



City Council Report

Date: December 1, 2015
To: City Council
Through: John Pombier, Assistant City Manager
From: Scott Bouchie, Environment Management and Sustainability
Department Director
Subject: Ordinance amending Title 8, Chapter 3 of the Mesa City Code related
to the definitions of Business Establishments and Residence
Citywide

**Strategic
Initiatives**



Purpose and Recommendation

The purpose of this report is to discuss proposed changes that pertain to Mesa Code Title 8 Chapter 3 (Solid Waste definitions). Staff recommends approval of the proposed changes as outlined in the attached Ordinance, labeled Exhibit No. 1.

Background/Discussion

Senate Bill 1079

In 2015, Section 49-746 of the Arizona Revised Statutes; Relating to Regulation of Solid Waste was amended to allow a private enterprise to deliver solid waste management services to multifamily residential properties within a municipality (SB 1079). According to the SB 1079, a multifamily residential property means any real property that has one or more structures and that contains five or more dwelling units for rent or lease that are subject to Title 33 Chapter 10. Title 33 Chapter 10 pertains to the Residential Landlord and Tenant Act which governs the rental of dwelling units and the rights and obligations of landlord and tenant. SB 1079 becomes effective June 30, 2016.

Staff from the Environmental Management and Sustainability Department have been working with staff from Casa Grande, Flagstaff, Gilbert, Tempe, and the League of Cities (TEAM) in an effort to coordinate the implementation of this legislation.

Ordinance --- Definition Changes

In order to implement SB 1079, the City needs to amend certain definitions found in our City Code at Title 8 (Health, Sanitation, and Environment) Chapter 3 (Regarding Solid Waste). The following revised definitions were developed by the Environmental Management and Sustainability Department based in part on work with the TEAM:

Additions to the text are shown in bold, and underline: **Abc**

Deletion to the text are shown in strike-outs: ~~Abc~~

BUSINESS OR COMMERCIAL ESTABLISHMENT: A structure or premises ~~not used as a residence, including~~ **for** retail, wholesale, warehouse, store, factory, production, processing, manufacturing, restaurant, construction, service, hospitals, governmental entities, public authorities (schools), **apartments (5 or more units) for rent or lease per ASRS Title 33, Chapter 10**, or office uses, ~~but not including any residence.~~

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

As noted earlier, SB 1079 defines multi-family housing as containing five or more dwelling units for rent or lease per Title 33, Chapter 10. Duplexes, tri-plexes, quad-plexes, patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, condominiums and townhouses will still be considered residential for the purposes of waste collection. The Maricopa County Assessor's Office, a 3rd party, has detailed information available on-line which will make it easy and straightforward for anyone to know whether a property is eligible for private waste services or not (i.e. County Assessor Maps indicate if the property is an apartment complex, condominium, etc.).

Alternatives

Council may choose to approve the definition change recommended by Staff, or modify the proposed definition changes as Council deems appropriate to comply with SB 1079

Fiscal Impact

Under SB 1079 and the proposed definition change (as outlined in the attached Ordinance) approximately 250 accounts currently receiving service exclusively from

Mesa will be subject to competition for delivery of solid waste management and recycling service. These accounts currently bring in approximately 1.5 million dollars in revenue annually.

Coordinated With

As noted earlier, staff from the Environmental Management and Sustainability Department have been working with staff from Casa Grande, Flagstaff, Gilbert, Tempe, and the League of Cities (TEAM) to help implement this legislation. We have also worked with the City Attorney's Office, and the Planning Division.