

TITLE IV. - HEALTH AND SANITATION¹¹

CHAPTERS

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Footnotes:

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Cross reference— Fire prevention and control, Ch. 7-13, Art. XII; zoning, Ch. 12-2; streets, sidewalks and other public places, Ch. 11-4; parks and recreation, Ch. 6-3.

CHAPTER 4-1. GENERAL PROVISIONS

(RESERVED)

CHAPTER 4-2. ANIMALS¹²

Footnotes:

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State Law reference— Cruelty to animals, F.S. Ch. 828; livestock at large, F.S. § 588.12 et seq.; damage by dogs, Ch. 767.

Cross reference— Refuse not acceptable for collection by sanitation department, § 4-3-57; animals prohibited from running at large in parks, § 6-3-5.

ARTICLE I. - IN GENERAL

Sec. 4-2-1. - Adoption of County Animal Control Regulations.

The provisions of Escambia County animal control ordinance, Sec. 10-1 through Sec. 10-28 of the Code of Escambia County, Florida, as those provisions may be altered or amended from time to time, shall be applicable and enforced within the City of Pensacola, as provided therein.

REPEAL SECTION. 4-2-2.

Sec. 4-2-3. - Poultry or fowl generally.

It shall be unlawful to keep roosters within the corporate limits of the city or to keep more than eight (8) poultry or other fowl at a single residence. It shall be unlawful for any person to keep any live poultry such as chickens, turkeys, ducks, geese or guinea fowl within the corporate limits of the city without the provision of coops, pens or enclosures so constructed and maintained as to prevent access by predators. Free ranging of poultry or fowl is allowed as long as they are prevented from going upon the streets, parks or public places or upon the premises of persons other than the owner or custodian of the poultry or other fowl.

(Code 1968, § 62-5; Ord. No. 17-12, § 2, 8-9-12)

Sec. 4-2-4. - Required distance of enclosures from certain buildings and public parks.

It shall be unlawful to keep, harbor or confine ducks, geese, chickens, guineas, peacocks or other fowl in any pen, coop or enclosure in the city, any part of which is within thirty (30) feet of an adjacent dwelling, church, hospital, school, public building or public park.

(Code 1968, § 62-5; Ord. No. 17-12, § 3, 8-9-12)

Sec. 4-2-5. - Same—Keeping for sale.

All live poultry, such as chickens, turkeys, ducks, geese or guinea fowl, which are kept for purposes of sale within the corporate limits of the city, shall be placed and kept in coops or pens which shall be erected so that the bottom of the coops or pens shall be at least eighteen (18) inches from the ground. The floors of the coops or pens shall be so constructed so as to permit the droppings from the poultry to fall into a removable box placed underneath the coops or pens. Each of the coops or pens shall be equipped with a water trough and feed box attached to the outside of the coops or pens in such manner as to prevent contamination of same. It shall be unlawful for any person to keep live poultry within the city for the purposes of sale or breeding, except in compliance with zoning regulations.

(Code 1968, § 62-6; Ord. No. 17-12, § 4, 8-9-12)

Sec. 4-2-6. - Doves, pigeons.

- (a) It shall be unlawful for any person to keep or harbor on any premises in the city any doves or pigeons, other than homing or carrier pigeons, unless the same shall be confined in cages or coops or in such other manner as will prevent them from flying or straying beyond the premises on which they are kept.

(Code 1968, §§ 62-8, 62-9; Ord. No. 16-10, § 44, 9-9-10; Ord. No. 17-12, § 5, 8-9-12)

Sec. 4-2-7. - Rabbits.

- (a) All rabbits kept within the city for the purposes of sale shall be kept in coops or pens of the character and construction provided in section 4-2-5 for the keeping of live poultry.
- (b) It shall be unlawful for any person to keep or harbor on any premises in the city more than two (2) rabbits, except as set forth in (a) above.
- (c) It shall be unlawful for any person to keep rabbits within the city for the purposes of breeding, except in compliance with zoning regulations.

(Code 1968, § 62-7)

Sec. 4-2-8. - Livestock.

It shall be unlawful to keep any horse, mule, donkey, goat, sheep, hogs and cattle in any stable, shed, pen or enclosure within the city limits.

(Code 1968, §§ 62-10, 62-14)

REPEAL SECTION 4-2-9.

Secs. 4-2-10—4-2-20. - Reserved.

ARTICLE II. - DOMESTICATED ANIMALS³¹

Footnotes:

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Editor's note— Ord. No. 16-87, §§ 1, 2, passed May 14, 1987, repealed §§ 4-2-21—4-2-110 of Ch. 4-2 and enacted in lieu thereof, §§ 4-2-21—4-2-40 as set forth in Art. II hereof. Prior to repeal, said sections comprised Art. II, Divs. 1—4, Art. III, and Art. IV of this chapter, pertained to regulations for the control of domesticated animals, impoundment, and kennels, and were derived from Code 1968, §§ 62-19—62-28, 62-30, 62-31(1)—(9), 62-32—62-32.2, 62-32.4, 62-32.6, 62-32.8(2), (3) and 62-32.9(2), (3).

State Law reference— Damage by dogs, F.S. Ch. 767.

REPEAL SECTION 4-2-21.

REPEAL SECTION 4-2-22.

REPEAL SECTION 4-2-23.

REPEAL SECTION 4-2-24.

REPEAL SECTION 4-2-25.

REPEAL SECTION 4-2-26.

REPEAL SECTION 4-2-27.

REPEAL SECTION 4-2-28.

REPEAL SECTION 4-2-29.

REPEAL SECTION 4-2-30.

REPEAL SECTION 4-2-31.

REPEAL SECTION 4-2-32.

REPEAL SECTION 4-2-33.

REPEAL SECTION 4-2-34.

REPEAL SECTION 4-2-35.

REPEAL SECTION 4-2-36.

REPEAL SECTION 4-2-37.

REPEAL SECTION 4-2-38.

REPEAL SECTION 4-2-39.

REPEAL SECTION 4-2-40.

REPEAL SECTION 4-2-41.

Sec. 4-2-42. - Keeping pot-bellied pigs as household pets.

- (a) The term "pigs" as used herein shall mean Pot-bellied Pigs.
- (b) The number of such pigs shall be limited to one per each residence.
- (c) The breeding of such pigs is prohibited.
- (d) Male pigs four (4) weeks of age or older shall be neutered.
- (e) Such pigs shall be controlled by a leash, tether, harness or adequate enclosure any time said animals are outside the residence of the owner or other person harboring, keeping or maintaining said pig.
- (f) The owner shall display, upon request from the an animal control officer or any law enforcement officer, a current certification from a veterinarian licensed in the State that all necessary and appropriate vaccinations have been administered and that the pig has been tested and demonstrated free of parasitic disease. Such certification shall be obtained on a yearly basis.
- (g) It shall be unlawful for any pig owner or person in charge of a pig, to fail to remove deposits of pig excreta made by a pig in that person's charge when the deposit of the pig's excreta occurred in the presence of the pig's owner or person in charge of the pig on any property not belonging to the owner or a person in charge of the pig. If such depositing of excreta occurs, the owner or person in charge of the pig shall immediately cause its removal for disposal.
- (h) It shall be unlawful for any pig owner or person in charge of a pig to allow the area in which the pig is kept or allowed to roam to become the source of odors which are detectable on adjoining properties where such odors are the result of the pig being kept or allowed to roam on the subject property.
- (i) All other animal control and nuisance laws applicable to animals within the City of Pensacola shall apply to pot-bellied pigs.
- (j) A homeowners' association formed in accordance with State Statute may prohibit ownership of pot-bellied pigs through a formal inclusion in the association's covenants.

(Ord. No. 10-14, § 2, 3-13-14)

Sec. 4-2-43. - Enforcement.

The provisions of Sec. 4-2-3 through 4-2-42 shall be enforced by the mayor.

Sec. 4-2-44. - Penalties.

- (a) Any person who willfully refuses to sign and accept a citation or notice to appear issued by an officer shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. section 775.082, section 775.083, or section 775.084.
- (b) Any person found to be in violation of section 4-2-1 through section 4-2-40 of the code of the City of Pensacola, Florida, shall be subject to a maximum civil penalty not to exceed five hundred dollars (\$500.) in amount, however, the civil penalty for such person who has committed a violation and does not contest a citation shall be an amount less than five hundred dollars(\$500.00).

Secs.—4-2-45 - 4-2-85. - Reserved.

ARTICLE III. - RESERVED¹⁴¹

Footnotes:

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Note— See the editor's footnote to Art. II of this chapter.

Secs. 4-2-86—4-2-120. - Reserved.

ARTICLE V. - BIRD SANCTUARY

Sec. 4-2-121. - City designated as bird sanctuary.

The entire area now embraced by the corporate limits of the city shall be designated as a bird sanctuary.

(Code 1968, § 62-33)

Sec. 4-2-122. - Signs.

Adequate signs shall be erected at entrances to the city, within the discretion of the council, signifying the designation of the area within the city as a bird sanctuary.

(Code 1968, § 62-34)

Sec. 4-2-123. - Killing and molesting birds prohibited.

It shall be unlawful to hunt, kill, maim or trap, hunt with slingshot, or attempt to in any manner shoot or otherwise molest birds or any wild fowl, to rob or otherwise molest the nests or birds nesting or located within the city. This is not to conflict with F.S. § 790.33.

(Code 1968, § 62-35; Ord. No. 27-11, § 1, 9-22-11)

Sec. 4-2-124. - Birds constituting nuisances; abatement.

