

CHAPTER 3

SOLID WASTE (3198)

ARTICLE I

GENERAL PROVISIONS

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8-3-1: RESPONSIBILITY:

It shall be the responsibility of every person, owner, tenant, or occupant of all premises within the City limits, hereinafter referred to as the customer, to properly control and dispose of all solid waste produced or occurring in or upon any and all premises owned, leased, or occupied by or for them in the manner provided herein. It shall be the duty of the municipal staff to provide for and enforce the provisions herein. (764,1969,3813)

8-3-2: DEFINITIONS:

"Solid waste" is defined as garbage, trash, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or pollution control facility and other discarded material, including solid, contained liquid, semisolid, or contained gaseous material but not including domestic sewage or dangerous hazardous wastes. Use of the term "refuse" or "garbage" in definitions and policy is synonymous with "solid waste." The subcategories of solid waste are as follows: (1969,3813)

APPLIANCES AND SMALL HOUSEHOLD EQUIPMENT: Examples of appliances include, but are not limited to, washers, dryers, refrigerators, and freezers. Examples of small household equipment include, but are not limited to, a generator, lawn mower, and wet/dry shop vacuum. Appliances and small household equipment shall be considered solid waste if they are not in use, are in a state of disrepair, and are not properly stored, thereby causing an unsightly or hazardous condition to exist. (1969,3813)

BULKY REFUSE: All large trimmings from trees and shrubbery, rugs, furniture, major appliances, mattresses, and other materials which are inappropriate or too large to be deposited into containers. (1969,3813)

BUSINESS OR COMMERCIAL ESTABLISHMENT: A structure or premises used for retail, wholesale, warehouse, store, factory, production, processing, manufacturing, restaurant, construction, service, hospitals, governmental entities, public authorities (schools), apartments (5 or more units) for rent or lease that are subject to Title 33, Chapter 10 of the Arizona Revised Statutes, or office uses. (2374,2931,3813,5305)

CONSTRUCTION AND DEMOLITION DEBRIS: Any solid waste resulting from a construction demolition project which would include lumber, scraps, shingles, plaster, brick, or concrete. This list is not inclusive but provides examples of typical construction debris. (1969,3813)

CONTAINER: Shall include sixty- (60-), ninety- (90-), three hundred- (300-), and four hundred forty- (440-) gallon plastic barrels; two- (2-), three- (3-), four- (4-), six- (6-), and eight- (8-) cubic-yard metal bins; twenty- (20-), thirty (30-), and forty (40-) cubic-yard roll-off containers (approximate sizes); and compactors. (3813)

DANGEROUS OR HAZARDOUS WASTE: Any solid waste that can cause damage or injury to property or persons and is dangerous or hazardous by reason of its pathological, explosive, flammable, reactive, radiological, or toxic nature, including, but not limited to, all wastes defined by the provisions of A.A.C. Title 18, Chapter 8, Article 2. (494,1969,3813)

GARBAGE: All nonhazardous putrescible wastes, excepting sewage and body wastes, and the wrappings and containers resulting from the storage, preparation, serving, and otherwise using of foods in or upon all premises. (1969,3813)

GREEN WASTE: Lawn and shrubbery clippings, leaves, weeds, and all large trimmings from trees and shrubbery. (3813)

RECYCLABLE MATERIALS: Any solid waste consisting of post-consumer materials which may be collected, separated, cleansed, treated, or reconstituted and returned to the economic stream in the form of raw materials or products. (3198)

RESIDENCE: Any structure or premises used as a domicile, dwelling, or habitation, including single-family dwellings, duplexes, tri-plexes, quad-plexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, condominiums, townhouses, or any complex of the foregoing, and apartments (4 units or less). (2374,3813,5305)

SHARPS: Objects such as syringes, needles, and lancets that are used for insulin intake, blood samples, and for other medical purposes. (3813)

8-3-3: COLLECTION AGENCY:

Solid waste shall only be collected by the City or by private haulers (business establishments only) that have obtained a permit, license, franchise, or contract from the City authorizing private collection. Solid waste deposited for collection shall become the property of the City, or authorized private hauler when approved by the City, upon collection. No person shall remove any or all such solid waste so collected. Pursuant to Section 8-3-9 of this Article, the City retains the ability to recover solid waste and recycling program costs. The City may provide collection services outside its borders in an unincorporated territory that is within three (3) miles of its border and within its municipal planning area. (764,1969,2290,3813)

8-3-4: PREPARATION OF SOLID WASTE:

All solid waste shall be prepared for collection or disposed of as follows: (1776,1969)

