

ORDINANCE NO. 13-822

AN ORDINANCE OF THE COUNCIL OF THE CITY OF ELOY, ARIZONA, AMENDING CHAPTER 10 OF THE ELOY CITY CODE BY CLARIFYING AND ESTABLISHING POLICIES AND PROCEDURES ON THE COLLECTION, TREATMENT, TRANSPORTATION, PROCESSING AND DISPOSAL OF SOLID WASTE AND PROHIBITING CERTAIN HAZARDOUS SUBSTANCES AT THE CITY LANDFILL; PROVIDING FOR SEPARABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Eloy owns and operates a municipal landfill within the corporate limits of Eloy, hereinafter referred to as the "City Landfill"; and,

WHEREAS, the City Landfill primarily serves and benefits the residents and businesses within the corporate limits of Eloy; and,

WHEREAS, the City has the power and duty subject to Federal, State and local statutes and laws to protect the health, safety and welfare of the citizens of Eloy and the environment of the City by establishing minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing, and disposal of solid waste generated within the City of Eloy; and,

WHEREAS, the City is responsible for implementing and enforcing the administrative rules, regulations, and permitting requirements imposed upon the City of Eloy by the United States Environmental Protection Agency, the Arizona Department of Environmental Quality, the Arizona Department of Health, Pinal County, and other governmental agencies during the City's use and operation of the City Landfill; and,

WHEREAS, the City, in order to protect the health and safety of citizens and the environment, has found it necessary and appropriate to prohibit the disposal of certain hazardous materials and medical waste from being disposed of at the City Landfill; and,

WHEREAS, the implementation and enforcement of these standards and rules will allow for the safe use and operation of the City Landfill and proper monitoring of the closure of the City Landfill in the future; and,

WHEREAS, the Mayor and Council directed staff on July 23, 2013, in a work session to recommend various amendments to the Eloy City Code so that the City may properly regulate the use and operation of the City Landfill to protect the health and safety of citizens of Eloy and the environment of the City.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Eloy, Arizona, that Chapter 10 of the Code of Ordinances of the City of Eloy, Arizona be amended as follows:

SECTION 1. That a new Article I of Chapter 10, of the Eloy Code is hereby established and will read as follows:

ARTICLE I - SOLID WASTE COLLECTION AND DISPOSAL

10-1 PURPOSE:

The purpose of this Article is to (i) protect the health and safety of the citizens of the City, and (ii) protect the environment by establishing minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing, and disposal of solid waste generated within the City of Eloy and its Municipal Planning Area.

10-2 POWERS AND DUTIES OF THE CITY MANAGER:

The City Manager, or the Manager's designee, in order to protect the health and safety of the citizens and the environment of the City of Eloy, is authorized and directed to implement and enforce the provisions of this Article to control the storage, collection, treatment, transportation, processing, and disposal of solid waste.

10-3 DEFINITIONS:

For purposes of Chapter 10, the following words, terms and phrases shall have the meanings defined in this Chapter, except where the context clearly indicates a different meaning:

ALLEY. A public passageway affording a secondary means of access to abutting property for utility, emergency and solid waste vehicles.

ASHES. All residue from the burning of any combustible material but does not include ashes from medical waste, hazardous wastes or special waste.

AUTOMATED CONTAINED SOLID WASTE COLLECTION SYSTEM. A contained solid waste collection system that utilizes City specified solid waste containers and a solid waste collection vehicle equipped with a lifting device.

BULK WASTE. Bulk waste is uncontained waste consisting of wooden and cardboard boxes, crates (except as used to contain clippings, cactus or matter which, according to the provisions of this Article, will be collected by the City), appliances, furniture, machinery, automobile parts and all other non-vegetative matter, which by reason of size or shape are not readily containable. Bulk waste also includes tree trunks, branches or limbs, regardless of length, which are twelve (12) or more inches in diameter.

COMMERCIAL SOLID WASTE. Includes solid waste produced by the operation of or as a by-product of any business, without regard to whether the business is licensed in the city, or whether the business activity is conducted in a public business, private residence, within the City, or any other location.

CONSTRUCTION AND DEMOLITION WASTE. Includes all debris, rubble, soil and excess materials from any construction, demolition, repair or remodeling operations, whether on private, public, residential or commercial premises, whether to the primary structure or any other structure, and whether produced by the work or at the direction of the property owner, contractor, subcontractor, agent, or any other party.

CONTAINED SOLID WASTE. Includes all garbage and trash placed in containers for disposal.

CONTAMINATED LOAD. Any load containing prohibited materials.

FILTH. Includes manure, excrement, or a similar substance.

FLY-TIGHT. A solid waste container with a lid that fits flush around all contact points and prevents the entry of flies or rodents.