If starlings or other similar birds are found roosting, nesting or inhabiting any locality within the city in such numbers as to constitute a nuisance or health menace to persons or property, it shall be the duty of the council to notify representatives of the Audubon Society, garden club, birdwatchers club or humane society, if representatives of any of these organizations are available, advising them that such a condition exists and requesting that immediate action to eliminate same be taken by them. If the condition has not been eliminated by representatives of the abovenamed organizations within a reasonable time, then the city shall take whatever action it deems necessary to eliminate such condition or health menace.

(Code 1968, § 62-36)

CHAPTER 4-3. GARBAGE AND REFUSE⁶

Footnotes:

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Cross reference— Litter control, Ch. 4-5; streets, sidewalks and other public places, Ch. 11-4; tree/landscape regulations, Ch. 12-6; buildings, construction and fire codes, Title XIV.

State Law reference— Resource recovery and management, F.S. § 403.701 et seq.

ARTICLE I. - IN GENERAL

Secs. 4-3-1—4-3-15. - Reserved.

ARTICLE II. - RUBBISH, WEEDS AND OFFENSIVE GROWTH⁷

Footnotes:

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Editor's note— Ord. No. 19-06, § 1, adopted Aug. 24, 2006, amended Art. II, §§ 4-3-16—4-3-25, in its entirety. Formerly, said article pertained to similar subject matter as enacted by Code 1968.

Sec. 4-3-16. - Definition of "weeds."

The word "*weeds*" as herein used means all rank vegetative growth which is dangerous, or noxious to human beings, or which has grown more than twelve (12) inches in height causing unsightliness, a nuisance, or an otherwise undesirable appearance of any lot, block, parcel of land or premises within the city, or which could be a potential harbor for rats, vermin, insects, or other creatures that would constitute a hazard to the public health, safety and welfare of the community.

(Ord. No. 19-06, § 1, 8-24-06)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 4-3-17. - Prohibited deposits on streets and sidewalks.

- (a) It shall be unlawful for any person to keep on any street any firewood, empty boxes or barrels, shavings, bricks, refuse, building materials or any carriage, cart, wagon or other vehicle except as authorized by this chapter or permitted by the sanitation services & fleet management director.

- (b) It shall be unlawful to sweep into or deposit in any street any papers, trash or rubbish, or to fail to collect and put the same into receptacles.
- (c) It shall be unlawful for any person to throw or deposit on any street or sidewalk any trash of any kind whatsoever.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-18. - Excessive growth of weeds prohibited.

It shall be unlawful for any person who shall own, control or occupy any lot, parcel of land or premises in the city, or for the agent, servant, representative or employee of any person, to allow weeds to grow upon the lot, parcel of land or premises to a height exceeding twelve (12) inches or otherwise violate this article.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-19. - Authority to require removal of weeds.

Whenever any lot, block or parcel of land in the city is overgrown with any weeds of such a character or of such a height and thickness as to be detrimental to the public health or safety, the mayor may require the removal of such weeds by the owner, occupant or agent of the property.

(Ord. No. 19-06, § 1, 8-24-06; Ord. No. 16-10, § 47, 9-9-10)

Sec. 4-3-20. - Notice of city's intention to remove weeds.

Prior to cutting down or removing weeds from private premises, the code enforcement office of the sanitation services & fleet management department shall give written notice to the person owning, occupying or controlling the premises that if such weeds are not cut down or removed within ten (10) days from the date of the notice's mailing, and if during such time the property owner does not contest the notice of violation to the City of Pensacola, then the sanitation director will cause them to be cut down or removed and the premises will be assessed for the cost thereof. Notice shall be deemed to be sufficient if it is mailed to the occupant of the premises, if any, and the last owner of record on file in the office of the property appraiser. In the event that the mailed notice is undeliverable or returned then the city shall prominently post the notice upon the premises.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-21. - Removal of weeds by city.

It shall be the duty of the sanitation director to cause to be cut down and removed from any private premises all weeds growing thereon to a height exceeding twelve (12) inches whenever the owner of such premises or other person who is required by this chapter to cut down and remove the same fails or refuses to do so.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-22. - Cutting and cleaning of lots; assessment of costs; liens.

Upon the completion of the cutting or cleaning by the city of any lots, parcels or tracts of land within the city by removing therefrom the weeds, trash, filth, garbage or other refuse, the sanitation director shall

certify to the finance director the costs incident to and required for the removal of the offensive matter described above, specifying the lots and parcels so improved and the nature of the improvements. Thereafter, the finance director shall assess the lands, lots and parcels of land for the improvements and the costs thereof, and shall take appropriate action as necessary to place a lien upon the lands, parcels or tracts of land, which lien shall be equal in dignity to all other special assessments for benefits against property within the city, and shall be collected in the same manner as other special assessments for benefits are collected, and the finance director is hereby authorized and directed to perform and to do all things necessary to the recording, perfecting and collection of such lien. No such lien shall be recorded unless thirty (30) days have expired without payment of the special assessment after the finance director has served notice of the nature and the amount of the special assessment in the manner set forth in section 4-3-20.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-23. - Lot-cleaning fund created.

There is hereby created and established a fund to be designated as the "lot-cleaning fund" from which shall be paid and for which there is appropriated moneys in the city treasury.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-24. - Use of lot-cleaning fund.

The lot-cleaning fund shall be used as a revolving fund from which shall be paid the cost of cleaning weeds plus undergrowth, filth, garbage or other refuse from lots, tracts or parcels of land within the city when the owner thereof or his or her agents shall neglect, fail or refuse to clean such lots, parcels or tracts of land after notice by the sanitation director.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-25. - Enforcement.

The code enforcement division is hereby authorized, under the supervision of the sanitation director , to carry out the provisions of sections 4-3-18, 4-3-20 to 4-3-24 as may be deemed reasonable. A violation of this section shall, upon conviction, be punishable as provided in section 1-1-8 of this Code. Payment of a penalty for violation of this section shall not be a defense to imposition or collection of an assessment or lien as provided for in section 4-3-22.

(Ord. No. 19-06, § 1, 8-24-06)

Secs. 4-3-26—4-3-38. - Reserved.

ARTICLE III. - MANDATORY COLLECTION AND DISPOSAL SYSTEM^[8]

Footnotes:

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Editor's note— Ord. No. 18-09, § 1, adopted May 28, 2009, amended Art. III in it's entirety. See also the Code Comparative Table.

DIVISION 1. - GENERALLY

Sec. 4-3-39. - Purpose.

The purpose of this article is to assure adequate sanitary conditions and to promote the public health, safety, and welfare for all persons within the corporate limits of the city.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-40. - Reserved.

Sec. 4-3-41. - Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meanings given herein. Words, terms, and phrases used in this article which are not defined in this section shall be the meanings given in F.S. § 403.703, or in this article, unless the context clearly otherwise requires. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Animal. The terms "animal," as used in this article, shall mean any male, female, or altered member of the canine or feline species, or any other domesticated animal, except those classified by the Florida Fish and Game Commission as wildlife.

Bulk waste shall mean items that because of its size, shape, quality, or quantity precludes or complicates handling by normal collection, processing, or disposal methods; including, but not limited to the following:

- (1) Discarded materials resulting from remodeling, repair, excavation, construction or demolition of structures, such as plaster, roofing materials, trees, and similar items, excluding asbestos materials and treated lumber, or other items excluded herein.
- (2) Tree stumps, tree trunks, and limbs larger than eight (8) inches in diameter and six (6) feet in length.
- (3) Household furnishings, such as sofas, chairs, mattresses, box springs, televisions, tables, appliances, water heaters, air conditioners, and space heaters.
- (4) Yard trash mixed with other waste.
- (5) Any other item as may be determined by the director.

Business district. All that area bound on the south by Pensacola Bay, on the west by Spring Street, on the north by Belmont Street, on the east by Tarragona Street, and includes all properties facing on the above streets.

Collection shall mean the act of removing solid waste or refuse from the source of generation to the point of disposal.

Customer. Any person subscribing to sanitation services in the city.

Director. The department of sanitation services & fleet management director.

Disposal facility shall mean the site where solid waste or refuse is disposed of, whether by sanitary landfilling, incineration, treatment, recover, or recycling approved by the city.

Garbage. All waste accumulations of animal, fruit, or vegetable matter that attend the preparation, use, cooking, dealing in or storage of meat, fowl, fish, fruits, or vegetables, containers originally used for foodstuffs other than those containers designated as recyclable in the city recycling program, but does not include animal waste.

Owner/occupant. Any person or entity who acquires responsibility or title of real property, a structure or dwelling, by occupancy, ownership, or agency.

Recyclables. Material(s) extracted from solid waste or refuse having known recycling potential that can be processed and returned to a useful product and are designated as a recyclable material in the city recycling program.

Residential composting. Residential composting is the managed process of controlled decomposition of organic material such as leaves, twigs, grass clippings, and vegetative food waste that is utilized as a soil amendment.

Rubbish. All nonputrescible solid wastes other than those materials designated as recyclables in the city recycling program, consisting of both combustible and noncombustible wastes, such as paper, cardboard, glass, crockery, excelsior, cloth, and similar material.

Scavenging. To search through solid waste or discarded materials for something of use or value.

Solid waste or refuse. Material as defined in F.S. section 403.703. *Yard trash or green waste.* Includes grass clippings, pine straw, leaves, residue from trimming limbs, shrubs, and trees, tree trunks, stumps, and bark which do not exceed six (6) feet in length and eight (8) inches in diameter.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-42. - Use of solid waste collection services required; exception.