- (A) Solid Waste. The City shall furnish containers to commercial and residential customers, for the accumulation, storage, and collection of all solid waste. Customers will make every effort to keep such containers in good repair and in a sanitary condition. Containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition will be replaced by the City and may be subject to the appropriate solid waste fees. All refuse must be bagged and tied, and placed in a container to be acceptable for collection to prevent the attraction of any flies or vectors. The City reserves the right to remove containers due to violations of this Chapter that result in endangerment to public health. (1969,3813)
- (B) Bulky Refuse. Bulky refuse and furniture shall be placed at the front curb, unless otherwise designated by the Solid Waste Division, tied in bundles or placed in boxes by the customer. Boxes and bundles shall not exceed four (4) square feet by four (4) square feet deep in measurement and not to exceed sixty (60) pounds in weight. Customers wishing to retain disposal boxes should mark the box "SAVE" in a readily visible manner. If the loads are not bundled or contained, the City will assess appropriate collection fees and disposal fees for program cost recovery. The Development Services Manager or designee may provide bulk item service to any residential or commercial customer, subject to the appropriate solid waste fees, if in the Development Services Manager's or designee's judgment a health or safety hazard exists in a public right-of-way. (1969,3198,3766,3813)
- (C) Green Waste. Green waste cut for disposal shall be bundled by the customer. Bundles must be tied securely by heavy twine or rope, with each bundle not to exceed four (4) square feet by four (4) square feet deep and not to exceed a weight of sixty (60) pounds. When bundles do not meet these requirements, charges for whatever method is necessary to collect the brush will be assessed to the property owner. Brush trimmed by contractors must be removed by the contractors. Brush may be placed in regular refuse containers but must readily fall out when emptied and shall not extend twelve inches (12") over the top edge of the container or be compacted or wedged in a manner which would impede collection. Upon notification by the Solid Waste Division, residents have ten (10) days to remove brush that does not conform to the requirements of this Subsection. Should the resident fail to comply, the City will remove the brush and charge the customer. (1969,3198,3813)
- (D) Appliances and Small Household Equipment. The City will collect discarded appliances from dwelling premises, subject to the appropriate solid waste fees, that two (2) persons can readily lift into a collection vehicle. The customer shall remove or cause to be removed all other appliances, vehicles, or equipment classified as solid waste from their premises or the public right-of-way. Doors shall be removed from appliances or secured in such a way no one can enter. (1969,3198,3813)
- (E) Dangerous and Hazardous Waste. The placement of dangerous and hazardous waste in solid waste containers is prohibited. No one shall collect, cause to be collected, place, or cause to be placed any dangerous or hazardous waste or similar materials from or in any container or from or upon any public or private property except as specifically permitted by the Arizona Department of Environmental Quality or the Federal Environmental Protection Agency. Oil shall be placed in a separate container, not inside refuse containers, and disposed of according to law. Sharps shall be placed inside puncture-resistant containers and disposed of according to law. (1969,3813)

- (F) Cactus. All cacti shall be placed in separate sealed cardboard boxes apart from other refuse. A cardboard box containing cactus shall be sealed and in condition to sustain the weight of the cactus when lifted. Failure to properly contain cactus will result in denial of service for collection. (1969,3813)
- (G) Soil and Concrete. Waste soil, concrete, masonry blocks, sod, and rocks shall be disposed of by the owner, tenant, or occupant of the premises and not placed in City bins or barrels. Specific City roll-off service is available for this type of material. (1969,3813)
- (H) Unsanitary, Offensive, and Animal Waste. Dead animals, excrement (pet waste only), and offal are the responsibility of the owner, tenant, or occupant of the premises and must be disposed of in a sanitary manner as follows. Collection by the Solid Waste Division of small domesticated (no farm animals) dead animals (weighing less than twenty-five (25) pounds), excrement (pet waste only), or offal will be made only if placed in a heavy-gauge plastic bag that will sustain the weight of the contents when lifted and will not be offensive to collection personnel or harmful to collection equipment. Dead animals (weighing less than one hundred fifty [150] pounds) will be removed by a contractor for City Animal Control upon request. (1969,3198,3813)
- (I) Ownership of Solid Waste. Solid waste will remain the property and responsibility of the homeowner or City customer until collected by the City, wherein it becomes the property of the City. (1969,3198,3813)
- (J) Abatement of Health Hazard. In addition to the other remedies provided for in this Section, if the Development Services Manager or designee determines that a customer's solid waste is creating a health hazard, the City may collect the customer's containers, subject to the appropriate solid waste fees, as often as necessary in an attempt to abate the health hazard. (3198,3766,3813)

8-3-5: CONTAINER PLACEMENT AND LOCATION FOR PICKUP:

- (A) All solid waste containers prepared for the City collection service shall be placed at the front curb, unless otherwise designated by the Solid Waste Division, in an easily accessible manner. The containers shall be set out after six (6:00) P.M. of the day preceding regular collection and no later than six (6:00) A.M. of the designated regular collection day. The containers shall be removed to no less than six feet (6') from the curb by six (6:00) A.M. of the day after collection. If a violation of this Subsection necessitates the City pullback of a container from the front curb, the City shall assess the charges for such pullback to the property owner. This Subsection shall not apply to containers that the City has placed permanently at the front curb. All containers and piles of refuse shall be so located as to not block the alley, sidewalk, mailbox, driveway, or gutter or otherwise be a hazard to pedestrian or vehicular traffic. (1969,3198,3813)

8-3-6: CLEANUP AND BURNING MATERIAL:

The customer shall keep clean the area where the container is set out for pickup and also where a City container is stored. The customer shall keep solid waste from scattering from the pickup point to other premises and the public right-of-way. (1969,3813)

Hot coals or ashes shall not be placed in containers. (1969)

8-3-7: UNATTENDED CONTAINERS: (2568)

No person shall place, display, or maintain any unattended container for soliciting deposit of recyclable materials or donated items in any exterior location within the City limits, except in conformance with all of the following provisions: (2143)

- (A) Such unattended containers may be located only within the parking lot of private property lawfully zoned, developed, and used for commercial or industrial purposes or at schools, churches, or charitable organizations which have similar parking facilities. (2143)
- (B) Such unattended containers may be located only with the permission of the property owner, his agent, or the person in possession of the property, and the container owner's name and current telephone number shall be displayed thereon in a conspicuous location that is large enough to read. (2143,3813)
- (C) The owner of such unattended container and the property owner shall jointly or severally maintain all exterior areas within twenty-five feet (25') of the container free from litter. (2143)

8-3-8: INDISCRIMINATE DUMPING: (2568)

