public areas.

Weight-based service means a fee charged for collection or disposal services based on weight of the load, less the tare weight, as established by city council resolution (see Appendix A).

White goods means manufactured appliance items containing or previously containing Freon such as refrigerators, air conditioners or freezers.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 92.52, 1-14-93; Ord. No. 94.35, 4-13-95; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2009.10, 3-5-09; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.04, 3-25-10)

Sec. 28-2. Property Maintenance.

(a) It is unlawful for any person to fail to maintain residential or commercial real property under his control, in a clean manner, free from garbage, trash and waste, including but not limited to, solid waste, contamination, garbage, remodeling and demolition debris, hazardous materials and recyclables.

(b) It is unlawful for any person to fail to maintain areas adjacent or abutting to property under his control, including alleys, public walkways, public streets and rights-of-way, free from garbage, trash and waste, including but not limited to, solid waste, contamination, garbage, hazardous materials, recyclables and commercial and residential non-collectible items.

(c) It is unlawful for any person to interfere with or prevent the public works director or agents thereof, while the city is administering or enforcing this chapter. However, nothing in this section shall be construed to limit the pursuit of any remedy in any court of competent jurisdiction for property rights by the owner of any property within the city.

(Ord. No. 2009.10, 3-5-09; Ord. No. 2010.02, 2-4-10)

Secs. 28-3—28-10. Reserved.

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ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 28-11. Administration and enforcement.

(a) The public works director is assigned the primary responsibility of administering and enforcing this chapter and is granted the authority expressly and impliedly needed and necessary for enforcement. The public works director may designate any agents to exercise any administrative and enforcement powers as provided in this chapter.

(b) Nothing in this chapter shall preclude city employees from seeking voluntary compliance with the provisions of this chapter through notices to comply, warnings, or other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances.

(c) The authority of the city to enforce provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of any other ordinances of the city.

(d) It is unlawful to violate any provision of this chapter. The failure to comply with any requirement of this chapter constitutes a violation of this chapter. Each instance of a violation of this chapter may be considered a separate offense and enforced and prosecuted accordingly. The public works director may seek remedies including injunctive relief, in addition to civil penalties and criminal penalties as set forth in this code. Remedies available pursuant to violations of this chapter are cumulative and not exclusive, and do not limit or supersede any and all other lawful remedies.

(e) Violations of this chapter shall be considered strict liability offenses. (Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2009.10, 3-5-09; Ord. No. 2010.02, 2-4-10)

Sec. 28-12. Violations and penalties.

(a) If a violation under this chapter occurs, the public works director or designee thereof has the authority to issue a notice of violation ("NOV"). The NOV may be issued in any of the following ways:

- (1) Hand-delivered to any person at the address where the violation propagated or by personal service upon the owner, resident, occupant, tenant or other responsible person;
- (2) Posted in a conspicuous location upon the real property where the violation propagated, or property adjacent to or abutting the location of the violation; or
- (3) Mailed to the address where the violation propagated via certified mail with return receipt requested.

(b) The NOV shall contain the date and location of the violation, reference to the Tempe City Code provision or ordinance violated, and notice that the violation must be remedied within a specified time.

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(c) Upon receipt of NOV, the violation must be remedied within the following time frame:

- (1) As directed in writing in the NOV by the public works director or designee thereof depending on the severity of the violation, but in no event shall such time exceed thirty (30) days; or
- (2) Immediately if the violation poses an imminent health or safety hazard.

(d) The city may correct or abate the condition constituting a violation at any time on or following the date stated in the NOV. In addition, should the violation constitute or escalate to an imminent health or safety hazard as determined by the city, or in the event of repeated violations as set forth in § 28-13 herein, the city may immediately abate the condition.

(e) Any person in violation of any of the provisions of this chapter will be charged for any and all abatement costs incurred, whether performed by the city or its designee, in addition to civil penalties and fees as set forth in §§ 1-7 and 1-8 of this code. The procedure for penalties and fees for violations of this chapter shall be in accordance with chapter 1 of this code.

(f) All abatement costs shall be billed to the violating party directly by and through the city municipal services statement or otherwise, as directed by the public works director.