GARBAGE. All putrescible waste, except sewage and body waste, including waste accumulated of animals, food or vegetable matter, and including waste that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetable, and shall include all the wastes or accumulations or vegetable matter of residence, restaurants, hotels and places where food is prepared for human consumption. The term GARBAGE shall not include recognized industrial byproducts. Swill, offal and any accumulation of spoiled, partially or fully decomposed, rotting or discarded animal, vegetable or other matter that attends the preparation, handling, consumption, storage or decay of plant and animal matter including meats, fish, fowl, buds, fruits, vegetables or dairy products and their waste wrappers or containers.

HAZARDOUS MATERIAL. Any chemical, compound, mixture, substance or article which is designated by the U.S. Environmental Protection Agency or appropriate agency of the State of Arizona to be hazardous, as that term is defined by or pursuant to Federal or State Law. Hazardous material includes but is not limited to explosives, herbicides, medical wastes, pesticides, and radioactive, toxic, flammable or corrosive materials.

HOUSEHOLD HAZARDOUS WASTE. Any waste that would otherwise be a hazardous waste pursuant to Arizona Revised Statutes, Title 49, and 40 Code of Federal Regulations, Part 261 but is excluded as a hazardous waste because it is generated by the normal day-to-day activities of households.

IMMINENT HEALTH or SAFETY HAZARD. Condition of real property, solid waste or recycling container that places a persons' life, health, safety or property in high risk of peril when the condition is immediate, impending on the point of happening and menacing.

INFECTIOUS SOLID WASTE. Any material which presents a significant danger of infection because it is contaminated with or may reasonably be expected to be

contaminated with agents which cause or significantly contribute to the cause of increased infection or infectious disease in human beings.

LITTER. All garbage, waste and debris not properly prepared for collection under this Chapter.

MEDICAL WASTE. Any materials defined as medical waste by Arizona Revised Statutes and Arizona Administrative Rules.

NUISANCE. Anything which is injurious or obnoxious to health, or is 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 obstruct the free passage or use, in the customary manner, of any street, alley, sidewalk or public property.

PROHIBITED SUBSTANCE. Any liquid, solid, or gas with an ignition temperature or flashpoint of less than 200 degrees Fahrenheit, including but not limited to, gasoline, benzene, naphtha, or other flammable or explosive substance; any material having a pH lower than five and one-half or higher than nine or having any other corrosive property that could be injurious or hazardous to city collection employees or which could cause damage to equipment; any noxious or malodorous substance offensive to the senses and depriving other properties or a considerable number of persons of the comfortable enjoyment of life or property; or any medical waste as defined by Arizona State Statutes and Arizona Administrative Rules.

PUBLIC NUISANCE. Anything which is injurious or obnoxious to health, or is 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 obstruct the free passage or use, in the customary manner, of any street, alley, sidewalk or public property.

RECYCLABLE MATERIALS. Any solid waste that has been set aside or separated from other solid waste for the purpose of being collected and recycled, and which is, at the city manager's discretion, acceptable recyclable material. "Acceptable recyclable material" may include the following materials if clean and dry: paper, cardboard, chipboard, plastic containers made from polyethylene terephthalate ("PETE") or high density polyethylene ("HOPE"), steel food cans, aluminum cans, disposable aluminum bake ware and aluminum foil and other materials determined by the City Manager, or the Manager's designee, as being marketable.

RESIDENTIAL SOLID WASTE. Residential solid waste means household garbage and rubbish produced by city residents on or in their residential premises within the City, specifically excluding:

- (1) Construction and demolition waste, whether on or off the residential premises, and whether to the primary residential structure or any other structures.

- (2) Commercial or industrial solid waste, whether produced at the residence or at any other location.
- (3) Hazardous materials
- (4) Bodywaste
- (5) Manure
- (6) Animals

RESIDENTIAL WASTE GENERATOR. Any person in charge of, owning, leasing, renting or occupying any building or buildings used solely for a family or private residential domicile, including but not limited to single family dwellings, multi-family units, duplexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, apartments, condominiums, town homes, or any complex of the foregoing.

RUBBISH. Refuse other than garbage, tin cans, bottles, ashes, paper, pasteboard or wooden boxes, brush, leaves, weeds and cuttings from trees, lawns, shrubs and gardens or other waste materials produced in the normal course of everyday living.

SOLID WASTE. All wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof, brush, and containable rubbish, filth, construction and demolition waste, brush, bulk waste, metal goods and prohibited substances when these terms are not specifically noted in this Article.

SOLID WASTE CONTAINER. A container owned by the city and made available for use as part of the city's automated solid waste collection program.