- (a) To assure adequate sanitary conditions and promote public health, every owner of real property with five (5) residential units or less per dwelling or structure located within the corporate limits of the city shall insure that each occupied unit has its own separate subscription to solid waste collection and disposal services of the city and that the occupied unit does not share service with any other dwelling or unit. This provision shall not apply to a dwelling, structure, or real property that has been designated by the director as requiring commercial collection service or may be required elsewhere in this Code; or to a dwelling defined as an accessory residential unit in section 12-2-52 of the Code of the City of Pensacola, Florida.
- (b) It shall be unlawful for the owner or occupant of any dwelling or structure in the city to dispose of any solid waste or refuse generated at such dwelling except by subscribing to the solid waste or refuse collection service of the city.
- (c) Violation of this section shall subject the owner of real property to the penalties provided by law, including sections 13-1, 13-2, 13-3 and 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 30-11, § 1, 11-10-11)

Sec. 4-3-43. - Evidence of lack of service.

Occupancy of a dwelling shall be prima facie evidence that waste is being generated and accumulated on such premises. It shall be the duty of the director to inspect such premises, and cause to be removed therefrom, any and all waste found thereon, at the expense of the owner/occupant thereof; and it shall be the duty of the director to institute prosecution of any person in violation of this section.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-44. - Solid waste or refuse to be property of city; scavenging.

- (a) Ownership of the recyclables, solid waste or refuse material set out for collection shall be deemed discarded and ownership of same shall vest in the city. In no case will scavenging be permitted except where prior written permission is given by the director.
- (b) Disturbing, removing after placement for collection. It shall be unlawful for any person to remove, handle, or otherwise disturb the recyclables, solid waste or refuse which has been placed curbside

for collection by the sanitation services & fleet management department. This section does not apply to the owner or occupant of a residence or dwelling so placing the contents.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-45. - Determination of service providers.

It shall also be unlawful for any person, firm or entity to provide recyclables, solid waste or refuse collection and disposal service to any dwelling, structure, or real property in the city unless the director has made a written determination that the sanitation services & fleet management department is not capable of providing such service.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-46. - Burying of recyclables, solid waste, refuse, or hazardous materials or substances.

No recyclables, solid waste or refuse shall be buried on any property within the city.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-47. - Storing or placement of recyclables, solid waste or refuse.

- (a) *Storing or placement of recyclables, solid waste or refuse.* No person shall place recyclables, solid waste or refuse in any street, alley, or other public place. Nor shall any person store any such recyclables, solid waste or refuse upon any private property whether owned by the person or not, within the city. Recyclables, solid waste or refuse shall be placed in proper containers and placed for collection as required in this article.
- (b) *Disposal upon water.* No person shall throw, deposit, or dispose of any recyclable material, solid waste or refuse in or upon any stream, waterway, or body of water.
- (c) *Unauthorized accumulation.* Any unauthorized accumulation of recyclables, solid waste or refuse not in compliance with this Code on any real property or premises is prohibited and declared a nuisance.
- (d) *Scattering of recyclables, solid waste or refuse.* No person shall cast, place, sweep, or deposit any recyclable materials, solid waste, refuse, or garbage in such manner that it may be carried or deposited by the elements.
- (e) *Residential composting.* Residential composting, with the intent of utilizing such as a soil amendment, shall not be deemed to be a violation of this section.
- (f) *Dead animals.* It is unlawful for any person to store dead animals in a container or place it at curbside for collection by the city. It is the responsibility of the owner of a dead animal or the person who discovers a dead animal to promptly notify a local animal control agency responsible for disposing of dead animals.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-48. - Placement of recyclables, solid waste or refuse in gutters or streets prohibited, declared nuisance.

The placement or scattering of yard trash, green waste, and/or other recyclables, solid waste or refuse in or upon street gutters, street surfaces, or storm water inlets is hereby declared a nuisance and a danger to water quality and shall be prohibited.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-49. - Enforcement.

The mayor is hereby authorized and directed to carry out and enforce the provision of this article.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

DIVISION 2. - COLLECTION AND DISPOSAL

Sec. 4-3-50. - Special collections of scheduled and non-scheduled bulk waste items.

Bulk waste items shall be collected by the city upon customer request and the customer shall be billed for scheduled bulk waste collection under the established fee schedule set forth in section 4-3-97. If no request is made for collection of bulk items placed curbside, such items will be collected by the city at its convenience, without notification, and the property owner or occupant shall be billed for nonscheduled bulk waste collection under the established fee schedule set forth in section 4-3-97. Billing shall be to the existing city utility account or to the individual property owner or occupant where no city account has been established.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-51—4-3-53. - Reserved.

Sec. 4-3-54. - Collection schedule.

- (a) *Recyclables, solid waste or refuse.* All recyclables, solid waste or refuse shall be collected by the city according to the following schedule except during periods of disaster cleanups or peak yard trash collection seasons when schedules may be altered, suspended, or delayed:
- (1) All combined household solid waste, refuse, or garbage generated in residential areas shall be collected once each week from the city-owned wheeled container designated for garbage.
 - (2) All recyclables shall be collected once each week from the city-owned wheeled container designated for recycling.
 - (3) Yard trash/green waste shall be collected once a week.
 - (4) Bulk waste shall be collected as provided in the provisions of this article, including but not limited to sections 4-3-50 and 4-3-57.
 - (5) Corrugated cardboard moving boxes shall be collected as provided for in section 4-3-61.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-55. - Placement for collection.

- (a) No person shall place any accumulation of recyclables, solid waste or refuse, recovered materials, or garbage container(s) in any street or gutter, or other public place of travel nor upon any private or public property, except adjacent to and directly in front of said person's own property. In all cases where conditions permit, said placement shall be in the area behind the curb, but no more than two (2) feet from the curb or the back slope or roadside.
- (b) Yard trash/green waste shall not be placed on top of and shall not cover sprinkler system heads and water meters. The city shall not be responsible for damage to sprinkler systems, sprinkler heads,

water meters, utility combination boxes, or the like, and other objects including fences, gates, hedges, plants, and trees damaged due to yard trash or green waste being placed over or piled on or against such items for collection.

- (c) Wheeled containers shall not be placed out for collection prior to 6:00 p.m. of the day preceding the scheduled day of collection, and all containers shall be removed no later than 6:00 a.m. the day following collection.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-56. - Solid waste and refuse not acceptable for collection by the city..

Solid waste or refuse materials not acceptable for collection by the city shall be disposed of by the person or persons generating the solid waste or refuse in accordance with federal, state, and local laws:

- (1) Solid waste or refuse requiring special handling.
- (2) Hazardous materials or substances. Including but not limited to, petroleum products, poisons, acids, caustics, infected materials, body wastes, explosives, radioactive and asbestos containing material.
- (3) Solid wastes resulting from industrial processes.
- (4) Dirt, concrete, bricks, rocks, stones, mortar, roofing materials and materials of similar nature.
- (5) Tree stumps, tree trunks, and limbs larger than eight (8) inches in diameter and six (6) feet in length.
- (6) Bulk waste material regulated by local, state, and federal agencies.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-57. - Bulk waste acceptable for collection.

Bulk waste as defined in this section shall be collected by the city provided a request is made by the customer. Collection and charge for such services shall be provided for in the fee schedule in section 4-3-97. Examples of bulk waste that are acceptable for collection under this section shall include but shall not be limited to the following:

- (1) Minor amounts of discarded materials, less than two (2) cubic yards in volume, resulting from remodeling, repair, construction, or demolition of structures, such as plaster, lumber, and similar items that have resulted directly from work of the property owner or occupant, and excluding asbestos materials and treated lumber or other items excluded herein.
- (2) Household furnishings such as sofas, chairs, mattresses, box springs, televisions, tables, appliances, water heaters, air conditioners, and space heaters.
- (3) Yard trash or green waste mixed with other waste.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-58. - Building construction wastes.

- (a) The person to whom a building permit is issued shall remove or have removed all refuse, waste matter, rubbish, garbage, trash, and construction debris, including, but not limited to, trees, stumps, dirt, old buildings and structures resulting from the clearing of land before the completion of the work permitted and final inspection by the city's department of inspection services is made or within seventy-two (72) hours of completion of the work. It shall also be the responsibility of any person to

whom the permit is issued to inspect the site and to remove therefrom all such materials which have been buried, stored, or left to remain on the site.

- (b) Compliance with this section shall be the responsibility of the property owner or occupant. Failure to comply may result in the imposition of costs and/or fines as provided for in this section against the property owner or occupant.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-59. - Tree surgeon, fence companies, landscape contractors, swimming pool contractors and building contractors.

- (a) It shall be the responsibility of all fence companies, tree surgeons, nurseries, landscape contractors, swimming pool contractors and building contractors or any individual or company doing work on private property to remove from the premises all residue and rubbish resulting from their work.
- (b) Compliance with this article shall be the responsibility of the property owner or occupant. Failure to comply may result in the imposition of costs and/or fines as provided for in this article against the property owner or occupant.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-60. - Reserved.

Sec. 4-3-61. - Corrugated cardboard.

Corrugated cardboard moving boxes will be collected on an on-call basis. Cardboard is collected separately and must be flattened before being placed curbside.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-62. - Reserved.

Sec. 4-3-63. - Yard trash, green waste.

When placed curbside for collection, all limbs, trees, and shrubs shall not exceed six (6) feet in length and eight (8) inches in diameter and bushy limbs shall be cut apart and trimmed to lay flat. Yard trash/green waste piles containing limbs, trees, and shrubs that do not meet this requirement shall be subject to collection at the scheduled bulk waste collection fee as established in section 4-3-97.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-64—4-3-80. - Reserved.