(g) The city municipal services statement shall include a statement of the date and location of the violation, reference to the city code provision or ordinance violated, and notice that to dispute said abatement costs, the violating party must request a hearing from the Tempe Municipal Court within fourteen (14) days from the due date set forth therein unless additional time is specified by the public works director or designee thereof. Appearances shall be conducted pursuant to § 1-9 of this code. Should the party fail to appear or remit payment for the abatement cost within the time specified, judgment by default shall be entered in the amount of the abatement cost plus a penalty amount for the party's failure to appear.

(h) Any and all unpaid charges for abatement costs may be enforced by the city court, including delinquent fines, fees and penalties as provided by law. Any judgment or civil sanction may be collected as any other civil judgment, including but not limited to, recording a lien against the real property, lot or tract of land that is subject to the abatement costs as set forth herein. Enforcement of the lien may include sale of the property.

(i) All violations under this chapter constitute a public nuisance and are civil unless otherwise specified, and may be commenced by delivering a NOV to the person responsible for the violation. In addition to the above, the procedures in § 1-7 of this code may be utilized for civil violations of this chapter. The fines for civil violations applicable to this chapter shall be established by city council resolution.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04; Ord. No. 2009.10, 3-5-09; Ord. No. 2010.02, 2-4-10)

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Sec. 28-13. Criminal violations.

(a) A violation of this chapter by any person three (3) times within a one year period shall constitute a misdemeanor and shall be punishable as set forth in § 1-7 of this code. For purpose of calculating the one-year period under this subsection, the dates of the commission of the offenses shall be the determining factor.

(b) A violation of § 28-51(b)(1) or § 28-51(b)(2) shall constitute a misdemeanor and shall be punishable as set forth in § 1-7 of this code.
(Ord. No. 2004.03, 2-19-04)

Sec. 28-14. Permit revocation.

Any permit issued under this chapter may be revoked by the public works director on the basis of violations of this chapter, city code or state law. The public works director may revoke a permit upon ten (10) days notice to the permit holder. The permit holder may request a hearing with the public works director prior to the expiration of the ten (10) day notice. Revocation shall be effective on the date set by the city.
(Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-15. Recycling container impoundment.

(a) Any recycling container which is in violation of this chapter may be removed at the owner's expense. The public works director shall conspicuously attach to the container a notice that includes:

- (1) The city code section which is being violated; and
- (2) The date at which the container will be removed, which date shall be no sooner than ten (10) days after the posting of the notice, unless the violation is corrected.

(b) If the city impounds the container, the owner shall reimburse the city for the cost of the container's removal and impoundment. If the owner fails to reimburse the city within sixty (60) days of its removal, the city may dispose of the container.
(Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-16. Penalties for leaving uncontained items at curb or alley more than ten (10) days prior to scheduled collection week.

(a) Upon notification by the solid waste section, a resident, owner or occupant shall have ten (10) days after the date of the notice to remove items placed for collection that do not conform to the requirements of § 28-51(d). Failure to remove items as required herein shall be a civil violation, punishable as set forth in § 28-12. In lieu of proceeding under § 28-12, the city may correct or abate the condition described in the notice. The responsible party will be charged for all costs incurred in correcting the condition. These costs will include personnel, equipment and disposal.

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(b) If in the opinion of the public works director the items placed for collection constitute an imminent health or safety hazard, the city may immediately abate the hazard without notice. (Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Secs. 28-17—28-20. Reserved.

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ARTICLE III. AUTHORIZED COLLECTORS

Sec. 28-21. Collection to be by city or licensed collectors; requirements for issuance of license; terms of license; enforcement of license requirements.

(a) Only contractors licensed by the city may collect commercial solid waste within Tempe boundaries. Such license will be issued by the city under the following conditions:

- (1) The city must have satisfactory evidence that the contractor possesses the necessary equipment and qualifications to collect, transport and dispose of commercial solid waste in a manner satisfactory to the city and in conformity with the state or county department of health laws, rules and regulations;
- (2) The contractor desiring a license to collect commercial solid waste shall submit an application to solid waste services together with a license bond in an amount established by city council resolution, and an annual per-vehicle fee in an amount established by city council resolution. An annual audit may be performed by the city to establish the contractor's gross receipts from the collection within the city. The resultant annual fee shall be two percent (2%) of the gross receipts should such percentage exceed the per-vehicle fee remitted at the time of application; otherwise, the per-vehicle fee remitted at the time of application will constitute the annual fee per vehicle;
- (3) The contractor's application shall include the name, business and residence addresses of all owners, partners, general managers and principal officer, as well as business references and such other information as deemed necessary; and
- (4) Any license granted by solid waste services shall be nontransferable and may be suspended or cancelled upon failure or refusal of a licensee to comply with the provisions of this chapter and after notice and hearing respecting the same. The term of the license shall be for the fiscal year commencing July 1 and ending June 30. Application for renewal shall be made at least thirty (30) days prior to expiration of a valid license. Fees may be prorated monthly on licenses issued during the fiscal year.