10-4 AUTHORITY TO COLLECT, TRANSPORT AND DISPOSE OF SOLID WASTE:

The City of Eloy, its duly authorized agents or employees, shall have the exclusive right to collect; transport, and dispose of solid waste within the City limits excepting private collectors authorized by license, permit or contract by the City. It shall also be unlawful to engage in the business of collection, transportation, hauling or conveying any refuse over the streets or alleys of the City or to dump or dispose of the same except by the City or its authorized representatives or private collectors authorized by license, permit or contract by the City.

10-5 SOLID WASTE SERVICE REQUIRED:

No person occupying a dwelling unit or business establishment within the City shall be permitted to avoid or refuse to accept solid waste collection service, and the failure of any party to accept such service shall not exempt that party from the payment of the charges for such service.

In the event that the City Manager, or the Manager's designee, determines that the City is unable to reasonably, efficiently, or safely provide collection services to certain residents, establishments or communities such as, but not limited to, proximity of other

serviced areas, size or density of development, or terrain, the City may substitute another means of collection or require the person to seek service from another source until the situation is resolved. At any time, the City may require any resident to receive city residential solid waste collection if the City Manager, or the Manager's designee, deems the service appropriate. Any person receiving such service shall comply with all applicable provisions of this Article.

10-6 RESPONSIBILITY FOR SOLID WASTE:

The responsible party of any premises or business establishment shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the City, agents of the City or licensed solid waste haulers. The responsible party of any premises, business establishment, or industry shall be responsible for the sanitary condition of said premises, business establishment, or industry, and for the proper storage, containment, and placement for collection of all solid waste and recyclables.

10-7 HOURS OF COLLECTION:

- (A) Hours of collection of solid waste or recyclables by private and municipal collectors shall be regulated by the City Manager, or the Manager's designee. In order to prohibit the disturbance of the public, peace and welfare, it shall be unlawful to collect or remove solid waste or recyclables between the hours of 10:00 p.m. and 6:00 a.m. if the collection point or container location is within two-hundred (200) feet of any residential dwelling unit unless reasonable accommodations are approved by the City Manager, or the Manager's designee.
- (B) For purposes of this subsection, **PRIVATE** means any entity other than the City, whether commercial, nonprofit or otherwise, collecting solid waste or recyclables.
- (C) All solid waste shall be collected as deemed necessary by the City Manager, or the Manager's designee, and at periods designated by the City Manager, or the Manager's designee.

10-8 ILLEGAL DUMPING OF SOLID WASTE:

It shall be a violation for any person to dump, dispose or release, or cause to be dumped, disposed or released, any solid waste or hazardous waste upon any street, alley, right-of-way, public or private property within the City of Eloy except as specifically permitted in this Chapter or at a disposal site authorized by the State Department of Health Services or State Department of Environmental Quality.

10-9 AUTHORITY TO CREATE RULES AND REGULATIONS:

The City Manager, or the Manager's designee, shall make such schedules, rules and regulations concerning the collection, disposal and hauling of solid waste, recyclable materials and other wastes by any party; or relating to the operation of any transfer station, landfill or other disposal site, recycling or waste reduction program or other

similar activities or facilities, provided the rules and regulations do not conflict with this Chapter.

- (A) Residences. The City, at its discretion, shall provide automated, contained residential solid waste collection service and may provide residential bulk service and recycling service in accordance with the guidelines and policies as provided by the City Manager, or the Manager's designee.
- (B) Business establishments. The City or an authorized solid waste collector shall provide commercial solid waste collection service to business establishments as required by state, county and city regulations. If the business establishment is serviced by an authorized solid waste collector other than the City, the service schedule shall be set by the contractor and customer, subject to approval by the City Manager, or the Manager's designee.

10-10 ENCLOSURES:

The City reserves the right to require commercial solid waste generators and business establishments to utilize City or commercial collection sufficient to properly manage the volume of solid waste generated by this business. Containers may be required to be in enclosures that shall be designed in accordance with City Code and shall be properly accessible and sufficiently sized to accommodate the number of containers for the volumes of solid waste generated. All enclosures shall have proper drainage to prevent accumulation and stagnation of any liquid.

10-11 REQUIRED CONTAINERS, SPECIFICATIONS, MAINTENANCE AND PLACEMENT:

- (A) It is the duty of every person or commercial or residential solid waste generator to place or cause to be placed all solid waste accumulating on the premises in suitable receptacles or containers provided by the City, or an authorized solid waste collector. All materials prepared for collection shall be stored in a City- approved container until removed by the City or an authorized solid waste collector, unless those materials are properly prepared for the City's bulk waste collection service.
- (B) Containers for solid waste collection shall not be placed within six (6) feet of a vehicle, mailbox or other obstruction to safe collection as determined by the City Manager, or the Manager's designee. At no time may containers be left on a sidewalk.
- (C) To ensure containers are placed out on time, containers may be placed in the street in front of the house to which they are assigned after 6:00 p.m. on the day preceding collection, with the wheels adjacent to the curb of the street, and the lid opening toward the street. Where there is no curb, the container shall be placed at the edge of the street, within two feet of the pavement or improved road, as applicable. Containers for street collection shall be placed out on the street for service no later than 6:00 a.m. on the day of collection.