It shall be the responsibility of the owner, tenant, or occupant of all premises in the City limits to be sure that solid waste is properly placed for collection. No person, without permission from any of the above, may dump into commercial dumpsters or residential containers. (1969)

No person may dump any unauthorized items in any alleys, streets, vacant lots, or premises. (1969,3813)

8-3-9: CHARGES FOR SOLID WASTE SERVICE: (2568)

The City Council shall by resolution set such rates for solid waste service and disposal as are necessary to produce adequate revenue to cover the cost of services rendered. If the City is required to remove solid waste or dangerous or hazardous waste that does not meet the requirements of this Chapter, the Development Services Manager or designee may assess charges for such removal to the property owner involved. (1969,3198,3766,3813)

8-3-10: SCAVENGING: (3198)

- (A) No person, unless authorized by the owner of the solid waste, may remove, collect, or disturb solid waste in a container that is set out for collection for the purposes of recycling or disposal by the City, its agents, or a permittee. (3198,3813)
- (B) No person, unless authorized by the City, may remove, collect, or disturb recyclable materials deposited for collection at any of the City's designated recycling drop-off and collection centers. (3198)
- (C) City employees acting within the scope of their employment are not subject to the prohibitions described in this Section. (3198)

ARTICLE II

PERMITS FOR COMMERCIAL OR INDUSTRIAL SOLID WASTE MANAGEMENT SERVICES AND RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL RECYCLING SERVICES

SECTION:

- 8-3-11: DEFINITIONS
- 8-3-12: PERMIT REQUIRED FOR REFUSE SERVICE; EXEMPTIONS
- 8-3-13: INTEREST IN MULTIPLE PERMITS PROHIBITED
- 8-3-14: PERMIT APPLICATION
- 8-3-15: PERMIT REQUIREMENT FOR ANNEXED AREAS
- 8-3-16: EVALUATION AND DISPOSITION OF PERMIT APPLICATIONS; TERMS AND CONDITIONS
- 8-3-17: RENEWAL OF PERMITS
- 8-3-18: TRANSFER OF PERMITS PROHIBITED
- 8-3-19: INSURANCE
- 8-3-20: REVOCATION OF PERMIT
- 8-3-21: APPEAL FROM DENIAL OR REVOCATION; PROCEDURE AND NOTICE
- 8-3-22: DANGEROUS OR HAZARDOUS WASTE (3813)
- 8-3-23: VIOLATIONS (REPEALED BY 3198)
- 8-3-24: (RESERVED)
- 8-3-25: (RESERVED)
- 8-3-26: (RESERVED)
- 8-3-27: (RESERVED)

- 8-3-11: **DEFINITIONS: (2568)**
In this Article, unless the context otherwise requires: (2374)

BUSINESS OR COMMERCIAL ESTABLISHMENT: A structure or premises used for retail, wholesale, warehouse, store, factory, production, processing, manufacturing, restaurant, construction, service, hospitals, governmental entities, public authorities (schools), apartments (5 or more units) for rent or lease that are subject to Title 33, Chapter 10 of the Arizona Revised Statutes, or office uses. (2374,2931,5305)

COMMERCIAL OR INDUSTRIAL REFUSE: Any refuse generated by a business establishment. (2374)

COMMERCIAL OR INDUSTRIAL SOLID WASTE MANAGEMENT SERVICES: The collection, storage, processing, transportation, treatment, reclamation, or disposal of commercial or industrial refuse. (2374,2761)

CONTAINER: Shall include sixty- (60-), ninety- (90-), three hundred- (300-), and four hundred forty- (440-) gallon plastic barrels; two- (2-), three- (3-), four- (4-), six- (6-), and eight- (8-) cubic-yard metal bins; twenty- (20-), thirty (30-), and forty (40-) cubic-yard roll-off containers (approximate sizes); and compactors and other containers approved by the City. (3813)

DANGEROUS OR HAZARDOUS WASTE: Any solid waste that can cause damage or injury to property or persons and is hazardous by reason of its pathological, explosive, flammable, radiological, or toxic nature, including, but not limited to, all wastes defined by the provisions of A.A.C. Title 18, Chapter 8, Article 2. (2374,3813)

DEVELOPMENT SERVICES MANAGER: The Manager of the Development Services Department or his/her representative. (2374,3766,3813)

DISPOSAL: The physical transfer of refuse for purposes of recovery, other processing, or for placement at a site approved by the Arizona Department of Environmental Quality or other agency having jurisdiction. (2374)

PERMITTEE: A person who engages in, owns, or operates a service to collect, transport, dispose, or recycle commercial or industrial refuse generated within the City and has obtained a valid permit pursuant to the provisions of this Article. (3813)

PERSON: A corporation, company, partnership, firm, association, or society, as well as a natural person. (2374)

RECYCLE: Any manual or mechanical process which involves the collection or transportation of one (1) or more of the various components of recoverable refuse which have been or will be separated, concentrated, or sold. (2374)

RESIDENCE: Any structure or premises used as a domicile, dwelling, or habitation, including single-family dwellings, duplexes, tri-plexes, quad-plexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, condominiums, townhouses, or any complex of the foregoing, and apartments (4 units or less). (2374,3813,5305)

RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL SOLID WASTE RECYCLING SERVICES: The recycling of any residential, commercial, or industrial refuse. (2761)

RESIDENTIAL REFUSE: Any refuse generated by a residence. (2761)

8-3-12: PERMIT REQUIRED FOR REFUSE SERVICE; EXEMPTIONS: (2568)

- (A) Except as otherwise provided in this Section, no person shall engage in, operate as, or represent himself to the public as one who collects, transports, disposes, or recycles residential, commercial, or industrial refuse generated within the City unless that person has obtained a valid permit pursuant to the provisions of this Article. (2374,2761)