(b) The contractor will be expected to furnish the city with any available equipment to assist the city in the collection of commercial solid waste during and for any period of time when the city might be unable to serve any or all of its commercial customers. The city will pay the contractor for such service based on the contractor's current standard rates for servicing commercial bulk containers.

(c) Any person who has a license for the collection and disposal of solid waste revoked, has been denied a license or who is affected by any notice issued in connection with the enforcement of any provision of this chapter, may request and shall be granted a hearing on the matter before the city council, provided such person shall first file with the city clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition, the city council shall set a time and place for such hearing and shall give the petitioner special written notice

thereof. Should the city council concur that there has been a violation of this chapter, they may take such action as is justified.

(d) All containers must be clearly marked with the company name and phone number. Containers of non-permitted companies may not be placed for use in city boundaries. (Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-22. Insurance and surety bond required of contractors.

(a) Contractors will obtain, keep in force and maintain public liability and property damage insurance in the sum of one million dollars (\$1,000,000) for personal injury to any one person, one million dollars (\$1,000,000) for personal injuries sustained by all persons in any one accident and five hundred thousand dollars (\$500,000) with respect to property damage arising from any single occurrence, to indemnify the contractor for loss by virtue of any disability arising from his collection, hauling and disposal activities within the city. The city will be named as co-insured. Evidence of such insurance shall be furnished to the city at the time of license application and at the time of any renewal.

(b) The contractor shall provide a cash bond in the amount of five hundred dollars (\$500) and in a form acceptable to the city, such bond to be conditioned upon the payment of any charges incurred by the city in correcting any failure by the contractor to perform in accordance with the requirements of his license. (Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-23. Vehicle requirements.

All vehicles used for solid waste collection within the city must be inspected and approved by the city and meet the following requirements:

- (1) All vehicles must be in good condition and repair. The bodies shall be of readily cleanable construction, watertight and metal-lined to the full width and height of the body, with all seams welded;
- (2) Vehicles shall be maintained and operated in a clean and neat manner so as to prevent solid waste from spilling, leaking and blowing. All vehicles shall have enclosed bodies;
- (3) The outside of each vehicle must be clearly identified by the name and telephone number of the contractor operating the vehicle; and
- (4) Any open-top roll off container must have a cover which prevents solid waste or contents from spilling or flowing onto the roadway.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Secs. 28-24—28-30. Reserved.

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ARTICLE IV. CONTAINERS

Sec. 28-31. Containers—Use required; provision by city; capacity; exception for certain trash.

(a) No owner, tenant, lessee or occupant of any public or private establishment or residence shall permit to accumulate upon his premises any garbage except in tightly covered, portable containers of rust-resistant metal, rubber, plastic or other similar material meeting the approval of the public works director.

(b) The city shall provide containers for all residential establishments and commercial customers serviced by the mechanized collection system. Where there is an alley in the rear of residential establishments, the public works director shall assign a large city-owned container of three hundred (300) gallons to the appropriate number of residential establishments. Small city-owned containers of ninety (90) gallons shall be assigned to residential establishments which have no alley. Commercial establishments will, under agreement with the city, receive collection service including the appropriate three hundred (300) gallon or metal bulk container ranging in size from one to eight (8) cubic yards.

(c) Uncontained items need not be kept in the above type containers if such items are handled as provided in § 28-52.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 94.35, 4-13-95; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-32. Same—When not provided by city; number required.

(a) The owner, tenant, lessee or occupant of a residential establishment not serviced by the mechanized collection system shall provide his own standard garbage containers of sufficient number to maintain a clean and sanitary condition on his premises. Containers shall not be less than ten (10) gallons nor more than thirty (30) gallons capacity and shall be of standard, tapered, noncorrosive, nonabsorbent construction. All containers shall have a lid and be equipped with suitable handles for lifting. Plastic bags are a permissible substitute.

