

Chapter 9

HEALTH AND SANITATION*

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ARTICLE 9-1. GARBAGE AND TRASH COLLECTION

Sec. 9-1-1. Definitions.

In this chapter, unless the context requires otherwise:

- (a) *Consumer* means property owner or renter, lessee or tenant for refuse customers.
- (b) *Garbage* means all putrescible 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.
- (c) *Manufacturing by-products* means any refuse resulting from commercial or industrial processes, including but not confined to produce packaging and shipping.
- (d) *Refuse* means all garbage and trash.
- (e) *Trash* means all non-putrescible wastes.

(Ord. No. 2008-11, § 1, 8-19-08; Ord. No. 2011-07, § 1, 5-17-11)

Sec. 9-1-2. Collection agency.

* **Editor's note**— Sections 1 and 2 of Ord. No. 2019-01, adopted Jan. 2, 2019, deleted Section 9-4-14 in its entirety and Section 9-4-15 was renumbered to 9-4-14.

* **Cross references**—Building, Ch. 7; offenses, Ch. 10; sewers, Ch. 11; water, Ch. 14; flood damage prevention, Ch. 19.

State law reference—City authorized to prescribe regulations necessary for prevention or suppression of disease, A.R.S. § 9-240(B)(22).

The city or other collectors authorized by the city, shall collect all refuse within the city. No person, except as provided in this chapter, shall collect or gather refuse within the city.

Sec. 9-1-3. Collection hours.

The hours of collection of refuse shall be as designated by contract with the city's refuse collection agency.

(Ord. No. 2008-11, § 2, 8-19-08)

Sec. 9-1-4. Rates.

The council shall, from time to time, fix the rates and classifications for garbage and trash collection within the city and shall make such other rules and regulations as may be necessary to properly administer and enforce this chapter.

Editor's note—Section 3 of Ord. No. 2008-11, adopted August 19, 2008, inadvertently directed renumbering the above section to 9-1-3. Therefore, to correct the error, the section number remains unchanged.

Sec. 9-1-5. Time of payment.

(a) All charges shall be paid within ten (10) days after receipt of billing.

(Ord. No. 2008-11, § 4, 8-19-08)

Editor's note—Section 4 of Ord. No. 2008-11, adopted August 19, 2008, inadvertently directed renumbering the above section to 9-1-4. Therefore, to correct the error, the section number remains unchanged.

Sec. 9-1-6. Prohibition against non-use of city service.

No owner, tenant, lessee, occupant or other person in possession of any building within the city shall avoid or refuse to accept the garbage and trash disposal service provided for in this chapter. Avoidance or refusal of service shall not exempt such person from the payment of the charges for such service.

Editor's note—Section 5 of Ord. No. 2008-11, adopted August 19, 2008, inadvertently directed renumbering the above section to 9-1-5. Therefore, to correct the error, the section number remains unchanged.

ARTICLE 9-2. PREPARATION OF REFUSE FOR COLLECTION

Sec. 9-2-1. Containers and manner of preparation.

- (a) The city, or its contracted refuse collection agency, shall furnish containers to its consumers for the accumulation, storage and collection of all garbage and trash. Said containers shall be the only authorized container allowed within the city for garbage and trash accumulation, storage and collection.
- (b) The city, on its own or through its refuse collection agency, may provide and schedule excess collection services to its consumers. Items for collection shall be limited to normal household items and shall not include commercial waste, construction rubbish and debris or excessive quantities of residential waste. The manner in which such excess garbage, trash, brush, appliances and vehicles shall be prepared for collection or disposed of shall be as follows:
 - (1) *Garbage and trash.* Excess garbage and trash shall be placed in sealed bags or tied in bundles by the consumer and set out for collection. In any event, the weight of a loaded bag or bundle shall not exceed fifty (50) pounds. Bundles shall not exceed four (4) feet in length.
 - (2) *Tree limbs.* Tree limbs shall be limited to no more than two (2) inches in diameter each, cut to no more than four (4) feet in length, and bundled in neat order, with a total weight of no more than fifty (50) pounds per bundle.
 - (3) *Appliances and vehicles.* The city or its refuse collection agency may collect discarded appliances and abandoned vehicles from dwelling premises as scheduled from time to time by the city. The consumer shall remove or cause to be removed all other appliances, vehicles, or equipment classed as refuse from their premises or the public right-of-way.
- (c) *Building materials.* All owners, contractors, and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse 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, and shall place the lot and all nearby premises utilized in such construction in a sightly condition. Residential consumers may dispose of small amounts of building materials from time to time, providing it is placed in a container as described above and contains no concrete, masonry, or soil.
- (d) *By-products.* Any commercial or manufacturing establishment which by the nature of its operations creates an unusual amount of by-product refuse may be

required by the city to dispose of its own wastes as opposed to having the city provide the service.