- (B) Any community, charitable, philanthropic, or similar organization may collect, transport, dispose of, or recycle residential, commercial, or industrial refuse without a permit upon approval of the Development Services Manager provided that no part of the earnings or receipts from such activities inure to the benefit of any private shareholder, individual, or corporation and provided that the organization was not established to circumvent the requirements of this Article. (2374,2761,3766,3813)
- (C) Governmental agencies engaged in the collection, transportation, disposal, or recycling of residential, commercial, or industrial refuse within the City shall be exempt from the provisions of this Article. If, however, a private refuse collector that has a contract with a governmental entity also collects private commercial or industrial refuse or recycles residential, commercial, or industrial refuse within the City limits, such private commercial enterprise is required to make application for a permit to operate within the City limits and to comply with all other provisions of this Article. (2374,2761)
- (D) This Section shall not be construed to prevent individual property owners from hauling their own refuse from their own premises to a legal point of disposal or recycling. (2374,2761)
- (E) All persons who primarily collect and dispose of or recycle scrap metal, scrap plastic, waste motor oil, human excreta, animal excreta or remains, yard wastes, medical wastes, infectious wastes, hazardous wastes, toxic wastes, residual construction debris, or any other similar category of solid waste that either requires a special state, county, or federal permit to handle or constitutes a limited category of waste that the private hauler specializes in collecting shall be exempt from the permit provisions of this Article. (2374,2761)

8-3-13: INTEREST IN MULTIPLE PERMITS PROHIBITED: (2568)

No person shall have an interest in more than one (1) permit issued pursuant to the provisions of this Article. For the purposes of this Section, the word "interest" includes ownership or control of five percent (5%) or more of any joint venture, partnership, or limited partnership or of the outstanding shares of a corporation. (2374)

8-3-14: PERMIT APPLICATION: (2568)

- (A) Every applicant for a permit under this Article or for renewal thereof shall file an application with the City Development Services Manager on the form provided by that officer and shall provide the following information and declarations: (2374,3766,3813)
 1. The name, local address, permanent home and business address, and local telephone number(s) of the individual applying and of the organization or persons on whose behalf the application is made. (2374)
 2. If the organization on whose behalf the application is made is a joint venture, partnership, or limited partnership, the names, local and permanent street addresses, and local telephone numbers of all partners and their percentage of participation. If the organization is a corporation, the names, local and permanent street addresses, and local telephone numbers of all officers and the names, local and permanent street addresses, and telephone numbers of all shareholders owning an interest of five percent (5%) or more of the outstanding shares and their percentage of participation. (2374)

3. The names, local and permanent street addresses, and local telephone numbers of all officers of the organization on whose behalf the application is made. (2374)
4. Facts demonstrating that the applicant has arranged for the disposal or recycling of all residential, commercial, or industrial refuse collected and the location of such disposal or recycling site. (2374,2761)
5. A description of all vehicles and equipment that the applicant owns or has under his control that will be used for the collection, transportation, disposal, or recycling of residential, commercial, or industrial refuse; the address(es) where all such vehicles will be kept and the land use classification under the Mesa Zoning Code of such location(s); a declaration that the applicant has sufficient equipment in good mechanical condition to adequately conduct the business of commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services if granted a permit; and facts demonstrating that said vehicles and equipment conform to all applicable provisions of A.R.S. Title 28 as amended. (2374,2761)
6. A plan for the recycling of the residential, commercial, or industrial refuse that indicates, at a minimum: (2374,2761)
 - (a) How such refuse shall be sorted and separated for recycling purposes and who shall do the sorting and separating; (2374)
 - (b) How such refuse shall be collected and transported for recycling purposes; (2374)
 - (c) Where such refuse shall be disposed of and processed for recycling purposes and who shall do the processing; (2374)
 - (d) Whether the applicant proposes to offer any incentives to encourage recycling and if so, the nature of such incentives; (2374,2761)
 - (e) Any other information demonstrating what the applicant will do to promote the availability of commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services and to stimulate competition in rendering such services. (2374,2761)
7. Other information and identification as the Development Services Manager may require in order to discover the truth of the matters set forth in the application or to determine whether a permit should be granted. This may include submission to fingerprinting and photographing by the Mesa Police Department for the purpose of a police investigation in cases where there is reason to doubt the truthfulness of the application or reason to require further information regarding the qualifications and capabilities of the applicant. (2374,3766,3813)
8. Other information as the Development Services Manager may require which demonstrates that the applicant is able to render efficient and effective commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services and that the public health, safety, and welfare would be served by the granting of the permit to the applicant. (2374,2761,3766,3813)

9. Whether the applicant has ever had any application for a like permit denied, revoked, suspended, or canceled by any public entity and the reason given therefor. (2374)
 10. Proof that the applicant has obtained all insurance as required by State law. (2800)
 11. The applicant shall provide the City with an emergency notification number (twenty-four- [24-] hour availability). In the event of an emergency, the Police or Fire Department may need to contact a representative of the company. (3813)
- (B) Every permittee, as a condition to retention of such status, shall immediately file with the Development Services Manager any changes in the information and declarations furnished under Subsection (A), as such occur from time to time. (2374,3766,3813)
- (C) A nonrefundable application fee shall be paid to the City with each initial and each renewal application for purposes of paying for the cost of processing such application and ensuring compliance with the permit. The application fee shall be calculated by adding a two hundred dollar (\$200.00) base charge plus two hundred dollars (\$200.00) for each vehicle to be used under the permit. If, however, new information which requires an investigation is submitted to or discovered by the Development Services Manager upon application for renewal of a permit or at any other time, an investigation fee sufficient to cover the City's investigative costs shall be required upon completion of such investigation. (2374.3454,3766,3813)