Containers shall be removed prior to 11:00 p.m. of the day of collection. It shall be a violation of this section of Chapter 10 to place or permit containers to remain on the street right-of-way except upon regular collection days. Containers shall be stored, between collection days, on the user's property so as not to interfere with pedestrian or vehicular traffic.

10-12 CONSTRUCTION AND DEMOLITION MATERIALS:

Construction and demolition solid waste shall not be placed in a solid waste container. If such construction and demolition solid waste is generated, the responsible party is responsible for the removal and disposal of such solid waste. All construction and demolition solid waste shall be removed promptly and shall not be stored in any location where it may be blown or otherwise dispersed beyond the construction site. In the event that the violation is not corrected, the violation is considered a public nuisance that may be abated.

10-13 PROHIBITED SUBSTANCES:

- (A) No person shall deposit or cause to be deposited in any solid waste container which is serviced by the City any prohibited substance as defined in this Article. The City Manager may, by special agreement, contract to haul prohibited substances when placed in special containers and clearly labeled. Unless the City Manager has contracted by special agreement to haul the prohibited substances, it is the responsibility of the generator of such substances to ensure their removal.
- (B) Construction and demolition waste, as defined in this Article, shall not be placed in solid waste containers. Removal of construction waste shall be the responsibility of the owner of the real property upon which such waste is generated. Roll-off containers shall be required by the City for construction and demolition materials generated on residential properties, remodeling and similar construction projects whether the work is performed by a property owner or licensed contractor.
- (C) Unacceptable materials will not be collected under this Article and may subject the producer to a fine under this Article. It will be the generator's responsibility to ensure the removal of unacceptable materials. Unacceptable material may be removed by the City at the generator's expense as set forth in this Article. Unacceptable material may be collected through special collection events that are periodically scheduled by the City Manager, or the Manager's designee.
- (D) Prohibited materials. The following materials are unacceptable for contained solid waste collection as described in this Article:
 - (1) Improperly prepared materials are any acceptable material that is not properly prepared for collection. "Improperly prepared for collection" shall include

otherwise acceptable materials which are set out for collection at the wrong time or in the wrong place.

- (2) Tires and other automotive parts. No tires or other auto parts shall be acceptable. "Automotive parts" includes any part or combination of parts of any kind of motor vehicle, including but not limited to tires, batteries, seats, engines, fuel tanks, doors, auto glass, and upholstery.
- (3) Soil, rock, masonry, sod, gravel, cement, concrete, masonry blocks, bricks, tile or any other similar materials shall be unacceptable.
- (4) Gardening and landscape business waste. No landscapers, tree trimmers, lawn maintenance businesses or similar operators may dispose of yard waste or any other solid waste in solid waste containers unless the waste is generated solely from the grounds of the property and the property owner or manager has approved such disposal.
- (5) Fire hazards. No hot ashes, hot cinders, burning matter, loose sawdust, flammable or volatile liquids, or any other material which presents a fire hazard shall be acceptable.
- (6) Hazardous material. Any chemical, compound, mixture, substance or article which is designated by the U.S. Environmental Protection Agency or appropriate agency of the State of Arizona to be hazardous, as that term is defined by or pursuant to Federal or State law. Hazardous material includes but is not limited to herbicides, pesticides, explosives, medical wastes except household medical waste as allowed by this Article, and radioactive, toxic, flammable or corrosive materials.
- (7) Medical waste. Any medical waste and materials, including treated medical waste, except household medical waste as allowed by Section 10-15 and 10-17 of this Article, defined as medical waste by Arizona State Statutes and Arizona Administrative Rules.
- (8) Contaminated materials.

10-14 PROHIBITED ACTS:

Violations of this Article shall include, but are not limited to, the following acts and provisions:

- (A) Place or cause to be placed any solid waste upon any public or private property not owned or under his control;
- (B) Place or cause to be placed in a solid waste container any garbage, waste, rubbish, containable rubbish, filth or dead animal which is not contained within a securely fastened leak-proof plastic bag, unless otherwise exempted by this Article;