(b) The owner, tenant, lessee or occupant of any place of business, commercial or industrial premises not served by the city shall have sufficient containers to meet their needs.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-33. Same—To be kept sanitary and in repair; replacement.

(a) Residential and commercial garbage and recycling 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. All residential customers must maintain their city-provided plastic containers in a clean and sanitary condition.

(b) Non-city-owned containers shall be kept in good repair by the owner. Such containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition shall be condemned for further use. Legal notice of such condemnation shall consist of a label or tag affixed to the unsatisfactory container. Receptacles not placed in a satisfactory condition within

ten (10) days shall be removed and destroyed by the city. All customers shall maintain their alleys and the area surrounding the garbage containers free from garbage and other health hazards.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-34. Same—Placement for collection; removal after collection.

(a) All solid waste containers (garbage and recycling) prepared for the city collection service shall be placed at the front curb, unless otherwise designated by the public works department, in an easily accessible manner.

(b) All containers must be placed in such a manner that the lids open toward the street or alley in order to facilitate proper dumping of the container by the mechanized collection vehicles.

(c) Containers shall be placed for collection no earlier than 6:00 p.m. on the day preceding the scheduled collection day. Containers must be removed from the curb no later than 8:00 p.m. on the day of collection. If a violation of this subsection necessitates the city to pull back the container from the front curb, the city may assess a charge to the property owner. This subsection shall not apply to containers that the city has placed permanently at the front curb.

(d) Containers shall not block the sidewalk or otherwise be a hazard to pedestrian or vehicular traffic.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 94.35, 4-13-95; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04)

Sec. 28-35. Same—Tampering with, removing prohibited.

(a) No person shall uncover or cause to be uncovered, tip over or cause to be tipped over or molest or cause to be molested in any manner any container or garbage legally placed for removal.

(b) Each ninety (90) gallon city-owned garbage and recycling container shall be assigned to the property and not to the occupant of the property. No person who occupies any property to which the ninety (90) gallon container has been assigned may remove the container from the assigned property for any reason.

(c) No person, unless authorized by the public works director may move or relocate any three hundred (300) gallon city-owned container from its assigned location.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-36. Containers for commercial establishments may be supplied by contractors.

(a) Garbage containers, roll off bodies and compactors may be supplied by the contractor. All containers, roll off bodies and compactors shall be painted and maintained in a clean, neat and sanitary manner at all times and shall have the name and phone number of the contractor identified legibly thereon.

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(b) A commercial establishment shall maintain enough containers to accommodate the solid waste disposal needs of the establishment as determined by the public works director.

(c) All commercial solid waste shall be placed in standard garbage containers or compactors which shall be placed in inconspicuous places determined by the public works director.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Secs. 28-37—28-40. Reserved.

ARTICLE V. COMMERCIAL COLLECTION

Sec. 28-41. Hours of commercial collection; failure of contractor to collect solid waste; notice of violation of chapter.

(a) Commercial solid waste shall not be removed from commercial or industrial property that is within five hundred (500) feet of residential development between the hours of 6:00 p.m. and 6:00 a.m.

(b) Solid waste shall not be allowed to collect on any property in unsanitary quantities. The contractor shall, within eight (8) working hours of a telephoned request by the city, service containers at specified locations. Should the contractor fail to respond to the above request and the city elects to empty the containers and otherwise collect the solid waste, the contractor shall reimburse the city at double the rates established by city council resolution.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04)

Sec. 28-42. Repealed.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04)

Sec. 28-43. Notice of intent to commence or terminate service to commercial establishments.

The contractor shall provide the city with written notice of intent to service any new commercial establishment prior to commencing service, including the name and address of the commercial establishment, the ownership, number and size of standard garbage containers and the days of collection. The contractor shall provide the city with a written notice of intent to service any existing commercial establishment being serviced by the city at least thirty (30) days before commencing service, including the name and address of the commercial establishment, the ownership, number and size of standard garbage containers to be serviced and the days of collection. The contractor shall provide the city and the commercial establishment with thirty (30) days' written notice before discontinuance of service, and such termination shall be on the first days of the month.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Secs. 28-44—28-50. Reserved.

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ARTICLE VI. SOLID WASTE DISPOSAL

Sec. 28-51. Prohibited disposal.