8-3-15: PERMIT REQUIREMENT FOR ANNEXED AREAS: (2568,2800)

With respect to any person providing commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services in any area at the time of its annexation by the City, all such persons shall be subject to the requirements of this Article. Within thirty (30) days of the effective date of annexation, persons engaging in commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services in the annexed area who wish to continue operating after annexation shall apply to the Development Services Manager for a permit pursuant to Section 8-3-14. (2374,2761,2800,3766,3813)

8-3-16: EVALUATION AND DISPOSITION OF PERMIT APPLICATIONS; TERMS AND CONDITIONS: (2568,2800)

- (A) The Development Services Manager shall issue or reissue a permit only after the applicant/permittee demonstrates that it is capable and qualified to render reliable commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services and that the public health, safety, and welfare will be substantially served by the issuance or reissuance of the permit. (2374,2761,3766,3813)
- (B) In making the determination required above, the Development Services Manager may consider, among other things, the application, all pertinent information, and whether: (2374,3766,3813)
1. The applicant/permittee has been convicted of a felony within five (5) years prior to application. (2374)

2. The applicant/permittee has had a civil judgment entered against him within five (5) years of the date of the application in a case involving allegations of misrepresentation, fraud, dishonesty, or price-fixing where the subject matter involved the rendering of refuse collection, transportation, or recycling services. (2374)
 3. The applicant/permittee has violated or failed to comply with this Article or any sanitation law of this state or any other state. (2374)
 4. The applicant/permittee has been delinquent for more than forty-five (45) days in the payment of taxes or fees to the City or to any unit of government having jurisdiction. (2374)
 5. The applicant/permittee has filed with the City or any other city any document which contains information which is false or misleading. (2374)
 6. The applicant/permittee is unable to pay debts as they fall due in the regular course of business or is otherwise in such financial condition that he cannot continue in business with safety to his customers or the public. (2374)
- (C) In case of a partnership, corporation, or any other group or association, it is sufficient cause for denial or revocation of a permit if any member of such persons or officer or director thereof has performed an act or failed to perform an act which would be cause for denying or revoking a permit of an individual agent for such person. (2374)
- (D) Permits issued under this Article shall have a term of twelve (12) months from the date of issuance. The permit shall authorize commercial or industrial solid waste management or residential, commercial, or industrial solid waste recycling services Citywide subject to the permittee's compliance with the permit, all requirements of this Chapter, and all requirements of county, state, and federal law. (2374,2761)
- (E) All permittees shall furnish their customers with containers consistent with the permit issued under this Article and necessary and appropriate to maintain a clean and sanitary condition on the customers' premises. Such containers shall display conspicuously the business name of the permittee and telephone number and shall be located so as: (2374,2761,2800,3813)
1. Not to interfere with vehicular or pedestrian traffic; (2761)
 2. Not to interfere with City-owned containers; and (2761,3813)
 3. To conform with all requirements of law. (2374,2761)
- (F) Permittees shall not remove refuse from any business establishment that is located within five hundred feet (500') of a residence between the hours of seven (7:00) P.M. and six (6:00) A.M. Failure to comply with this Section will result in a civil citation under Section 8-3-41. (2374,3813)

- (G) Except as authorized for recycling purposes under this Article, no permittee shall collect, remove, salvage, transport, or dispose of any refuse or other waste of any kind produced by, kept on, or accumulated within or upon any residence, including single-family dwellings, multifamily dwelling units, duplexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, apartments, condominiums, townhouses, assisted living facilities, or complexes of any of the foregoing. (2374,2761,3813)
- (H) All contracts for service executed by a permittee under this Article shall contain a clause subjecting the contract to cancellation by the customer in the event the permittee's permit is revoked by the City. (2374)
- (I) In the event the City Council determines that legitimate governmental purposes would be advanced by having the City exclusively provide residential, commercial, or industrial solid waste recycling services and it is not otherwise prohibited by law, the Council may act to prohibit the issuance of permits to perform such services. The City shall not be liable to any permittee for any damages of any kind claimed to result from the actions taken pursuant to this Section. All permits issued for residential, commercial, or industrial solid waste recycling services shall bear a statement indicating that the permit shall expire at the end of twelve (12) months and that it is not automatically renewable. The permit shall indicate that the permittee understands that it will not be entitled to damages of any kind in the event that the City Council determines that such permits will not be issued in the future. All permits shall be acknowledged. (2761)
- (J) All permittees engaging in recycling shall report annually to the Development Services Manager on forms provided stating the amounts and type of refuse collected for recycling during the preceding year. (2761,3766,3813)

8-3-17: RENEWAL OF PERMITS: (2568,2800)

Permits may be renewed annually by the Development Services Manager or designee upon application by a permittee and if the Development Services Manager or designee makes the findings required by Section 8-3-16 of this Article. Application for permit renewal shall be submitted by permittees not less than forty-five (45) days prior to the expiration of the current permit and shall be submitted in the same manner as prescribed in Section 8-3-14. (2374,2800,3766,3813)

8-3-18: TRANSFER OF PERMITS PROHIBITED: (2568,2800)

Permits issued under the provisions of this Article and all other rights or privileges created under this Article shall have no property value to the holder and may not be sold, transferred, or assigned. (2374)

8-3-19: INSURANCE: (2568,2800)

All permittees for residential, commercial, or industrial solid waste management or recycling services shall secure, maintain, and keep in force throughout the term of the permit insurance coverages as required by State law. (2374,2761,2800)