- (C) Place or cause to be placed more than a limited amount of filth in a solid waste container; as established by the City Manager or the Manager's designee;
- (D) Place or cause to be placed any solid waste in a container not owned or maintained by said property owner;
- (E) Fail to restrain any vicious animal and prevent interference with collection employees acting in the course of their duties;
- (F) Any responsible party who causes, permits, facilitates, or aids or abets any violation of this Article or who fails to perform any act or duty required by this Article.
- (G) Each day, any violation of this Article that exists shall constitute a separate violation or offense;
- (H) The owner of record, as recorded in the Pinal County Recorder's Office records of the property at which a violation of this Article exists, may be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land.
- (I) If a responsible party served with a notice of violation or citation by the City fails to correct the violation within the period specified, the City may correct or abate the condition as described in the notice and, in addition to any fine which may be imposed for a violation of this Article, the responsible party shall be liable for all costs which may be assessed pursuant to this Article for the correction or abatement of the condition.
- (J) If in the opinion of the City Manager the condition constitutes an imminent health or safety hazard, the City Manager may immediately abate the hazard without notice. Such abatement of an imminent health or safety hazard shall be limited to the minimum work necessary to *remove* the hazard.
- (K) Failing to *remove* construction and demolition waste. It shall be a violation of the Eloy City Code for a generator of construction and demolition waste to fail to remove the construction and demolition waste from the premises within 30 days from the date on which it was placed upon the premises, or not later than the final building inspection, the clearance of public utilities, or the issuance of a certificate of occupancy, whichever occurs first.

- (L) Burning solid waste. No person shall burn solid waste except in incinerators that may be permitted by Pinal County and the City. Any burning of solid waste must comply with the rules and regulations established by the Arizona Department of Health Services and the U.S. Environmental Protection Agency.
- (M) Interfering with collection. It shall be a violation of the Eloy City Code for any person to interfere with authorized collection of solid waste in any way.
- (N) Mishandling hazardous waste. No person, business, contractor or licensee shall knowingly collect, place or cause to be placed or collected any hazardous waste or similar materials from any container or any public or private property, or the City landfill, except as specifically permitted by the Arizona Department of Environmental Quality or the U.S. Environmental Protection Agency.
- (O) Failing to contain solid waste in transit. No person shall collect, transport or receive any solid waste or other wastes within or upon any public or private streets in the city, or anywhere in the city, except in leak proof containers or vehicles so constructed that no solid waste or other wastes leak or sift through, fall out or be blown from such container or vehicle. Any person collecting or transporting any solid waste or other wastes shall immediately pick up all solid waste or waste which drops, spills, leaks or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such solid waste or wastes were dropped, spilled, blown or leaked.
- (P) Contaminating recyclable materials. No person shall deposit or cause to be deposited, in any recycling container, anything other than acceptable recyclable materials.
- (Q) Scavenging. 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, or its agents. 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. City employees acting within the scope of their employment are not subject to the prohibitions described in this section.

10-15 HOUSEHOLD MEDICAL AND INFECTIOUS WASTE:

All household medical and infectious solid waste including lancets, syringes and hypodermic needles must be properly contained before disposing of in the solid waste container. Household and infectious waste must be placed in plastic bags and

securely tied before placing in the solid waste container. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture resistant container with a secured and taped lid and must be clearly labeled identifying the contents before placing in the solid waste container. Depositing or disposing of household medical and infectious waste or lancets, syringes and hypodermic needles in any recycling container is prohibited.

10-16 FEES FOR SOLID WASTE AND BULK WASTE COLLECTION:

- (A) Authority to Establish Fees: Solid waste and bulk waste services within the provisions of this Article shall be collected at rates and user fees as determined by resolution by the City Council.
- (B) Compulsory Collection: A person occupying a dwelling unit or business establishment within the City shall pay the solid waste and bulk waste fees established and provided for by subsection A. of this section.

10-17 LANDFILL SUPERVISION AND OPERATIONS:

- (A) The use of the City landfill shall be subject to the supervision and control of the City Manager or the Manager's designee.
- (B) The City Council shall have the authority to promulgate regulations concerning the use of the landfill, as it shall deem necessary, and to change and modify the same. The Council shall have the power to alter any existing regulation, create new regulations or permit the non-compliance with any regulation if it is deemed by them to be necessary to protect health and safety or to carry out the purpose and intent of this Article.
- (C) The City landfill facilities shall be used exclusively by residents of the City of Eloy and residents residing within the Municipal Planning Area of the City. No special permits shall be granted to others to use the landfill facilities. The City Manager or the Manager's designee is authorized to issue appropriate identification to residents for use of the City landfill. The City Manager or the Manager's designee is further authorized to post appropriate "no trespassing" signs and erect fences and gates to enforce this section.
- (D) It is unlawful for any person to bring solid waste into the City landfill that originates outside the Eloy city limits or outside the Eloy Municipal Planning Area. It is unlawful for any resident that has been issued an identification card to use the City landfill to allow a non-resident of the Municipal Planning Area of the City to use his or her landfill identification card or to bring garbage and trash to the City landfill that originates outside the Eloy city limits.
- (E) No person shall dispose of any hazardous material, treated and untreated medical waste except household medical waste as allowed by this Article, materials that are a fire hazard, tires and automotive parts, contaminated materials at the City landfill, and other materials that are not authorized by the City of Eloy's Municipal Solid Waste

Landfill Master Facility Plan Number 11006100.03 approved by the Arizona Department of Environmental Quality on July 25, 2013, and as amended from time to time.