DIVISION 3. - CONTAINERS

Sec. 4-3-81. - City-owned wheeled containers.

- (a) *Mandatory use.* Except as otherwise provided in this section, all recyclables, garbage and rubbish shall be placed in separate wheeled containers issued to the customer by the city for the specific purpose of providing separate recyclable and garbage collection. The use of any other containers is unlawful.

- (b) *Prohibited materials.* It shall be unlawful to place for collection in city-owned wheeled containers any materials described in sections 4-3-56, 4-3-57, and 4-3-63.
- (c) *Separation of recyclables.* It shall be unlawful to place for collection in a city-owned wheeling container, designated specifically for recycling use, any materials other than those recyclable materials determined by the city to be eligible for inclusion in the city recycling program.
- (d) *Responsibility of customer.* Wheeled containers issued to customers by the city are and shall continue to be the property of the city. It is the responsibility of the customer to which such container has been issued to keep it clean and to protect it from theft, destruction, and damage beyond repair. The customer shall notify the city customer service department prior to vacating a premises and shall place the container in a safe location where it is accessible to the city.
- (e) *Damaged containers.* The customer shall be responsible for charges associated with replacement of any city-owned container damaged due to negligence or abuse.
- (f) *Exceptions for disabled persons.* Service will be provided in accordance with applicable ADA guidelines.
- (g) *Placement of containers.* When not placed curbside for collection, city-owned wheeled containers shall be placed beside a permanent structure or behind vegetation or other visual barrier. The mayor is authorized to grant an exemption from the requirements of this provision when a determination has been made that the existing circumstances render compliance not reasonably feasible. This subsection may be enforced pursuant to the provisions of section 1-1-8 or section 13-2-2, herein.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 03-14, § 1, 2-13-14)

Sec. 4-3-82. - Overloading.

- (a) Any wheeled container which is so loaded that the lid will not fit securely on the container will not be collected by the city.
- (b) The contents of any wheeled container which, with the container, weighs more than two hundred (200) pounds, will not be collected.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-83—4-3-96. - Reserved.

DIVISION 4. - RATES AND FEES

Sec. 4-3-97. - Fees and surcharges.

The following fees are hereby established for recycling, solid waste or refuse collection services by the city as may be amended from time to time by resolution of the city council:

- (1) *New accounts, transferred accounts, and resumption of terminated service:* Twenty dollars (\$20.00).
- (2) *Garbage, recycling and trash collection fee, per month:* Twenty-five dollars and eleven cents (\$25.11). This fee shall be automatically adjusted upon approval of city council each October 1 hereafter based on the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year.
- (3) Provided, however, the monthly fee for garbage, recycling and trash collection for the dwelling of an eligible household, occupied by a person sixty-five (65) years of age or older, under the

low-income home energy assistance program pursuant to F.S. § 409.508, 1993, as administered by the Escambia County Council on Aging or for the dwelling of a family heretofore determined by the city housing department of the city to be eligible for assistance under the Section 8 existing housing assistance payments program pursuant to 42 U.S.C., section 1437(f), shall be reduced by one dollar (\$1.00) per month commencing October 1, 1989, and by an additional one dollar (\$1.00) per month commencing October 1, 1990, provided that sufficient monies are appropriated from the general fund to replace decreased solid waste revenues caused by such fee reductions. If insufficient monies are appropriated from the general fund to replace all of such decreased solid waste revenues, then the mayor may change the amount of the fee reduction to an amount less than the amount set forth in the preceding.

- (4) *Sanitation equipment surcharge:* Two dollars and four cents (\$2.04) per month. A sanitation equipment surcharge shall be added as a separate line item to all city solid waste and/or refuse collection services fees. This surcharge shall be automatically adjusted upon approval of council each October 1 hereafter based on the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year.
- (5) *Vehicle fuel and lubricant pass-through surcharge:* One dollar and thirty cents (\$1.30) per month. A sanitation services & fleet management department vehicle fuel and lubricant surcharge shall be added as a separate line item to all city solid waste and/or refuse collection service fees. Said surcharge, which shall be initially set on the fiscal year 2007 sanitation services & fleet management fuel and lubricant budget, shall be revised by the finance director no less frequently than annually based upon the budgeted fuel and lubricant costs adjusted for their actual costs for the previous or current fiscal years.
- (6) *Tire removal:* A surcharge of three dollars (\$3.00) per tire shall be added to the scheduled or nonscheduled bulk waste collection fee established herein whenever tire(s) more than twelve (12) inches in size are collected.
- (7) *Scheduled bulk waste collection:* The fee for scheduled bulk item collection shall be fifteen dollars (\$15.00) for the first three (3) minutes and five dollars (\$5.00) for each additional three (3) minutes up to twenty-one (21) minutes after which time a disposal fee will be added.
- (8) *Non-scheduled bulk waste collection:* The fee for nonscheduled bulk item collection shall be thirty-five dollars (\$35.00) for the first three (3) minutes and ten dollars (\$10.00) for each additional three (3) minutes up to twenty-one (21) minutes after which time a disposal fee will be added.
- (9) Deposits in an amount up to a total of the highest two (2) months bills for service within the previous twelve (12) months may be required of customers who, after the passage of this section, have their service cut for nonpayment or have a late payment history. The financial services department will be responsible for the judicious administration of deposits.
- (10) A late charge equal to one and one-half (1½) percent per month of the unpaid previous balance.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 16-10, § 48, 9-9-10; Ord. No. 22-11, § 1, 9-22-11; Ord. No. 10-17, § 1, 5-11-17; Ord. No. 12-18, § 1, 9-13-18; Ord. No. 22-19, § 1, 9-26-19)

Sec. 4-3-98. - Billing and collection charges.

- (a) The financial services department shall issue and send to the customers of the sanitation system bill and invoices for sanitation services.

- (b) It shall be the duty of the financial services department to collect the charges set forth on the bills and invoices issued to customers for sanitation services furnished.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 37-08, § 1, 7-24-08; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-99. - Penalty.

Failure to comply with the provision(s) of this article shall be punishable pursuant to the Code, section 1-1-8, and any other applicable sections.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

ARTICLE IV. - COMMERCIAL COLLECTION

Sec. 4-3-100. - Franchise required; exception; application.

- (a) It shall be unlawful for any person, firm or entity to engage in the business of collecting and disposing of solid waste, generated by any other person, firm or entity without having been granted a franchise by the city. It shall be unlawful for any person, firm or entity to engage in the business of collecting and disposing of solid waste from any dwelling for which a written determination has not been made by the city that it is impractical for the sanitation services & fleet management department to provide solid waste collection service to such dwelling. Provided, however, nothing in this section shall be construed to require any generator of tree trimmings or construction or demolition debris upon any premises from himself or itself removing and disposing of such materials without first obtaining a franchise. Construction sites that utilize a solid waste service provider other than a city franchisee shall be subject to an immediate stop work order to be issued by the city building official.
- (b) The mayor shall have the authority to grant all non-exclusive solid waste franchises described herein. Applicants that are denied a franchise by the mayor shall have the right to appeal as provided in section 4-3-112 that denial before city council.
- (c) Franchise applicants shall obtain an application from the city upon payment to the city of a two-hundred dollar (\$200.00) application fee.
- (d) As an alternative to paying a renewal application fee of two hundred dollars (\$200.00), franchise holders may agree to provide in-kind solid waste rolloff collection and disposal services, at no cost to the city, in the amount of not less than thirty (30) cubic yards. These in-kind services shall be performed by the franchise holder at the request and convenience of the city within the three-year term of the franchise.
- (e) The mayor may issue a ninety-day temporary franchise after payment of the two hundred dollars (\$200.00) application fee and completion of all documentation required to obtain a franchise. A temporary franchise granted under this section shall not be renewable beyond its ninety-day term.
- (f) To ensure sufficient solid waste service capacity in the event of a declared disaster, the mayor shall be authorized to issue temporary franchises for periods not to exceed one (1) year. Such temporary franchises shall be subject to all provisions of this chapter.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 1, 9-27-07; Ord. No. 14-08, § 1, 2-13-08; Ord. No. 16-10, § 49, 9-9-10)

Sec. 4-3-101. - Definitions.

For the purpose of this article, the following words, terms, and phrases shall have the meanings given herein unless the context clearly requires otherwise. Words, terms, and phrases in this article not

defined in this section shall have the meanings given in F.S. § 403.703, or in this Code, unless the context clearly otherwise requires.

Container shall mean any portable, nonabsorbent, enclosed container with close-fitting cover or doors, open top and "roll-on"/"roll-off" approved by the city, which is used to store refuse. All containers utilized by a franchisee must be capable of being serviced by mechanical equipment.

Customer shall mean that customer utilizing a Dempster-box-type container or "roll-on"/"rolloff" container.

Designated place of business shall mean the business office address of the franchisee established by the franchise agreement issued pursuant to this article. This office will be open to the public during normal hours of business and available by toll-free telephone for the processing of service requests, complaints, payments, emergency requests and normal inquiries.

Franchise agreement shall mean this article and a contract document specifically approved by council and accepted by a franchisee by which a franchisee is granted the privilege to engage in the collection of solid waste in the city subject to the terms and conditions of this article.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 1, 9-8-94; Ord. No. 53-07, § 1, 9-27-07)

Sec. 4-3-102. - Grant of franchise.