8-3-20: REVOCATION OF PERMIT: (2568,2800)

Any permittee that is found responsible for three (3) civil citations pursuant to the Mesa City Code within six (6) months may have the permit revoked for a period of twelve (12) months. Notice of proposed revocation shall be served by personally delivering or by mailing by registered mail to the permittee, with service becoming effective either immediately upon personal service or five (5) calendar days from the date of mailing. The revocation shall become effective eleven (11) calendar days after receipt unless permittee has filed a request for a hearing pursuant to Section 8-3-21 of this Article. Once a permit has been revoked, the permittee must wait twelve (12) months before reapplying for a permit with the Solid Waste Division. (2374,2761,2800,3766,3813)

8-3-21: APPEAL FROM DENIAL OR REVOCATION; PROCEDURE AND NOTICE: (2568,2800)

Any person whose request for a permit is denied or who has received notice of proposed revocation may, within ten (10) calendar days after receipt of notice of such denial or revocation, file in the office of the Development Services Manager a written request for a hearing before the Development Services Manager. Such request shall contain the name and address of the person, together with a brief statement as to why such denial or proposed revocation should be reversed. The decision of the Development Services Manager may be appealed by the applicant or permittee within seven (7) days after receipt thereof to the City Manager. The decision of the City Manager shall be final. (2374,3766,3813)

8-3-22: DANGEROUS OR HAZARDOUS WASTE: (2568,2800,3813)

No permittee shall collect, cause to be collected, place, or cause to be placed any dangerous or hazardous waste or similar materials from or in any container or from or upon any public or private property except as specifically permitted by the Arizona Department of Environmental Quality or the federal Environmental Protection Agency. (2374,3813)

8-3-23: VIOLATIONS (REPEALED BY 3198)**8-3-24: (RESERVED)****8-3-25: (RESERVED)****8-3-26: (RESERVED)****8-3-27: (RESERVED)**

ARTICLE III

RESIDENTIAL RECYCLING PROGRAM

SECTION:

- 8-3-28: DEFINITIONS**
- 8-3-29: COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS**
- 8-3-30: RECYCLING PROGRAM NONPARTICIPANTS**
- 8-3-31: RE-ENTRY AS A PARTICIPANT**
- 8-3-32: APPEAL PROCESS**

8-3-28: DEFINITIONS:

In addition to the other terms defined in this Chapter, the following terms shall mean: (2863)

BLUE BARREL: A blue sixty- (60-), ninety- (90-), or three hundred- (300-) gallon container (approximate sizes) to be used for collection of residential recyclable materials by the City. (2863,3198,3813)

BLACK BARREL: A black sixty- (60-), ninety- (90-), or four hundred forty- (440-) gallon container (approximate sizes) to be used for collection of nonrecyclable materials by the City. (2863,3813)

NONPARTICIPANT: A residential customer within any area of the City where the residential recycling program is in effect who is not participating in the residential recycling program, either by choice or by action of the City. (2863)

NONRECYCLABLE MATERIALS: Solid waste that the City has not deemed recyclable under Section 8-3-29 of the Mesa City Code. (2863)

RESIDENTIAL RECYCLABLE MATERIALS: Solid waste generated by a residential customer that the City deems acceptable for recycling as described in Section 8-3-29 of the Mesa City Code. (2863,3198)

RESIDENTIAL RECYCLING PROGRAM: A method of solid waste collection developed by the City to integrate recycling into the mechanized residential collection system used in the City. (2863)

8-3-29: COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS: (3198)

- (A) Under the residential recycling program, the City will provide residential customers a second clearly identified blue barrel in which to place specified residential recyclable materials. (2863,3198)
- (B) The following items, if clean, are residential recyclable materials. Other recyclable commodities may be added to or deleted from the program with the approval of the City's materials recycling facility vendor. (2863,3198,3813)

1. Newspaper; (2863)

2. Writing/computer paper; (2863)
 3. Plastic bottles, jugs, and jars; (2863,3813)
 4. Glass; (2863)
 5. Corrugated cardboard; (2863)
 6. Aluminum; (2863,3198)
 7. Metal cans; (2863,3198,3813)
 8. Chipboard; and (3198)
 9. Magazines. (3198)
- (C) Residential customers participating in the residential recycling program shall receive from the City once-per-week collection of residential recyclable materials placed into blue barrels and once-per-week collection of nonrecyclable materials placed into black barrels. The Development Services Manager will designate specific collection days each week, including holidays. (2863,3198,3766,3813)
- (D) Residential recyclable materials placed inside a blue barrel shall not be bagged or contained and should conform to all residential recycling program guidelines consistent with this Article. (2863,3198)
- (E) Residential customers participating in the residential recycling program shall bag and securely tie their garbage and place it inside a black barrel. (2863)

8-3-30: RECYCLING PROGRAM NONPARTICIPANTS:

- (A) A nonparticipant shall not receive a blue barrel and shall receive once-per-week solid waste collection consistent with Article I of this Chapter. If twice-per-week collection is desired by the nonparticipant, it will be made available and an extra fee charged. The City will assess this fee on a monthly basis in addition to the regular monthly service fee, and in part, this will offset the additional collection charge associated with a second weekly pickup. (2863,3198)
- (B) Residential customers not complying with this Article will be notified in writing by the City of their status as nonparticipants after a minimum of two (2) notifications have been given explaining their lack of compliance with this Article, and the blue barrel will be retrieved by the City. (2863)