SECTION 2. That a new Article II of Chapter 10, of the Eloy Code is hereby established and will read as follows:

ARTICLE II - NUISANCES

10-18 ABATEMENT OF NUISANCES ON PRIVATE PROPERTY:

(A) Nuisances: For purposes of this section, nuisances shall include, but is not limited to, the keeping or depositing on, or the scattering over the premises of any of the following:

- (1) Lumber, trash, rubbish, garbage, weeds, accumulation of filth, debris and piles of soil.
- (2) Abandoned, discarded or unused objects or equipment, such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals or insects; provided that the presence of earthworms in a compost pile shall not constitute a nuisance.
- (4) Keeping unsanitary matter on premises. It shall be unlawful for any person to keep or permit another to keep, upon any premises, deleterious or septic material, unless such matter is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals.
- (5) Any swimming pool, architectural pool, or spa, that creates a health hazard, harbors insects, or presents a deteriorated appearance.
- (6) Any wall or fence that is missing blocks, boards or other material or is otherwise damaged or deteriorated so as to constitute a hazard to persons or property.
- (7) Any landscaping visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve inches (12"); or any dead trees, bushes, shrubs, or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight feet (8') or dry fronds longer than five feet (5') and closer than eight feet (8') to the ground.

(8) Any upholstered furniture manufactured primarily for indoor use, including mattresses and box springs, shall be prohibited on any front, side or rear yard visible from any public place, sidewalk, or street.

(B) Duty of Maintenance of Private Property: No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution of the other property in the neighborhood in which the premises are located. The owner and/or the occupant of the property shall also maintain the following areas free of grass and weeds higher than twelve inches (12"), garbage, trash, litter and debris: adjacent rights of way from back of the curb or edge of paving in the street, through the owner's and/or occupant's property, to the centerline of any adjacent alley or easement.

(C) Exterior Storage of Non-operative Vehicles Prohibited: No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the city for a longer time than ten (10) days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or any other public agency or entity.

(D) Machinery Or Equipment Used By Contractors Or Builders: The storing or leaving of any machinery or equipment designed for or used by contractors or builders for commercial purposes, except where permitted by the city zoning code.

(E) Notice To Remove: Any person who owns, leases or occupies any building, grounds, lots or premises within the city and who fails, neglects or refuses to remove or properly dispose of any substance prohibited by this section which is located in or upon such buildings, grounds, lots or premises owned, leased or occupied by such persons shall be given written notice by the City Manager or his duly authorized representative to remove such substances. The date set for compliance shall be at least ten (10) days from the date of mailing or personal service of such notice.

(F) Service Of Notice: Notice shall be served on the owner, lessee or person occupying such property by the City Manager or his duly authorized representative by personal service in a manner provided in rule 4(d) of the Arizona Rules of Civil Procedure mailed to the owner, lessee or person occupying such property at his last known address or, if unknown, the address to which the tax bill for the property was last mailed.

(G) Removal Of Substance By City; Assessment Of Costs: When any owner, lessee or occupant to whom notice has been given fails, neglects or refuses to remove the prohibited substance from such property by the date set for compliance within the notice, the City Manager or his duly authorized representative may remove or cause the removal of such substance. Upon completion of the work, the City Manager or his duly authorized representative shall prepare an assessment containing a verified statement of account of the actual cost of such removal. The assessment shall further contain the date the work was completed, the street address and the legal description of the property on which said work was performed. In addition to the actual cost for the work performed, the assessment shall contain an additional charge of ten percent (10%) of such costs for inspection and other incidental costs in connection with such removal. A duplicate copy of such assessment shall be served upon the person or persons to whom the original notice of removal was served in the manner heretofore prescribed for service of the notice of removal.

(H) Lien for Assessment: The assessment shall be forthwith recorded in the office of the county recorder of Pinal County, Arizona, and from the date of its recording, shall be a lien on such lot, tract or land or premises described in the assessment, until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The City shall have the right to bring an action to enforce the lien in the Superior Court of Pinal County, at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same private premises may be enforced in the same action.

(I) Right Of Appeal: Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of adjustment, provided that a written application for appeal is filed within ten (10) days after the day the decision, notice or order was served.