Franchisees named in a franchise agreement shall be granted a nonexclusive franchise, including every right and privilege appertaining thereto, to operate a solid waste collection and disposal service in, upon, over and across the present and future streets, alleys, bridges, easements and other public places within the limits of the city, for solid waste generated at any place or establishment other than those residences to be served exclusively by the city pursuant to section 12-4-42. Title to the solid waste shall remain in the generator thereof until deposited in a solid waste disposal facility, whereupon title shall pass to the owner of the facility. All solid waste collected shall be promptly transported to and deposited in a lawfully operating solid waste transfer station or disposal facility, and the franchisee shall pay any and all fees charged for disposal by the operator of the facility.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 2, 9-18-94; Ord. No. 53-07, § 1, 9-27-07)

Sec. 4-3-103. - Geographical limits of franchise.

A franchise shall be effective within the city's corporate limits as they may from time to time exist. The geographical limits of a franchise are subject to expansion or reduction by annexation and contraction of municipal boundaries and franchisee has no vested right in a specific area.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-104. - Contracts for collection service.

- (a) A franchisee shall not provide solid waste service within the city unless the franchisee has executed a written contract between the franchisee and the customer. For purposes of providing the city with auditable records, the franchisee shall retain such contracts for inspection by the city for a period of not less than three (3) years.
- (b) The franchisee shall have the sole responsibility for establishment of fees charged individual customers, billing, and collection of all charges.
- (c) The city reserves the right to collect solid waste from any single customer (location) within its system up to five (5) 90-gallon wheeled containers on any one (1) collection day.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 3, 9-18-94; Ord. No. 53-07, § 2, 9-27-07)

Sec. 4-3-105. - Franchise consideration; quarterly and monthly reports; annual report.

- (a) The franchisee shall pay the city a franchise fee equal to one dollar fifty cents (\$1.50) per cubic yard of solid waste container capacity per incident of collection and three dollars (\$3.00) for solid waste collected in a compaction container per cubic yard of container capacity per incident of collection. Payment shall be made to the City of Pensacola within thirty (30) days following the end of each calendar quarter, i.e., January 30, April 30, July 30 and October 30.
- (b) The city reserves the right to adjust the franchise fee after ninety (90) days' written notice of such an adjustment to the franchisee.
- (c) The franchisee shall provide the city with a quarterly report detailing service activity and franchise fee payments. This report shall contain, but is not limited to, the following: the container type, container size, dates of service, number of collections, total cubic yards of service provided, and an itemized total of the franchise fees paid to the city. The report shall also include a complete listing of locations where the franchisee provided service by roll-off container and the number and size of the containers serviced at each location. This quarterly report, in a format acceptable to the city, shall be submitted in writing to the city within thirty (30) days following the end of each calendar quarter, i.e., January 30, April 30, July 30 and October 30. Failure by the franchisee to file a quarterly report containing the full documentation required by the deadline shall be the basis for termination of the franchise. Notwithstanding the above, the city in its reasonable discretion also may require such franchisees to provide monthly reports detailing their service activity and franchise fee payments as set out above in the event the city determines such reports are necessary to ensure compliance with this article.
- (d) Annually, the franchisee shall furnish the city with a financial report no later than February 28th, unless the city gives the franchisee prior written approval for a different deadline. The report shall be prepared in accordance with generally accepted accounting standards and its accuracy shall be attested to by the franchisee's certified public accountant or by its chief financial officer. The report shall reflect the accuracy of the franchisee's franchise fee payments to the city and shall ensure and include, but not be limited to, the following:
 - (1) That all in-city accounts have been properly coded to reflect charges accrued to the city.
 - (2) Reflect the number of in-city-related container pickups and the corresponding total cubic yards of service provided to in-city customers by the franchisee.
 - (3) That all franchise fee payments to the city have been correctly computed and remitted to the city on a timely basis.
- (e) Commencing February 28, 2010 and reoccurring on every third anniversary of that date, the franchisee shall be required to furnish the city with a franchise fee audit report prepared and attested to by an independent financial accounting firm that details the completeness and accuracy of franchise fee payments made to the city by the franchisee over the prior three (3) year period. The report shall summarize any discrepancies between the franchisee's quarterly reports on file and the audit findings and shall determine whether any underpayment or overpayment of franchise fees occurred during the period. The franchisee may elect to provide this independent franchise fee audit report each year when submitting the annual report. These reports shall be furnished to the city at the sole expense of the franchisee.
- (f) The franchisee shall make its books and records available to the city at all reasonable times. The records shall contain for each customer, a contract, service address, size of container and frequency of service. Said records shall be kept open for inspection by duly authorized agents of the city during business hours on all business days; and said duly authorized officers or agents of the city shall have the right, power and authority to make transcripts of essential information therefrom. Records not located within Escambia County shall be furnished by the franchisee to the city within fourteen (14) days of written request. Should the franchisee not comply with the written request, the city may authorize an agent or officer to conduct an audit at the location where said records are located at the

franchisee's expense. Failure to furnish the city with the report, or to maintain complete and accurate records, shall be considered a material breach of this franchise and the city may move to collect any damage resulting therefrom or revoke the franchise.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 4-00, § 1, 1-13-00; Ord. No. 22-06, § 1, 9-14-06; Ord. No. 53-07, § 2, 9-27-07; Ord. No. 23-11, § 1, 9-22-11)

Sec. 4-3-106. - Term.

The initial term of each franchise shall expire on September 30, 2010, and the term of each franchise granted, renewed or extended after that date shall expire on the third anniversary of such date. The renewal term of each franchise shall be in increments not to exceed three (3) years, provided, that the franchisee has performed in accordance with all of the terms and conditions of this article.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 2, 9-27-07)

Sec. 4-3-107. - Condition.

An acceptance of the provisions, conditions and stipulations of this article shall:

- (1) Be in writing;
- (2) Contain the franchisee's local address; and
- (3) Be filed with the city clerk within fifteen (15) days of the execution of a franchise agreement.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-108. - Default.

- (a) In the event that a franchisee fails to provide those services in the contracts with its commercial customers by reason of: (1) unknown emergency, labor strike, or similar event; (2) breach of contract; or (3) negligent failure to adequately perform the duties and obligations of this article (as determined by the city); the city may at its discretion, after written notification and after having allowed franchisee sufficient time to correct said default, terminate the franchise.
- (b) Written notice of any determination of default and of the actions necessary to cure the default shall be given by the city to the franchisee. A franchisee aggrieved by the determination of default or by the actions determined to be necessary to cure the default may file in the office of the city clerk, within ten (10) days of the date of the notice of default, a written appeal to the mayor setting forth evidence and arguments as to why the franchisee feels that the notice of default is unreasonable. The mayor may hold a conference with the franchisee if he determines that it would be helpful in his or her deliberations. The mayor shall make his or her decision within a reasonable time. Within ten (10) days of receipt of a written decision by the mayor, an aggrieved franchisee may file in the office of the city clerk a written appeal to the city council setting forth evidence and arguments as to why the franchisee feels that the decision of the mayor is unreasonable. The city clerk shall give the franchisee written notice of the meeting of the city council at which the appeal will be considered. The franchisee shall be permitted to speak before the city council. The decision of the city council shall be final.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 3, 9-27-07; Ord. No. 16-10, § 50, 9-9-10)

Sec. 4-3-109. - Default by other franchisees.

In the event of a default or failure to provide adequate services by a franchisee (as determined by the city), and should the city choose to assign the services, a franchisee may be requested by the city to provide services or temporary services if the franchisee's equipment and schedule permits, at the prevailing rate of the defaulted franchisee for the services undertaken and completed.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-110. - Insurance and indemnification.

Before starting and until termination of any activities necessary or incidental to the franchise granted by the city, the franchisee shall procure and maintain insurance of the types and to the limits specified.

Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the city, for the city's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

- (a) *Workers' compensation.* The franchisee shall purchase and maintain workers' compensation insurance coverage for all workers' compensation obligations imposed by law. Additionally, the policy, or separately obtained policy, must include employers liability coverage of at least one hundred thousand dollars (\$100,000.00) each person—accident; one hundred thousand dollars (\$100,000.00) each person—disease; five hundred thousand dollars (\$500,000.00) aggregate—disease.
- (b) *Comprehensive general, automobile and umbrella liability coverage.* The franchisee shall purchase coverage on forms no more restrictive than the latest editions of the comprehensive general liability and business auto policies filed by the insurance services office. The city shall be an additional insured and such coverage shall be at least as broad as that provided to the named insured under the policy for the terms and conditions of this contract. The city shall not be considered liable for premium payment, entitled to any premium return of dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of one million dollars (\$1,000,000.00) per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required.
 - (1) *Comprehensive general liability coverage* must be provided, including bodily injury and property damage liability for premises, operations, and independent contractors. Broad form comprehensive general liability coverage, or its equivalent shall provide at least, broad form contractual liability applicable to this specific contract, personal injury liability and broad form property damage liability. The coverage shall be written on occurrence-type basis.
 - (2) *Business auto policy coverage* must be provided, including bodily injury and property damage arising out of operation, maintenance or use of all owned, nonowned and hired automobiles and employee nonownership use.
 - (3) *Umbrella liability insurance coverage* shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.
- (c) *Certificates of insurance.* Required insurance shall be documented in the certificates of insurance which provide that the city shall be notified at least thirty (30) days in advance of cancellation, nonrenewal or adverse change or restriction in coverage. The city shall be named on each certificate as an additional insured and this contract shall be listed. If required by the city, the franchisees shall furnish copies of the franchisee's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "certificate of insurance" form equal to, as determined by the city an ACORD 25. Any wording in a certificate which would make notification of cancellation, adverse change or restriction in coverage to the city an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The franchisee shall replace any cancelled,

adversely changed, restricted or nonrenewed policies with new policies acceptable to the city and shall file with the city certificate of insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the city, the franchisee shall, upon instructions of the city, cease all operations under the contract until directed by the city, in writing, to resume operations.