- (e) *Soil and concrete.* Waste soil, concrete, masonry blocks, sod and rocks shall be disposed of by the owner, tenant, or occupant of the premises.
- (f) *Hot coals or ashes.* Hot coals or ashes shall not be placed in the refuse containers.

(Ord. No. 2008-11, § 6, 8-19-08)

Cross references—Abandoning property, § 10-1-1; abandoned vehicles, § 10-1-2; burning trash, refuse or garbage, § 10-1-4.

Sec. 9-2-2. Location and time for pick-up.

Garbage, refuse and litter shall be placed outside the consumer's property line and at the edge of the street at least four (4) feet from any obstacle in any direction at the place of collection where it is most convenient and customary for the collection agency to pick up the garbage. The refuse shall be placed for collection no earlier than 6:00 p.m. the day before it is to be picked up by the collection agency, and said collection day will be provided to the consumer by the collection agency. In the event that the normal collection day falls upon a collection agency-designated holiday, the refuse shall not be placed in the city streets until the next following secular day. Refuse will not be picked up on collection-agency designated holidays. Refuse containers shall be taken from the city streets before midnight of the day upon which the refuse is picked up. No containers shall be allowed to remain upon the city right-of-way for any period of time after midnight of the pickup day.

(Ord. No. 2008-11, § 7, 8-19-08)

Sec. 9-2-3. Lids and covers.

The lids or covers of all containers shall at all times be kept secure so that flies and other insects may not have access to the contents, and shall only be kept open while the containers and receptacles are being filled, emptied, or cleaned.

(Ord. No. 2008-11, § 8, 8-19-08)

Sec. 9-2-4. Use of containers; area to be kept clean.

- (a) It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he does not control or is not entitled to use as a tenant.

- (b) The consumer shall keep clean the area where his container is set out for pickup and also where the city container is located for his use. The consumer shall keep his refuse from scattering from the pickup point to other premises and the public right-of-way.

(Ord. No. 2008-11, § 9, 8-19-08)

ARTICLE 9-3. OTHER METHODS OF GARBAGE AND TRASH REMOVAL

Sec. 9-3-1. Hauling refuse.

It is unlawful for any person to haul, or cause to be hauled, any refuse on or along any public street, avenue, or alley in the city, in violation of any of the provisions in this chapter.

Sec. 9-3-2. Vehicles and receptacles to be spillproof.

It is unlawful for any person to haul, or cause to be hauled, on or along any public street in the city, any garbage, unless such garbage is contained in strong watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking, or spilling and any odor from escaping.

Sec. 9-3-3. 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 may fall upon any street.

Cross reference—Deposits of injurious material on thoroughfares, § 10-1-7.

Sec. 9-3-4. Dumping refuse, rubbish or debris.

It is unlawful for any person to dump, deposit, place, throw or leave refuse, rubbish, debris, filthy or odoriferous objects, substances or other trash upon any public or private property within the city or to dispose of any such items at a site other than a landfill or other disposal site designated by the city council.

Any person violating this section shall be guilty of a civil violation punishable as provided in section 1-8-1(a) of this Code.

(Ord. No. 156, § 1, 5-19-82; Ord. No. 347, § 1, 2-4-92; Ord. No. 2004-14, § 10, 7-6-04)

ARTICLE 9-4 PROPERTY MAINTENANCE

Sec. 9-4-1. Purpose and scope.

- A. The purpose of this article is to promote the health, safety, economic, aesthetic and general welfare of the citizens of the City, and to protect neighborhoods against nuisances by establishing requirements for maintenance of all buildings and structures and by establishing requirements for the maintenance of all land, whether improved or unimproved.
- B. The city council shall adopt by resolution policies and procedures for the purpose of promoting voluntary cleanup and maintenance efforts within the City.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-2. Public nuisance—Defined and prohibited.