(J) Liability Of Non-owners For Placing Prohibited Substances On Premises: Any person, firm or corporation who shall place any discarded vehicles, vehicle parts, rubbish, trash, garbage, weeds, bushes, accumulation of filth, debris or dirt piles on public property not owned, leased, occupied or under the control of said person, firm or corporation shall be guilty of a class 3 misdemeanor and, in addition to any fine which may be imposed for a violation of the provisions of this section, shall be liable for all costs which may be assessed pursuant to this section for the removal of said substances. (Ord. 09-758, 4-13-2009; Ord. 10-786, 10-11-2010)

10-19 VEHICLES HAULING GARBAGE AND TRASH:

(A) Handling Noxious, Offensive Matter Generally: No driver of any vehicle transporting garbage, trash or refuse, nor any person having undertaken or being engaged about the unloading thereof, nor any person engaged in handling, cleaning or emptying the contents of any vault, sink, privy, cesspool, nor any person otherwise moving any noxious or offensive substance, shall do or permit to be done in connection therewith, anything which shall be needlessly offensive or filthy in respect to any person, street, place, building or premises.

(B) Vehicle Requirements: All vehicles carrying any garbage, trash or refuse shall be covered by tarp or fully contained within a vehicle/trailer so that no part of such contents or load shall fall, leak or spill onto any road right-of-way, or private property. In the event the garbage, trash or refuse is nauseating or particularly offensive, the vehicle carrying same shall be covered so as to minimize the offensive nature of the material to the public.

(C) Transporting Hog Slops: Wet slop collected from hotels, restaurants or other sources for the purpose of feeding to hogs must be transported in tightly covered metal cans.

(D) Vehicle Condition; Spilling Load: No person shall use or authorize or engage the use of any vehicle for the transportation of garbage, trash or refuse which is so fully loaded, or in such bad condition of repair, or of such faulty construction, or so improperly driven or managed, that any garbage, trash or refuse shall fall upon or in any place, street or premises. In the event any such garbage, trash or refuse does fall from such vehicle, it shall be the duty of the person in charge to at once replace same on such vehicle. (Ord. 79-158 A §§ 14 - 17' 4-23-1979)

10-20 REMOVAL OF SOLID WASTE BY OCCUPANTS VACATING BUILDING:

It shall be unlawful for any occupant of any dwelling unit, building or structure of any kind or description whatever, regardless of how such occupant came into possession of such premises, to vacate such premises without first causing to be removed therefrom and properly disposed of, all garbage, trash or refuse. (Ord. 79-158 A § 13, 4-23-1979)

10-21 FENCING VACANT OR EXCAVATED LOTS TO PREVENT ACCUMULATIONS:

It shall be the duty of every owner, lessee or tenant of any vacant, sunken or excavated lot in the City, when required by the building official, or designee, to provide around the same a proper fence so as to effectually prevent the throwing or depositing therein or thereupon of any garbage or offensive thing whatsoever, and also to prevent persons passing from falling into such excavation. (Ord. 79-158 A § 20, 4-23-1979)

10-22 USING SOLID WASTE FOR CONSTRUCTION:

No garbage, trash or refuse shall be deposited or used to fill up or raise the surface or level of any lot or grounds in the City, except pursuant to a special permit from and under the direction of the building official or designee. (Ord. 79-158 A §21, 4-23-1979)

10-23 VIOLATIONS AND PENALTIES:

A person who violates any provision of Article I and Article II of this Chapter is guilty of a Class Two Misdemeanor, and subject to imprisonment (A.R.S. 13-707); fine (A.R.S. 13-802); probation (A.R.S. 13-902); and restitution (A.R.S. 13-804). The Eloy Municipal Court shall have jurisdiction over all violations of this Chapter.

SECTION 3. That Article III of Chapter 10, of the Eloy City Code is hereby established and will read as follows:

ARTICLE III - LITTER

10-24 DEFINITIONS:

10-25 POSTING NOTICES, PLACARDS, BILLS AS AUTHORIZED:

10-26 DISTRIBUTING HANDBILLS; RESTRICTIONS:

10-27 PLACING HANDBILLS IN VEHICLES:

10-28 DISTRIBUTION OF HANDBILLS ON VACANT PRIVATE PREMISES:

10-29 DISTRIBUTION OF HANDBILLS WHERE PROPERTY POSTED:

10-30 DISTRIBUTION OF HANDBILLS ON INHABITED PRIVATE PREMISES:

10-31 NAME AND ADDRESS OF PRINTER AND DISTRIBUTOR:

10-32 OBJECTIONABLE MATTER OR MATERIAL; POSTING:

10-33 OBJECTIONABLE MATTER OR MATERIAL; DISTRIBUTING HANDBILLS:

10-34 VIOLATIONS; PENALTIES:

10-24 DEFINITIONS:

As used in this Article, the following terms shall have the meanings ascribed to them respectively:

COMMERCIAL HANDBILL: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter of literature:

(A) Which advertises for sale any merchandise, product, commodity or thing; or

(B) Which directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(C) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

NEWSPAPER: Any newspaper of "general circulation" as defined by general law, any newspaper duly entered with the post office department of the United States in accordance with federal statutes or regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL: Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of a "commercial handbill" or a "newspaper".