- (d) *Insurance of the franchisee primary.* The franchisee required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the franchisee's coverage. The franchisee's policies of coverage will be considered primary as relates to all provisions of the contract.
- (e) *Hold harmless.* The franchisee shall hold the city harmless from any and all claims, suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the performance of this franchise, except to the extent caused by the negligence of the city. The franchisee's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.
- (f) *Pay on behalf of the city.* The franchisee agrees to pay on behalf of the city, as well as provide a legal defense for the city, both of which will be done only if and when requested by the city, for all claims as described in the hold harmless paragraph. Such payment on the behalf of the city shall be in addition to any and all other legal remedies available to the city and shall not be considered to be the city's exclusive remedy.
- (g) *Loss control and safety.* Precaution shall be exercised at all times by the franchisee for the protection of all persons, including employees and property. The franchisee shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures should reasonably be expected.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-111. - Licenses.

The franchisee shall, at its sole expense, procure from all local, state, and federal governmental authorities (having jurisdiction over the operations of the franchisee) all licenses, certificates, permits, or other authorizations which may be necessary for the conduct of the franchisee's operations.

The franchisee shall pay all taxes, and licenses; certifications, permits and examination fees; and all excises which may be assessed, levied, exacted, or imposed upon its property, operations, and gross receipts, or all or any combination of these things; and upon this franchise and the rights and privileges granted herein, and shall make all applications, reports, and returns required in connection therewith to all respective governmental and agency authorities.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-112. - Termination and denial.

- (a) A franchise may be terminated by the mayor prior to the expiration of the term if any of the following events occur:
 - (1) The franchisee fails (1) to pay the sums, fees, or charges due to the city in a timely manner; or
 - (2) the franchisee fails to perform or observe the covenants and conditions designated to it under this article. In the event of a failure, the city shall notify the franchisee in writing of the specific failure or default, and the franchisee shall have thirty (30) days from the receipt of such notice to correct the condition giving rise to such notice. If the correction is not made to the city's

satisfaction within the thirty (30) days, the mayor may give written notice to the franchisee that the privileges granted herein are terminated as of the date of such notice; or

- (2) If and when the franchisee shall liquidate, dissolve, or sell substantially all of its assets; or
 - (3) If and when there is a transfer of fifty (50) percent or more of the franchisee's voting stock which results in a change in the franchisee's control; or
 - (4) If and when the franchisee becomes insolvent, or makes a general assignment for the benefit of its creditors; or if an action or petition is filed by or against the franchisee under any part of the Federal Bankruptcy Act or other law relating to the alleged insolvency of the franchisee, and such action or petition is not dismissed within ninety (90) days of the date of its filing.
 - (5) In the event the franchise granted herein is terminated pursuant to this section, any liability of the franchisee to the city accruing thereby, and any liability of the franchisee to the city arising out of any act or event occurring prior to the termination shall immediately become due and payable to the city, without further notice.
 - (6) The franchisee shall have the right to appeal to the city council the decision of the mayor to terminate its franchise within ten (10) days of receipt of the mayor's written decision. The franchisee shall file a written appeal in the office of the city clerk setting forth evidence and arguments as to why the franchisee feels that this decision is unreasonable. The city clerk shall give the franchisee written notice of the meeting of the city council, or of any of its committees, at which the appeal will be considered. The franchisee shall be permitted to speak before the city council and its committees. The decision of the city council shall be final.
- (b) The mayor shall deny by written decision any application for a franchise that fails to satisfactorily comply with all the provisions of this chapter. The decision shall set out in particular the deficiencies in the application and the reason(s) for its denial. The mayor's decision to deny an application shall be made within sixty (60) days after its filing. The right of appeal to the city council as provided in this section shall be available to such an applicant that has been denied a franchise.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 4, 9-27-07; Ord. No. 16-10, § 51, 9-9-10)

Sec. 4-3-113. - Notices.

All notices herein required to be given by the city to the franchisee, except where specifically provided otherwise, shall be mailed U.S. Mail, certified, return receipt requested, addressed to the franchisee at its last known business address. All notices required to be given to the city, except where specifically provided otherwise, shall be given to the sanitation services & fleet management director either by hand-delivery or by U.S. Mail, certified, return receipt requested, addressed to the Sanitation Services & Fleet Management Director, P.O. Box 12910, Pensacola, Florida 32521-0091.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 4, 9-27-07)

Sec. 4-3-114. - Remedies.

All remedies for a default shall be deemed cumulative and not in lieu of or exclusive of each other, or of any other remedy available to the city, at law or in equity. In the event the city shall prevail in any action arising hereunder, the franchisee shall pay the city's costs and attorneys' fees.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-115. - Equipment.

- (a) The franchisee shall have on hand at all times sufficient equipment in good working order to permit franchisee to perform its duties fully, adequately and efficiently. Collection equipment shall be kept clean, sanitary, neat in appearance and in good repair at all times. No equipment will be used which allows garbage or rubbish to spill or be blown therefrom.
- (b) All trucks utilized by the franchisee, and all containers owned or leased by the franchisee shall be prominently identified with the franchisee's name and business telephone number, either painted on or attached by signs reasonable in size so as to be recognizable.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-116. - Nonassignability.

A franchise may not be assigned by the franchisee without the prior written consent of the city.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-117. - Restoration.

Each franchisee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its duties herein to as good or better condition as before damage or alteration.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-118. - Spillage and litter.

The franchisee shall not litter premises or rights-of-way in the process of making collections, but shall not be required to collect any waste material that has not been placed in approved containers or in a manner herein provided. During hauling, all solid waste shall be contained, tied or enclosed so that leaking, spilling or blowing are prevented. In the event of spillage by the franchisee, the franchisee shall promptly clean up the litter.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-119. - Complaints.

All complaints shall be responded to by the franchisee within forty-eight (48) hours. Franchisee shall maintain records of all complaints on a form approved by it and shall indicate the disposition of each. Such records shall be available for inspection by the city at all times during business hours specified herein. The form shall indicate the day and hour on which the complaint was received and the day and hour on which it was resolved. When a complaint is received on the day preceding a holiday or on a Saturday, it shall be addressed on the next working day. The franchisee shall establish procedures acceptable to city to ensure that all customers are notified as to the complaint procedure.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-120. - Franchisee personnel.

- (a) Franchisee shall assign a qualified person to be in charge of operations under the franchise agreement and shall give the name and qualifications of said person to the city. Any change in the identity of said person will be furnished to the city prior to the effective date of change.

- (b) A franchisee's collection employees shall wear uniforms bearing franchisee's name or wear an identification badge.
- (c) Each person employed to operate a vehicle shall, at all times, carry a valid Florida driving license for the type of vehicle being driven, and any other document(s) as may be required by the State of Florida.
- (d) The franchisee shall assure that operating and safety training has been provided to all personnel that operate collection equipment.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-121. - Monitoring performance and compliance.

The city shall monitor performance and compliance on the quality of service provided by each franchisee pursuant to the franchise agreement. For the purpose of this function, "service" shall be defined as the performance of duties, tasks and obligations of the franchisee enumerated in the franchise agreement and the performance of such other duties, tasks, and obligations as are generally and reasonably regarded as incidental to the safe and satisfactory discharge of responsibilities in the sanitation industry.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-122. - Amendments.

The city reserves the right to amend this article at any time, and in any manner that the city deems necessary for the health, safety, or welfare of the public. The city also reserves the right to prescribe, from time to time, reasonable rules and regulations further governing the franchisee's operations herein, including, but not limited to, hours of container pickup. These rules need not be memorialized in an ordinance revision or further, formal action by the council, the council's approval of this article being an approval that the regulations should be so issued.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-123. - No official interest in franchise.

By accepting a franchise granted pursuant to this article, a franchisee represents and warrants to the city that, to the best of the knowledge of the franchisee, no appointed or elected city official, officer, employee, or agent has any interest, either directly or indirectly, in the business of the franchisee.

(Ord. No. 43-89, § 1, 9-21-89)

CHAPTER 4-5. LITTER CONTROL^[10]

Footnotes:

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Cross reference— Garbage and refuse, Ch. 4-3; streets, sidewalks and other public places, Ch. 11-4.

State Law reference— Florida litter law, F.S. § 403.413.

Sec. 4-5-1. - Short title.

This chapter shall be known and may be cited as the "City of Pensacola Litter Control Ordinance."

(Ord. No. 61-83, § 1, 3-24-83)

REPEAL SECTION 4-5-2.

REPEAL SECTION 4-5-3.

Sec. 4-5-4. - Definitions.

The following words, phrases or terms as used in this chapter, unless context indicates otherwise, shall have the following meanings:

Cover. Any device, equipment, container, close-fitting tarpaulin, chain, rope, wire or line used on vehicles to prevent any part of a vehicle load from sifting, blowing, leaking, falling or escaping in any manner from the vehicle.

Enforcement agency. Any officer of the city charged by the mayor with enforcement responsibility.

Litter. Refuse and rubbish including, but not limited to, paper, bottles, tin cans, glass, crockery, plastic, rubber, yard trash, waste building materials, tree and shrub trimmings, leaves and disposable packages and containers.

Nuisance. Any violation of this chapter is declared to be a public nuisance and subject to abatement as such in accordance with the terms of this chapter.