(a) Any solid waste which does not comply with the provisions of this chapter will not be collected by the city and will subject the owner or occupant of the property, or the owner or occupant of abutting property in the case of noncomplying solid waste in the right-of-way, to penalties for violation of the city code.

(b) The following shall not be placed in city-owned containers or in any alley, right-of-way, or curbside:

- (1) Hazardous wastes;
- (2) Septic tank or cesspool pumpings and similar liquid waste with the exception of semi-liquid waste from city sewer cleaning equipment; or
- (3) Dirt, rock, construction or demolition material, or non-collectible materials.

(c) Any person who is in the business of trimming trees, shrubs or brush for compensation shall be solely responsible for disposal of all brush, tree trimmings, grass, leaves or similar landscaping or plant material generated in connection with such activity.

(d) Residents shall not place uncontained items at curb or alley more than ten (10) days prior to the scheduled collection week.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 92.52, 1-14-93; Ord. No. 94.35, 4-13-95; Ord. No. 2004.03, 2-19-04)

Sec. 28-52. Containment and disposal requirements.

(a) *Collection of garbage.* All garbage must be placed in the city-owned containers unless otherwise properly handled as uncontained items as provided in this section.

(b) *Garbage, etc., to be placed in bags.* All garbage, grass clippings, leaves, and similar material shall be placed in plastic bags or other watertight containers and securely sealed prior to placement in a city-owned container or for collection.

(c) *Collection of uncontained items in areas not served by or partially served by city.* In areas where uncontained items cannot be entirely handled in city-owned containers or where city-owned containers are not provided, all items shall be placed next to the property line parallel to the alley or street in as orderly a fashion as possible. Where there is no alley, uncontained items shall be placed parallel to the property generating it but shall not be placed around or adjacent to any mechanized collection container in such a manner as to interfere with its being emptied. Where an alley is accessible, the uncontained items shall be placed in the alley parallel to the property generating it. The solid waste division will provide regularly scheduled collection to remove properly prepared materials from the alley and along the street.

(d) *Special collections of uncontained items.* Residents desiring collection on a schedule other than the city's regular schedule, or residents desiring collection which is over and above the level of service provided in this chapter, shall call the public works department to request this service. The resident shall pay for the additional service at the rate set by the city council (see Appendix A Fee Schedule).

(e) *Tree trimmings, grass clippings and cactus.* Any large trimmings from trees and shrubbery that cannot be readily placed in containers or bagged as required in subsection (b) above shall be cut in lengths not to exceed forty-eight (48) inches and placed in stacks one foot apart, parallel and next to the property generating it. All grass clippings and leaves must be bagged. All cactus and parts of cactus plants shall be placed in a sealed cardboard box and placed separately from other uncontained items.

(f) *Animal waste.* Waste from small animals or pets shall be placed in a bag, securely sealed and placed in the regular garbage containers for disposal. Wastes from larger animals such as horses and other livestock kept as pets or for personal pleasure may be placed out for collection, provided the waste is dry, placed in a plastic bag, securely sealed, and placed in a garbage container for collection.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 92.52, 1-14-93; Ord. No. 94.35, 4-13-95; Ord. No. 2004.03, 2-19-04)

Sec. 28-53. Disposal of refuse on public or private property.

No person shall place or cause to be placed any solid waste or other materials upon any public or private property with the city except as specifically permitted in this chapter or at sites designated by the city council.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-54. Burning garbage.

No person shall burn or attempt to burn garbage within the city limits.

(Ord. No. 86.47, § 2, 7-10-86)

Sec. 28-55. Building contractors to leave areas clean.

All building owners and contractors shall, upon the completion of construction, remove at their sole cost and expense all trash of every nature, description or kind which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete and other building material.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-56. Accumulating combustible rubbish; haystacks.

(a) No person shall place upon or permit to remain upon any roof or in any court, yard, vacant lot, alleyway or open space any accumulation of wastepaper, waste hay, grass, straw, weeds, litter or combustible or inflammable waste or rubbish of any kind. All weeds, grass, vines and other growth which endanger property or are liable to be fired shall be cut down and removed by the owner or occupant of the property.

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(b) Hay may be stored in the city where the hay is properly baled and properly stacked; provided, that storage of hay does not violate the provisions of this code.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-57. Dumping solid waste on streets or premises prohibited.