PRIVATE PREMISES: Any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE: As defined in section 1-2 of this code. (Ord. 89 §2, 6-27-1966)

10-25 POSTING NOTICES, PLACARDS, BILLS AS AUTHORIZED:

No person shall post, stick, stamp, paint or otherwise fix or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, except such as may be authorized or required by the laws of the United States, this state or of this city. (Ord. 89 § 3, 6-27- 1966)

10-26 DISTRIBUTING HANDBILLS¹; RESTRICTIONS:

It shall be unlawful for any person to deposit, place, scatter or cast any commercial handbill in or upon any public place within this city, and it shall also be unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided, however, it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept it. (Ord. 89 §4, 6-27-1966)

10-27 PLACING HANDBILLS IN VEHICLES:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handling, transmitting or

distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle who is willing to accept the same. (Ord. 89 §5, 6-27-1966)

10-28 DISTRIBUTION OF HANDBILLS ON VACANT PRIVATE PREMISES:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which is temporarily or continuously uninhabited or vacant. (Ord. 89 §6, 6-27-1966)

10-29 DISTRIBUTION OF HANDBILLS WHERE PROPERTY POSTED:

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises when there is placed in a conspicuous position near the entrance thereof a sign bearing the words, "No Trespassing", "No Peddlers Or Agents", "No Advertisement", or any similar notice indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed or to have any such handbills left upon such premises. (Ord. 89 §7, 6-27-1966)

10-30 DISTRIBUTION OF HANDBILLS ON INHABITED PRIVATE PREMISES:

No person shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which is inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided herein, the aforesaid person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations. (Ord. 89 §8, 6-27-1966)

10-31 NAME AND ADDRESS OF PRINTER AND DISTRIBUTOR:

(A) It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

- (1) The person who printed, wrote, compiled or manufactured the same.
- (2) The person who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring said handbill shall also appear thereon.

(B) The provisions of this section shall not be deemed to apply to the distribution of mail by the United States nor to "newspapers" as defined in section 10-23 of this article. (Ord. 89 § 9, 6-27-1966)

10-32 OBJECTIONABLE MATTER OR MATERIAL; POSTING:

It shall be unlawful for the owner, lessee, occupant or agent of premises to permit any person to post, affix or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture be natural or artificial, any poster or handbill containing any matter prohibited by this article. (Ord. 89 § 10, 6-27-1966)

10-33 OBJECTIONABLE MATTER OR MATERIAL; DISTRIBUTING HANDBILLS:

It shall be unlawful for any person to post, hand out, transmit, distribute or place any sign or any commercial or noncommercial handbill:

(A) Which may reasonably tend to incite riot or other public disorder or which advocates disloyalty to or the overthrow of the government of the United States or of this state by means of any artifice, scheme or violence or which urges any unlawful conduct or encourages or tends to encourage a breach of the public peace or good order of the community; or

(B) Which is offensive to public morals or decency or which contains blasphemous, obscene, libelous or scurrilous language. (Ord. 89 § 11, 6-27-1966)

10-34 VIOLATIONS; PENALTIES:

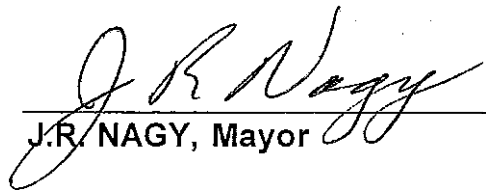
The penalties for violations of Article III of this Chapter shall be as specified in Section 10 A-2 of this code. (Ord. 95-392, 2-13-1995)

SECTION 4. Any provision of the City of Eloy Municipal Code, all Ordinances and/or parts of Ordinances in conflict with the provisions of this Ordinance or any part thereof adopted herein by this reference are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase or portions of this Ordinance or any part of the code adopted here in by this reference, is for any reason held to be invalid or unconstitutional the decision of any Court or competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Eloy that this ordinance shall become immediately effective, an emergency is declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED and **ADOPTED** by the City Council of the City of Eloy, Arizona, this 23rd day of September, 2013.



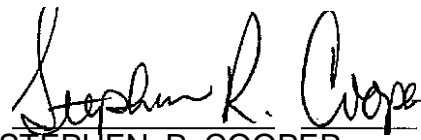
J.R. NAGY, Mayor

ATTEST:

APPROVED AS TO FORM:



MARY MYERS
City Clerk



STEPHEN R. COOPER
City Attorney