1. The City may make such notification based upon a determination that a violation of this Article has occurred, including any of the following actions: (2863)
 - (a) Placing anything other than residential recyclable materials into the blue barrel. (2863,3198)
 - (b) Placing dangerous or hazardous waste in the blue barrel. (2863)
 - (c) Depositing residential recyclable materials into the black barrel. (2863,3198)
2. The Development Services Manager or designee may deliver twice-per-week collection of residential waste (black barrel) to any residential customer, subject to the appropriate solid waste fees, if in the Development Services Manager's or designee's judgment a health hazard exists. (2863,3198,3766,3813)

8-3-31 RE-ENTRY AS A PARTICIPANT:

- (A) Residential customers determined by the City to be nonparticipants may notify the City that they desire to re-enter the residential recycling program. Such notification may occur no earlier than three (3) months after being designated by the City as a nonparticipant. The Development Services Manager or designee may waive this three- (3-) month period based upon a determination that special circumstances exist and that it would be in the best interest of the City to allow re-entry sooner. (2863,3198,3766,3813)
- (B) The Development Services Manager or designee also may designate a fee to cover costs associated with distributing blue barrels and information by City personnel to residents re-entering the recycling program. (2863,3766,3813)

8-3-32: APPEAL PROCESS:

Any person who has been designated by the City as a nonparticipant may file, within ten (10) calendar days after receipt of notice from the City of such designation, in the Development Services Manager's office a written request for a hearing before the Development Services Manager or designee. Such request shall contain the name and address of the person, together with a brief statement as to why such designation should be reversed. The decision of the Development Services Manager or designee may be appealed to the City Manager by the residential customer within seven (7) days after receipt thereof. The decision of the City Manager shall be final. (2863,3198,3766,3813)

ARTICLE IV (3813)

**RESIDENTIAL GREEN WASTE
RECYCLING PROGRAM (3813)**

SECTION:

- 8-3-33: DEFINITIONS**
- 8-3-34: COLLECTION OF RESIDENTIAL GREEN WASTE RECYCLABLE MATERIALS**
- 8-3-35: RECYCLING PROGRAM NONPARTICIPANTS**
- 8-3-36: RE-ENTRY AS A PARTICIPANT**
- 8-3-37: APPEAL PROCESS**
- 8-3-38: (RESERVED)**
- 8-3-39: (RESERVED)**

8-3-33: DEFINITIONS: (3813)

In addition to the other terms defined in this Chapter, the following terms shall mean: (3813)

GREEN BARREL: A green ninety- (90-) gallon container (approximate size) to be used for collection of residential green waste materials by the City. (3813)

BLACK BARREL: A black sixty- (60-), ninety- (90-), three hundred- (300-), or four hundred forty- (440-) gallon container (approximate sizes) to be used for collection of nonrecyclable materials by the City. (3813)

NONPARTICIPANT: A residential customer within any area of the City where the residential green waste recycling program is in effect, who is not participating in the residential green waste recycling program; either by choice or by action of the City. (3813)

NONRECYCLABLE MATERIALS: Solid waste that the City has not deemed recyclable under Section 8-3-34 of the Mesa City Code. (3813)

RESIDENTIAL GREEN WASTE RECYCLABLE MATERIALS: Solid waste generated by a residential customer that the City deems acceptable for green waste recycling as described in Section 8-3-34 of the Mesa City Code. (3813)

RESIDENTIAL GREEN WASTE RECYCLING PROGRAM: Collection of acceptable green waste recyclable materials by the mechanized residential collection system used in the City. (3813)

8-3-34: COLLECTION OF RESIDENTIAL GREEN WASTE RECYCLABLE MATERIALS: (3813)

- (A) Under the residential green waste recycling program, the City will provide residential customers, upon request, a clearly identified green barrel in which to place specified residential green waste recyclable materials. The City retains the ability to recover costs associated with this program subject to City Council approval. (3813)
- (B) The following items are residential green waste recyclable materials: (3813)
1. Grass, (3813)
 2. Leaves, (3813)
 3. Tree branches, (3813)
 4. Clippings, (3813)
 5. Prunings, and (3813)
 6. Cacti. (3813)
- (C) In addition to the standard once-per-week collection of nonrecyclable materials in black barrels and recyclable materials in blue barrels, residential customers participating in the residential green waste recycling program shall receive once-per-week collection of residential green waste recyclable materials placed into green barrels from the City. The Development Services Manager or designee will designate specific collection days each week, including holidays. (3813)
- (D) Residential green waste recyclable materials placed inside a green barrel shall not be bagged or contained and should conform to all residential green waste recycling program guidelines consistent with this Article. (3813)
- (E) Residential customers participating in the residential green waste-recycling program shall bag and securely tie their garbage and place it inside a black barrel. (3813)

8-3-35: RECYCLING PROGRAM NONPARTICIPANTS: (3813)

- (A) Residential customers not in compliance with this Article will be notified in writing by the City of their status as nonparticipants after a minimum of two (2) notifications (tags) have been issued explaining their lack of compliance with this Article, and the green barrel will be removed by the City after the written notice is mailed. (3813)
1. The City may make such notification based upon a determination that a violation of this Article has occurred, including any of the following actions: (3813)
 - (a) Placing anything other than residential green waste recyclable materials into the green barrel. (3813)
 - (b) Placing dangerous or hazardous waste in the green barrel. (3813)

2. The Development Services Manager or designee may deliver twice-per-week collection of residential waste (black barrels) to any residential customer, subject to the appropriate solid waste fees, if in the Development Services Manager's or designee's judgment a health hazard exists. (3813)

8-3-36: RE-ENTRY AS A PARTICIPANT: (3813)