Storage. The interim containment of litter, in an approved manner after generation and prior to proper and final disposal.

Unauthorized accumulation. Accumulation of litter on any residential or commercial properties in violation of this chapter. This shall not include building materials used in construction or repairing a building stored at the site of such building, nor shall it include refuse acceptable for collection pursuant to Chapter 4-3, Article III.

Written corrective notices. A written statement issued to the violator of any provisions of this chapter, or his or her agent, identifying and specifying the violation, date and time of issuance, corrective measures to be taken and date and time correction is to be completed.

(Ord. No. 61-83, § 4, 3-24-83)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 4-5-5. - Littering prohibited.

It is a violation of this chapter for any person to throw, discard, place, drop or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water in the city except in areas and containers provided therefor, or in accordance with Chapter 4-3, Article III.

(Ord. No. 61-83, § 5, 3-24-83)

Sec. 4-5-6. - Owner's, generator's responsibility generally.

Any person, corporation, establishment, firm, business, owner, agent of property within the city who generates litter shall be responsible for ensuring such litter is managed, stored, handled, transported and disposed of in accordance with the provisions of this chapter.

(Ord. No. 61-83, § 15, 3-24-83)

Sec. 4-5-7. - Duty of operators, owners to keep adjacent areas free of litter.

It shall be the duty of each operator, owner, lessee or agents of any business, industry, institution, private or public, profit or nonprofit, to keep the adjacent and surrounding areas clean and free of litter. These areas include public property, roads, rights-of-way, grounds, parking lots, loading and unloading areas and vacant lots owned or leased by said establishment or institution.

(Ord. No. 61-83, § 8, 3-24-83)

Sec. 4-5-8. - Litter discarded from motor vehicle.

In any case where litter is ejected or discarded from a motor vehicle, except at approved and permitted disposal sites, the operator of the motor vehicle shall be deemed in violation of this chapter.

(Ord. No. 61-85, § 5, 3-24-83)

Sec. 4-5-9. - Litter storage; provision of receptacles.

- (a) All commercial establishments shall store their litter in containers so as to eliminate wind-driven debris and unsightly litter in and about their establishments. The number and size of containers necessary for each commercial establishment shall be as required to maintain a clean, neat, sanitary premises. Spillage and overflow around containers shall immediately be cleaned up as it occurs.
- (b) All loading and unloading areas at commercial establishments shall be provided with litter receptacles by the generator to store loose debris, paper, cardboard, packaging materials and similar materials.
- (c) It shall be the duty of any and every person, corporation, company, lessee, agent owning or operating any public establishment or public place to provide receptacles adequate to contain litter generated from such establishment.
- (d) All construction and demolition contractors, owners or agents shall provide on-site receptacles for loose debris, paper, building materials wastes, scrap building materials and other litter products to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis.
- (e) It shall be the duty of every person, corporation, company, firm, owner, lessee or agent in possession, charge of or in control of any place, public or private, where litter is accumulated or generated, to provide and at all times to keep litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.
- (f) Any unauthorized accumulation of litter on any property, vacant or occupied, premises, public street, alley or other public place or private place is a violation of this chapter.

(Ord. No. 61-83, §§ 7, 8, 3-24-83)

Sec. 4-5-10. - Receptacles to be used for litter only.

It shall be a violation of this chapter for any person to deposit any item, items or materials except litter in any receptacle placed for public use as a depository for litter.

(Ord. No. 61-85, § 5, 3-24-83)

REPEAL SECTION 4-5-11.

Sec. 4-5-12. - Handbills and advertising materials.

The placing of handbills or advertising materials on the windshields of vehicles is a violation of this chapter, unless permission to do so is first obtained from the owner and/or person in possession of said vehicle.

(Ord. No. 61-83, § 9, 3-24-83)

Sec. 4-5-13. - Storage, transportation, disposal generally.

Litter shall be stored and transported in accordance with the provisions of this chapter and disposed of in accordance with the ordinances of the City of Pensacola.

(Ord. No. 61-83, § 11, 3-24-83)

Sec. 4-5-14. - Permitting premises to be nuisance prohibited.

It is a violation of this chapter for any owner, lessee, operator, tenant or agent to maintain premises, private or open to the public, vacant or occupied, upon which litter is permitted, caused, allowed or exists in any manner to be a nuisance.

(Ord. No. 61-83, § 10, 3-24-83)

Sec. 4-5-15. - Disposing of litter of private property; owner not to allow.

It is a violation of this chapter for any private property owner, tenant, occupant, lessee or agent to grant permission to any person to dispose of litter on his or her property.

(Ord. No. 61-83, § 8, 3-24-83)

REPEAL SECTION 4-5-16.

Sec. 4-5-17. - Issuance of written corrective notices; arrests.

Employees of the enforcement agency are empowered to issue written corrective notices, citations, court summons or arrest; and are further empowered to issue written corrective notices to persons, corporations, establishments, companies, owners, tenants, occupants and agents violating any of the provisions of this chapter.

(Ord. No. 61-83, § 13, 3-24-83; Ord. No. 48-96, § 1, 9-26-96)

Sec. 4-5-18. - Contents, service of written corrective notices.

Written corrective notices may be issued to violators of this chapter to correct an offense in lieu of arrest. The notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken and the date and time such corrections shall be made. All such notices issued shall be maintained for public inspections during normal office hours. Notices mailed by certified mail, return receipt requested, mailed to the violator's last known place of residence shall be deemed personal service upon the person, for the purpose of this chapter.

(Ord. No. 61-83, § 13, 3-24-83)

Sec. 4-5-19. - Same—Failure to comply with written corrective notice.

Any person, corporation, company, firm, business, institution, owner, lessee, agent, tenant or occupant who has been served such notice in accordance with the provisions of this chapter, and who shall neglect or shall refuse or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this chapter.

(Ord. No. 61-83, § 14, 3-24-83)

Sec. 4-5-20. - Same—Prosecution for violation.

Prosecution for a violation of this chapter shall be initiated by the officer who witnesses such offense or has sufficient probable cause or who discovers an article of litter bearing the name or address of a person, corporation, company, firm, business or institution on the property of another or on any public property. It shall be presumed that any article of litter so discovered is the property of such person whose name or address appears thereon, and that said person, company, corporation, firm, business or institution placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence. This presumption is based on the tenet that all generators of such litter are responsible for such litter until such time it has been properly disposed of.

(Ord. No. 61-83, § 13, 3-24-83)

CHAPTER 4-6. WRECKED, ABANDONED AND JUNKED PROPERTY⁽¹¹⁾

Footnotes:

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State Law reference— Abandoned property; supplemental procedure for removal and destruction, F.S. § 705.16; reporting of removal of motor vehicles, F.S. § 715.05.

Sec. 4-6-1. - Definitions.

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

Abandoned personal property. Wrecked or derelict property, having no apparent intrinsic value to the owner, which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has no apparent intrinsic value to the owner, and which has been left abandoned and unprotected from the elements, including all property defined in F.S. section 705.101.

Abandoned swimming pools. Outdoor pools, whether in-ground or above-ground, that have been abandoned and not maintained, allowing the water to become opaque, mosquitoes to breed, or otherwise becoming a nuisance as defined in section 14-3-3(2).

Public property. Lands and improvements owned by the city lying within the municipal boundaries and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.

(Ord. No. 24-84, § 1, 6-14-84; Ord. No. 13-11, § 1, 7-21-11)

Sec. 4-6-2. - Procedures supplemental.

The procedure authorized by this chapter is supplemental to other procedures authorized by law.

(Ord. No. 24-84, § 8, 6-14-84)

Sec. 4-6-3. - Mayor immune from prosecution for trespassing.

The mayor or any person authorized by the mayor shall be immune from prosecution, civil or criminal, for reasonable good faith trespassing upon real property while in the discharge of duties imposed by this chapter.

(Ord. No. 24-84, § 6, 6-14-84; Ord. No. 16-10, § 52, 9-9-10)

Sec. 4-6-4. - Obstructing, etc., mayor.

Whoever opposes, obstructs or resists the mayor or any person authorized by the mayor in the discharge of his or her duties as provided in this chapter upon conviction shall be subject to the penalties provided for in section 1-1-8.

(Ord. No. 24-84, § 5, 6-14-84; Ord. No. 16-10, § 53, 9-9-10)

Sec. 4-6-5. - On public property.

(a) Whenever the mayor shall ascertain that an article of abandoned property is present on public property he or she shall cause a notice to be placed upon the article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.
This property (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within five (5) days or, if the property is a boat, thirty (30) days from the date of this notice. If this property is not removed within such period a hearing shall be held at (setting forth time and place of hearing) at which the owner or any person interested in the property may show reasonable cause why the property should not be removed and destroyed. If at the conclusion of the hearing, the owner or other person interested in it has not shown good cause why the property should not be removed and destroyed, it shall be presumed to be abandoned property and will be removed and destroyed by order of the City of Pensacola. If the property is a motor vehicle or boat, the owner will be liable for the costs of removal and destruction. Dated this: (setting forth the date of posting of notice). Signed: (setting forth name, address and telephone number of the mayor). The notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the mayor shall make a reasonable effort to ascertain the name and address of the owner

and, if such is reasonably available to the mayor, he shall mail a copy of the notice to the owner on or before the date of posting.