- A. "Public nuisance" means any of the following acts, omissions, conditions or things existing at any place in the City.
 - 1. A privy, vault, cesspool, sump, pit or like place which is not securely protected and creates a health or safety risk;
 - 2. Animal manure in a quantity which is not securely protected from insects, rodents and the elements and which is unsightly or odorous, except for animal manure used on any farm, garden or ranch in such a manner and for such purposes as are compatible with reasonable and customary methods of good husbandry. This paragraph applies to manure from household pets and non-household animals;
 - 3. Except where permitted by the City's Zoning Ordinance, it shall be unlawful for any person to cause or allow any abandoned or inoperable vehicle to be parked either on private property or within the public right-of-way or stored except in conformance with the terms of this paragraph. All abandoned or inoperable vehicles or vehicles being restored or repaired for longer than five (5) days shall be stored safely within a lawful, enclosed building or structure or screened by a lawful fence, vegetation, or natural terrain in such a manner as to not be visible from beyond the lot boundaries;
 - 4. Garbage or any quantity of putrid, decayed, rotten, unsound or unwholesome bone, meat, hide, skin, dead animal, fish, fowl, or animal matter, butcher's trimmings, waste vegetation, urine, feces, sewage, or

other similarly offensive substance; except for the temporary retention of such items in an authorized receptacle in a manner authorized by law (until the next scheduled refuse collection day); (garbage does not mean the composting of small amounts of organic material for personal use as long as the composting is not prohibited by any other provision of this code);

5. Debris of any kind stored on property, unless stored safely within a lawful, enclosed building or structure, or screened by a lawful fence or within an authorized trash receptacle in such a manner as to not be visible from beyond the lot boundaries;
 6. The emission of noxious odors;
 7. Any unmarked or unprotected excavation, pit, well or hole which poses a substantial risk of injury to any person;
 8. Creating or maintaining any condition that obstructs or renders dangerous the use or passage of any public property such as parks, streams, water courses, sidewalks, squares, alleys, streets or easements, or which interferes with, obstructs or blocks the vision of any pedestrian, bicyclist, or motorist;
 9. Any building or structure which is partially destroyed or is structurally unsound and is (a) left in a state of partial construction with no activity for more than six months, or (b) abandoned for a period of more than one year;
 10. Any building or structure which is in a blighted or deteriorated condition except for barns or similar agricultural buildings as long as such buildings do not create a health or safety hazard;
 11. Any condition which substantially increases the risk of fire;
 12. Any infestation or any condition which poses a substantial risk of attracting or concealing insects, rodents, vermin, wild animals, scorpions or poisonous snakes, or which increases the likelihood of infestation;
 13. Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition.
- B. Every person who owns any property in the City shall keep and maintain the property free of every public nuisance.

(Ord. No. 447, 12-21-99; Ord. No. 2003-18, § 1, 11-18-03; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-3. Litter control.

- A. Every person who owns any property in the City shall use reasonable efforts to cooperate with the City or other appropriate entities to maintain sidewalks, landscape areas, alleys, easements, rights-of-way, or other similar areas adjacent to the property free of garbage and debris except garbage or debris contained within an authorized receptacle.
- B. No person shall throw, deposit, place or bury any garbage or debris on any property within the City except as otherwise provided by this article.
- C. Any person who owns developed commercial property within the City shall provide adequate receptacles for collection of garbage and debris and shall take other reasonable steps to prevent garbage or debris from being carried, thrown, deposited, placed, blown, or buried on said property or on any adjacent property.

(Ord. No. 447, 12-21-99)

Sec. 9-4-4. Maintenance of land, building and structures.

Every person who owns any land, building or structure in the City shall keep and maintain the land, building or structure in a manner which is free of:

- 1. Overgrown vegetation that interferes with or obstructs or renders dangerous the free passage or use of sidewalks, roadways, streets, public rights-of-way or easements; or obstructs or blocks the vision of drivers and their ability to observe traffic-control devices or signs;
- 2. Any plant growth which is dead or dormant and is so dry as to be readily flammable or combustible such that it creates a fire hazard or other threat to the public health or safety; (in determining whether a fire hazard exists, the factors to be considered shall include the relative fire hazard of surrounding properties);
- 3. Any noxious or toxic weed which poses a health or safety hazard to the public;
- 4. Any trees which constitute a public nuisance, or which present a danger to persons, property, or other vegetation. For purposes of this subsection, a tree shall be deemed a public nuisance and be deemed detrimental to the public health and safety if:

- (a) It appears dead, dangerous, or likely to fall; or
 - (b) It appears to be infected with infectious diseases, parasites or insects, including, but not limited to, bark beetles;
- 5. Graffiti;
 - 6. Automotive and household fluids unless such fluids are properly stored or used in a manner which does not contribute to blight, and are limited to a quantity which is reasonable for a lawful activity conducted on the property;
 - 7. Any pool, spa or other body or collection of water which creates a safety hazard; harbors an insect infestation; or is polluted;
 - 8. Any condition which poses a risk to the health or safety of the public or of any person.