- (A) Residential customers determined by the City to be nonparticipants may notify the City that they desire to re-enter the residential green waste recycling program no earlier than three (3) months after being designated by the City as a nonparticipant. The Development Services Manager or designee may waive this three- (3-) month period based upon a determination that special circumstances exist and that it would be in the best interest of the City to allow early re-entry. (3813)
- (B) The Development Services Manager or designee also may designate a fee to cover costs associated with distributing green barrels and information by City personnel to residents re-entering the recycling program. (3813)

8-3-37: APPEAL PROCESS: (3813)

Any person who has been designated by the City as a nonparticipant may file a written request for a hearing before the Development Services Manager or designee within ten (10) calendar days of receipt of nonparticipant designation. Such a request shall contain the name and address of the person, together with a brief statement as to why such designation should be reversed. The decision of the Development Services Manager or designee may be appealed to the City Manager by the residential customer within seven (7) days after receipt thereof. The decision of the City Manager shall be final. (3813)

8-3-38: (RESERVED)

8-3-39: (RESERVED)

ARTICLE V (3813)

ENFORCEMENT

SECTION:

- 8-3-40: COMMENCEMENT OF AN ACTION**
- 8-3-41: CIVIL SOLID WASTE VIOLATIONS**
- 8-3-42: HABITUAL OFFENDER**
- 8-3-43: FAILURE TO PROVIDE EVIDENCE OF IDENTITY**

8-3-40: COMMENCEMENT OF AN ACTION:

- (A) The Solid Waste Management Director and the inspectors within the Solid Waste Division or such other persons as the City Manager may designate are authorized to commence an enforcement action under this Chapter, including requesting that the Mesa City Prosecutor issue a complaint for criminal prosecution. (3198,3813)
- (B) Nothing in this Section shall preclude City employees from seeking voluntary compliance with the provisions of this Chapter or from enforcing this Chapter through notices of violation, warnings, or other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances. (3198)

8-3-41: CIVIL SOLID WASTE VIOLATIONS:

- (A) A civil action for violations of this Chapter may be commenced by issuance of a citation that is substantially in the form established or approved by the Solid Waste Management Director. The citation shall include relevant information about the violator, such as full name, residence address, driver's license number (if any), and vehicle license number (if applicable), and shall advise the person of the violation(s) committed. The citation shall direct the person within ten (10) calendar days to pay a fine of fifty dollars (\$50.00) or appear before a City employee designated by the City Manager as a Civil Hearing Officer. The citation shall be served by delivering or mailing a copy to the person, with service becoming effective either immediately upon personal service or five (5) calendar days from the date of mailing. (3198,3813)
- (B) Within ten (10) days of receipt of a citation issued under Subsection (A), a person shall either pay the civil fine or appear in person or through an attorney before a Civil Hearing Officer. At such an appearance, the person shall either admit or deny the allegations contained in the citation. If the person pays the fine, either in person or by mailing payment to the City, the allegations in the citation shall be deemed admitted and such person shall be deemed responsible for having committed the offense described in the citation. If the person appears and admits the allegations, the Civil Hearing Officer shall enter judgment against the person in the amount of fifty dollars (\$50.00). If the person appears and denies the allegations contained in the citation, the Civil Hearing Officer shall set the matter for hearing. (3198)

- (C) All hearings before the Civil Hearing Officer shall be informal, except that testimony shall be given under oath or affirmation. The technical rules of evidence shall not apply, except for statutory provisions relating to privileged communications. The City shall have the burden of proving all violations by a preponderance of the evidence. No prehearing discovery shall be permitted except under extraordinary circumstances as determined by the Civil Hearing Officer. The Civil Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand. Upon a finding by the Civil Hearing Officer after the conclusion of the hearing that the person violated this Chapter, the Civil Hearing Officer shall enter a finding of responsibility and judgment against the person in an amount not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation of this Chapter, and each day of violation continued shall be a separate offense. (3198)
- (D) An appeal from a final judgment of the Civil Hearing Officer may be taken pursuant to the rules of procedure for special actions of the Arizona Supreme Court. (3198)
- (E) If a person served with a citation fails to pay the fine or to appear on or before the time directed to appear or at the time set for hearing, the allegations shall be deemed admitted, and the Civil Hearing Officer shall enter a finding of responsibility and judgment against the person in an amount not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation of this Chapter, and each day of violation continued shall be a separate offense. (3198)
- (F) Any civil fine or judgment for civil sanctions issued pursuant to this Article shall constitute a lien against the real property of the responsible party that may be perfected by recording a copy of the fine or judgment with the Maricopa County Recorder. Any judgment for civil fines pursuant to this Chapter may be collected as any other civil judgment. (3198)

8-3-42: HABITUAL OFFENDER:

- (A) Any person who violates a provision in this Chapter after previously having been found responsible for committing three (3) or more civil violations under Section 8-3-41 within a twenty-four- (24-) month period, whether by admission, payment of a fine, default, or judgment after hearing, shall be guilty of a criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal misdemeanor complaint in the Mesa City Court against habitual offenders who violate this Section. For purpose of calculating the twenty-four- (24-) month period under this Subsection, the dates of the commission of the offenses shall be the determining factor. (3198)

- (B) Upon conviction of a violation of this Section, the Court may impose a sentence of incarceration not to exceed six (6) months in jail or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law, or both. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this Subsection. (3198)
- (C) Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure. (3198)

8-3-43: FAILURE TO PROVIDE EVIDENCE OF IDENTITY:

A person who fails or refuses to provide evidence of the person's identity to a duly authorized agent of the City upon request, when such agent has reasonable cause to believe that the person has committed a violation of this Chapter, shall be guilty of a criminal misdemeanor. Evidence of identity under this Section shall consist of a person's full name, residence address, and date of birth. (3198)