No person shall deposit or cause to be deposited upon any street, alley or premises in the city any garbage, trash or solid waste of any kind except as specifically permitted in this chapter. It shall be the duty of all solid waste collection personnel, public or private, to immediately clean up any refuse spilled during the collection process.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-58. Dead animals.

Dead dogs, cats and other animals weighing less than seventy-five (75) pounds upon any public way will be removed and disposed of upon call to the public works department. Dead animals shall not be placed in garbage containers. Condemned animals or parts of animals from slaughterhouses or similar places regardless of size will not be collected by the city.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-59. When garbage becomes city property.

Garbage deposited in city-owned containers shall become the property of the city, and removal of any garbage shall be unlawful unless authorized by the public works director.
(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-60. Reserved.

ARTICLE VII. FEES

Sec. 28-61. Collection and dump fees generally.

(a) Wherever garbage and trash collection services are needed, the charges for such service shall be established by city council resolution and payable monthly (see Appendix A).

(b) Single-family dwelling accounts shall not be eligible to petition the city to temporarily discontinue solid waste service.

(c) In the event that any customer shall fail to pay for garbage and trash services as provided in this chapter, the city is authorized to discontinue water service or other city services to the property until such time as payment is made.

(d) Charges for garbage and trash service to newly constructed structures shall commence upon final inspection and approval of such structures by the city building inspector or once the property requires service.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Sec. 28-62. Collection and fees for areas outside city.

(a) Solid waste services may be rendered to areas outside the city at the option of the city and subject to termination at any time.

(b) The fees for collection in such areas shall be one and one-third ($1\frac{1}{3}$) times the fee for similar service rendered within the city.

(Ord. No. 86.47, § 2, 7-10-86; Ord. No. 2004.03, 2-19-04)

Secs. 28-63—28-70. Reserved.

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ARTICLE VIII. RECYCLING CONTAINERS

Sec. 28-71. Permits required.

It shall be unlawful for any person, firm or corporation to maintain a recycling container within the city without having first obtained a city permit.
(Ord. No. 89.27, 6-29-89; Ord. No. 2004.03, 2-19-04)

Sec. 28-72. Application.

(a) Applications for recycling container permits shall be made to the public works department on a form provided by the department. The application shall include the following information:

- (1) The name and address of the owner or operator and a telephone number where the owner or operator or an agent of the owner or operator can be reached; and
- (2) The location, size and type of proposed recycling container.

(b) The application shall be accompanied by a written statement from the owner of the property describing where the container is to be placed and granting permission for the container placement.

(c) If the application is for the placement of a container on a developed site as a condition precedent to obtaining a permit under this article, the property owner must obtain site plan approval from the community development department with regard to the placement, color, screening, signage and any other condition of or pertaining to the container as set forth in the Zoning and Development Code.

(Ord. No. 89.27, 6-29-89; Ord. No. 97.20, 4-10-97; Ord. No. 2004.03, 2-19-04; Ord. No. 2004.42, 1-20-05; Ord. No. 2010.02, 2-4-10)

Sec. 28-73. Containers.

(a) Each recycling container shall have a firmly closing lid and have a capacity of not less than three (3) cubic yards and not greater than six (6) cubic yards. The container shall be constructed of painted metal, rubber, plastic or alternate material with written approval of the public works director.

(b) Containers shall be clearly marked to identify the materials requested to be left for recycling, the name of the operator or owner of the recycling container, and a telephone number where the owner, operator or agent of the owner or operator may be reached at any time. The size of the sign or markings on any side of the container shall not exceed twenty-five percent (25%) of the total area of the same side of the container.

(c) The exterior color of the container shall be a solid color approved by the public works director.

(d) No container shall identify a religious or nonprofit corporation without the written permission of such religious or nonprofit corporation; said permission must be submitted at the time application is made for a recycling container permit.

(Ord. No. 89.27, 6-29-89; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04; Ord. No. 2010.02, 2-4-10)

Sec. 28-74. Litter and trash prohibited.

No person shall place any materials in any recycling container except the materials named on the outside of the container. No person shall leave any materials outside of a container.

(Ord. No. 89.27, 6-29-89; Ord. No. 2004.03, 2-19-04)

Sec. 28-75. Repealed.

(Ord. No. 89.27, 6-29-89; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.03, 2-19-04)

Sec. 28-76. Repealed.

(Ord. No. 89.27, 6-29-89; Ord. No. 2004.03, 2-19-04)