(Ord. No. 447, 12-21-99; Ord. No. 2003-18, § 2, 11-18-03)

Sec. 9-4-5. Entry on private property.

At any reasonable time, property may be inspected as follows:

- A. From outside the boundaries of a property, every portion of the property which is within plain view from adjacent properties or rights-of-way;
- B. Any portion of a property with the consent of a person who owns or controls the property;
- C. In the manner provided in a search warrant or other court order;
- D. In any other lawful manner.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-6. Notice requirements.

Prior to issuance of a citation to any person under section 9-4-7 or section 9-4-8 (except as allowed under section 9-4-13), the following notice to such person who owns or controls the property is required (see Table 9-4A for summary of enforcement procedures):

- A. Reasonable attempts to provide notification of the violation and the necessary corrective action through either verbal or written means.
- B. Formal written notice of violation and allowance of minimum of fifteen (15) days to take the necessary corrective action.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-7. Civil violation.

- A. Every person who owns or controls any land, building or structure in the city is civilly responsible for cited violations of this article with respect to such land, building or structure, as identified in the citation/complaint.
- B. Upon finding a person responsible for a civil violation, the court may impose upon such person a civil sanction of not more than five hundred dollars. The court may suspend the imposition of the sanction if the court finds by a preponderance of the evidence that the person has corrected every violation for which the person was found responsible, and that the person is in compliance with this article.
- C. A first citation resulting from this article shall be cited as a civil violation.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-8. Criminal violation.

- A. A person who commits a violation of this article after having previously been found responsible for committing a violation of this article within a twenty-four (24) month period, whether by admission, payment of the fine, by default, or by judgment after hearing, may be cited for a criminal violation of this article.
- B. Every person who owns or controls any land, building or structure in the city, and who intentionally, knowingly, willfully or recklessly causes, suffers or otherwise allows cited violations of this article to exist with respect to such land, building or structure as identified in the citation/complaint commits a Class One misdemeanor.
- C. Upon conviction, the court, at a minimum, shall sentence the defendant to a fine of not less than one hundred dollars and to probation for not less than one year. The court shall not suspend the imposition of the minimum fine or probation unless the court finds by a preponderance of the evidence that the defendant has corrected every violation for which the defendant was found guilty, and that the defendant is in compliance with this article. In that event the court may, in its

discretion, suspend all but fifty dollars of the fine on the condition that the defendant does not commit another criminal violation of this article for three years following the date of sentencing.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-9. Correction of violations.

In addition to any civil sanction or criminal penalty, the court may in its discretion order the defendant to correct the violation by a specified date, and the City may petition the court for an order allowing the City to enter the property and correct the violation if the defendant fails to comply with the court's correction order. The court may require the defendant to correct the violation as a condition of suspending a portion of the civil sanction or criminal penalty.

(Ord. No. 447, 12-21-99)

Sec. 9-4-10. Recovery of city's costs of correcting a violation.

- A. For a civil violation of this article, if the city corrects a violation pursuant to this section 9-4-9 the city may petition the court to recover the costs, expenses and attorney's fees which the city incurred in correcting the violation and in bringing the petition for recovery. If the court finds by a preponderance of the evidence that the city is entitled to recover, the court may order the defendant to pay to the city the amount of the costs, expenses and attorney's fees reasonably incurred by the city, and may enter judgment in favor of the city and against the defendant in that amount. The court may make payment of the judgment a condition of suspending a portion of the civil sanction.
- B. For a criminal violation of this article, if the city corrects a violation pursuant to this section 9-4-9, the city may petition the court to order the defendant to pay restitution to the city in the amount of the costs, expenses and attorney's fees which the city incurred in correcting the violation and in bringing the petition for restitution. The court may, in its discretion, order the defendant to pay such restitution to the city. The court may make the payment of restitution a condition of suspending a portion of the criminal penalty.
- C. The city may, at its discretion, petition the court to lien the property for any unpaid fees.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-11. Joint and several liability.