- (b) At the hearing which shall be held before the city council, the owner or any person having any interest in the abandoned article described in the notice will be permitted to show reasonable cause why the article should not be removed and destroyed.
- (c) If, at the conclusion of the hearing, the owner or any person interested in the abandoned article described in the notice has not removed the article from public property or shown reasonable cause for failure to do so, the city council may cause the article of abandoned property to be removed and destroyed. The salvage value, if any, of the article shall be retained by the city to be applied against the cost of removal and destruction thereof, unless the costs of removal and destruction are paid by the owner as provided in section 4-6-7, in which case the salvage value shall be deposited in the general fund of the city.

(Ord. No. 24-84, § 2, 6-14-84; Ord. No. 16-10, § 54, 9-9-10)

Sec. 4-6-6. - On private property.

(a) *Notice to owner.*

- (1) Whenever the mayor shall ascertain that an article of abandoned personal property is present on private property within the city limits, in violation of any ordinance or regulation of the city, the mayor shall cause a notice to be provided to the owner pursuant to F.S. § 162.12, as that statute may be amended from time to time, except as otherwise provided herein. If the real property where the abandoned personal property is located is or appears to be vacant, then notice shall also be provided by posting the property as described in F.S. § 162.12.
 - (2) The notice shall state that the owner has fifteen (15) days in which to remove the abandoned personal property or, if the article has not been removed, the owner shall appear before the code enforcement authority for a hearing to be held at a date and time certain to show cause why the article in question is not abandoned personal property or why code enforcement should not remove and destroy the abandoned personal property.
- (b) *Failure to act.* If the owner of the abandoned personal property fails to remove the article within the fifteen (15) days, fails to appear before the code enforcement authority on the designated hearing date, and fails to communicate with the code enforcement authority before the hearing, then the code enforcement authority shall enter an order declaring the subject article to be abandoned personal property and that the article shall be seized, removed, and destroyed by the city, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.
 - (c) *Appearance by the owner.* If the owner of the abandoned personal property appears before the code enforcement authority or otherwise communicates with the code enforcement authority prior to the hearing, the owner or any person having any interest in the abandoned personal property will be permitted to show reasonable cause why the article should not be removed and destroyed. If the owner or interested person requests an extension to remedy the situation, then the code enforcement authority may provide the owner or interested person one extension, until the next regular code enforcement authority meeting, in which to remove the abandoned personal property. If the owner or interested person has not removed the abandoned personal property by the time of the next code enforcement authority hearing, then the code enforcement authority shall enter an order declaring the subject article to be abandoned personal property and that the article shall be seized, removed, and destroyed by the city, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.
 - (d) *Summary proceedings.*

- (1) Whenever the city determines that an article(s) of abandoned personal property or an abandoned swimming pool creates an emergency situation or a nuisance, as defined in section 14-3-3 of this Code, then the city may institute summary proceedings. In such circumstances, the city shall notify the owner of the real property where the abandoned personal property is situated pursuant to F.S. § 162.12, of the article of abandoned personal property or abandoned swimming pool that is present on private property within the city limits and in violation of any ordinance or regulation of the city. The notice shall provide the owner with five (5) days in which to remove the abandoned personal property or remedy the abandoned swimming pool, except where the city determines that the circumstances warrant immediate action.
- (2) If after five (5) days the abandoned personal property has not been removed, then the city may seize, remove and destroy the abandoned personal property, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.
- (3) If after five (5) days the abandoned swimming pool has not been brought into compliance with section 14-3-3, then the city may take action to bring the swimming pool into compliance with section 14-3-3.

(Ord. No. 24-84, § 3, 6-14-84; Ord. No. 16-10, § 55, 9-9-10; Ord. No. 13-11, § 2, 7-21-11)

Sec. 4-6-7. - Owner liable for costs of removal.

The owner of any abandoned personal property and the owner of the real property upon which the abandoned property is located who, after notice as provided in section 4-6-2 or section 4-6-3, does not remove the abandoned personal property within the specified period shall be liable to the city for all costs of removal and destruction of the property, inclusive of the cost of city staff time and compensation and the reasonable administrative overhead therefore, less any salvage value received by the city. Upon such removal and destruction, the mayor shall notify the owner of the abandoned personal property and the owner of the land upon which it was situated of the amount owed and of the penalty provision of this section. Such amounts imposed by the city shall constitute a joint and several obligation of the owners of the abandoned personal property and of the real property upon which it was situated, shall constitute a lien upon all personal and real property owned by the owner of the abandoned personal property and owner of the real property upon which it was situated, and shall be enforced as such by the city pursuant to law.

(Ord. No. 24-84, § 4, 6-14-84; Ord. No. 16-10, § 56, 9-9-10; Ord. No. 13-11, § 3, 7-21-11)

Sec. 4-6-8. - Revocation of boat registration privileges.

In the case of an abandoned boat, any person who neglects or refuses to pay the amount shall not be entitled to be issued a certificate of registration for any other boat until the costs have been paid. The mayor shall supply the department of natural resources with a list of persons whose boat registration privileges have been revoked under this chapter and neither the department nor the tax collector or other person acting as agent thereof shall issue a certificate of registration to a person whose boat registration privilege has been revoked, as provided by this section, until the costs have been paid. In the case of an abandoned motor vehicle, any person who neglects or refuses to pay the amount shall be subject to a fine of one hundred dollars (\$100.00). If such cost is not paid within thirty (30) days of claiming the property, the remedies set forth in F.S. section 705.103 may apply.

(Ord. No. 24-84, § 4, 6-14-84; Ord. No. 16-10, § 57, 9-9-10)

Sec. 4-6-9. - Reserved.

Editor's note— Ord. No. 13-11, § 4, adopted July 21, 2011, repealed § 4-6-9, which pertained to state law adopted by reference and derived from § 161-1 of the 1968 Code; Ord. No. 24-84, § 7, 6-14-84.

Sec. 4-6-10. - Real property in violation.

- (a) *Responsibility for and registration of real property.* Responsibility for securing compliance with all applicable codes of the City of Pensacola pertaining to the condition of dwellings, buildings and other structures, and improved and unimproved lots, is hereby placed upon the owners and occupants of such property, jointly and severally, except that non-owners are not liable for building code violations. In addition, responsibility for securing compliance with all applicable codes of the City of Pensacola pertaining to the condition of dwellings, buildings and other structures and improved and unimproved lots is placed upon individuals and entities who hold a recorded security interest in such property after they have received notice from the mayor that the owner or occupant of the property has been notified, or attempts were made to notify the owner pursuant to F.S. § 162.12, of an existing code violation and has failed to remove and correct the violation after having been directed to do so by the city.

The following provisions are applicable to individuals and entities who hold a recorded mortgage or other recorded security interest in real property in the City of Pensacola which has been found by the city or by a court of law to be in violation of the code of ordinances pertaining to the condition of such property and which violation has not been corrected or removed by the owner or occupant after having been directed to do so by the authority or a court:

- (1) The responsible party shall perform an inspection of the property within ten (10) days of receipt of notification from the city of an uncorrected violation from the city.
 - (2) If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the responsible party shall, within ten (10) days of inspection, register the property with the city, on forms provided by the city. A registration is required for each vacant property.
 - (3) If the property is occupied, it shall be inspected by the responsible party monthly until all code violations have been corrected.
 - (4) Registration with the city shall include the name of the responsible party, a direct mailing address, a direct contact name and telephone number, and in the case of responsible parties not having an office or representative in Escambia or Santa Rosa County, the name, address and contact information of a local property management agent who shall be responsible for the security and maintenance of the property.
 - (5) This section also shall apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure.
 - (6) Properties subject to this section shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.
 - (7) Any responsible party, person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- (b) *Maintenance requirements.*
- (1) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, fliers, notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

- (2) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior paint.
 - (3) Front, side, and rear yard landscaping shall be maintained in accordance with the city's standard at the time registration was required.
 - (4) Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
 - (5) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing and removal of all trimmings.
 - (6) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with enclosure requirements of this Code and the Florida Building Code, as amended from time to time.
 - (7) Failure of the responsible party to properly maintain the property may result in a violation of this Code and a notice of violation or notice of hearing by the city. The city may take the necessary action to ensure compliance with this section.
- (c) *Security requirements.*
- (1) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
 - (2) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding of the window.
 - (3) If the property is owned by a responsible party headquartered outside of Escambia and Santa Rosa counties, a local property management company shall be contracted to perform monthly inspections to verify compliance with the requirements of this section and any other applicable laws.
 - (4) The property shall be posted with the name and twenty-four-hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:
TO REPORT PROBLEMS OR CONCERNS CALL:

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. The exterior posting shall be constructed of and printed with weather-resistant materials.
 - (5) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this section. Upon the request of the city, the local property management company shall provide a copy of the inspection reports to the city.
 - (6) Failure of the responsible party to properly maintain the property may result in a violation of this Code and a notice of violation or notice of hearing by the city. The city may take the necessary action to ensure compliance with this section.
- (d) *"Responsible party"* is any individual or entity that holds a recorded mortgage or other recorded security interest on the real property at issue.

- (e) *Opposing, obstructing enforcement officer, penalty.* Whoever opposes, obstructs, or resists any enforcement officer or any person authorized by the mayor in the discharge of duties as provided in this section, upon conviction shall be punished as provided in section 1-1-8 of this Code.
- (f) *Immunity of enforcement officer.* Any enforcement officer authorized or designated by the mayor or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.
- (g) *Additional authority.* The mayor shall have the authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window, or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.
- (h) *Adoption of rules; expenditure of funds; declaration of city purpose.* The mayor, consistent with his or her duties and authorities under the City Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend city funds as may be reasonably necessary and available to carry out the terms of this section, the expenditure of such funds being declared a proper city purpose.

(Ord. No. 13-11, § 5, 7-21-11)