- A. If more than one person owns or controls a particular parcel of property, then all such persons are jointly and severally liable for every civil violation of this article existing with respect to that parcel.
- B. In a criminal prosecution for violations of this article, it shall not be a defense that another person is also guilty of a criminal or responsible for a civil violation of this article.

(Ord. No. 447, 12-21-99; Ord. 2019-01, §§ 1-2, 01-02-19)

Sec. 9-4-12. Civil and criminal enforcement actions not exclusive.

The city's election to prosecute a civil or criminal action to enforce the provisions of this article does not limit or restrict the city's ability to bring against the defendant any other action authorized by law. The city shall not be allowed to bring simultaneous judicial and administrative actions or to bring a separate action for the same violation if the defendant has prevailed in a judicial or administrative proceeding.

(Ord. No. 447, 12-21-99)

Sec. 9-4-13. Emergency action to relieve a threat of serious harm.

- A. When a currently existing violation of this article poses a substantial and immediate threat of serious harm to the health or safety of any person, then the city may immediately enter the property and take the minimum action necessary to relieve the threat of serious harm.
- B. If it is reasonably practicable to do so under the circumstances, prior to entering the property the city shall obtain:
 - 1. The involvement of the Navajo County health department or other applicable entity if such department or entity has authority to act in the matter; and
 - 2. The consent of a person who owns, leases, rents, occupies, controls or has the right to control the property; or
 - 3. A search warrant from a justice court or an order from the city magistrate court authorizing the city to enter the property and relieve the threat of harm. The magistrate court shall issue such an order only upon a showing that probable cause exists to believe that a violation of this article

which poses a substantial and immediate threat of serious harm to the health or safety of any person exists on the property.

- C. As soon as reasonably practicable under the circumstances, the city shall serve a civil or criminal citation or summons and complaint on the person or persons responsible for the violation.
- D. Promptly after service of the citation or summons and complaint, the magistrate court shall set an expedited hearing on the matter. At the hearing, the city must establish by a preponderance of the evidence that the city complied with all of the requirements of this section. If the city fails to meet this burden, the court shall require the city to pay the defendant for the reasonable cost of any physical damage caused to the defendant's property by the city's failure to comply with one or more requirements of this section.

(Ord. No. 447, 12-21-99)

Sec. 9-4-14. Definitions.

In this article:

"Abandoned vehicle" means any vehicle, trailer, or semi-trailer of a type that may be registered under Title 28, Arizona Revised Statutes, which has been abandoned, or is dismantled and inoperable, or is in such a state of deterioration that it cannot be restored.

"Blight or blighted" means unsightly conditions including, but not limited to, the accumulation of garbage; the accumulation of debris which is located out of doors at a place which is within public view; or any building or structure characterized by deterioration.

"Debris" means all combustible and noncombustible solid waste, whether or not subject to decay, including, but not limited to, abandoned vehicle or part thereof, industrial waste, junk, furniture part, stove, sink, household fixture or appliance, vehicle part, mattress, rubbish, dead animal, trash, broken glass, refuse, ash, abandoned, broken or neglected equipment and materials; a significant quantity or pile of broken asphalt, broken tile, broken brick, or broken concrete; or other material which creates an unsightly and unsafe condition.

"Deteriorated or deterioration" means an excessive lowering in the quality of the condition or appearance of a building or structure or any part thereof, characterized by the process of decay or degeneration, holes, breaks, rot, leaning, collapse, crumbling, cracking, rusting, substantial peeling of paint, vermin infestation, exposed electric wiring, leaking or inoperable plumbing, unsafe conditions, or crumbling asphalt or

concrete; or by being used by one or more persons for criminal activity; or by any other evidence of physical decay, excessive neglect, or lack of maintenance.

"Graffiti" means any drawing or inscription that degrades the appearance of property which is carved, drawn or painted on a surface in a place which can be seen by the public.

"Infestation" means the apparent presence of insects, rodents or other pests in a quantity sufficient to create a significant risk to the health or safety of any person or which presents a danger to property or vegetation.

"Owns" means a person who owns, leases, rents, controls or has the right to control any land, building or structure.

"Person" means a human being, enterprise, company, corporation, association, partnership, firm, society or other similar group or organization.

(*Ord. No. 447, 12-21-99; Ord. No. 2003-18, § 3, 11-18-03; Ord. 2019-01, §§ 1-2, 01-02-19*)

Table 9-4A. Summary of Property Maintenance Enforcement Procedures for Alleged Violations

