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ORDINANCE NO. 00-02

AN ORDINANCE OF THE COUNTY OF YUMA REGULATING THE DISPOSAL OF SOLID WASTE IN THE COUNTY OF YUMA AND PROVIDING PENALTIES FOR VIOLATIONS

Be it resolved by the Yuma County Board of Supervisors that this ordinance is adopted to provide regulation of the deposit of any solid waste or other non-hazardous waste whether treated or untreated in the County of Yuma.

§ 00-02-1001. Purpose of ordinance; use; effect

The provisions of this ordinance shall be used in the review, approval, and construction permitting and inspection of solid waste disposal sites in Yuma County and the investigation and enforcement of violations to the extent consistent with statutory authority and requirements, and where inconsistent, statutory requirements shall be used. No person shall deposit onto land, construct, convert or alter any site for the deposit or disposal of solid waste, sewage sludge, waste oils, lead acid batteries or other non-hazardous wastes, unless he has first obtained a written approval for such purposes from the Environmental Health Officer in the form of a permit. Arizona Administrative Code Title 18 Chapter 8 is incorporated by reference in its entirety.

Source: ARS §49-140

§ 00-02-1002 Definitions; exemptions

A. "Solid waste" means any garbage, trash, rubbish, waste tire, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material.

B. The following are exempt from the definition of solid waste:

1. Hazardous waste regulated pursuant to ARS 49-901 to 973.
2. Waste that contains radioactive materials subject to the atomic energy act of 1954 (42 United States Code sections 2011 through 2297, 68 Stat. 919) or title 30, chapter 4.
3. Any discharge from a facility regulated pursuant to ARS title 49-241 to 252.
4. Any discharge regulated pursuant to section 402 or 404 of the clean water act (33 United States Code sections 1342 and 1344).
5. Domestic sewage.
6. Discharges into a publicly or privately owned treatment works including the treatment works and the sewer collection system.
7. Irrigation waters.
8. Irrigation return flows.
9. Reclaimed wastewater from wastewater reuse facilities.
10. Leachate resulting from the direct natural infiltration of precipitation through undisturbed regolith or bedrock, if pollutants are not added by man.

11. Storm water.

12. Substances and materials that remain on site as specifically approved in a work plan or other approval by the department in the course of remedial or corrective actions undertaken pursuant to any of the following:

(a) Chapter 2, articles 3 and 5 of ARS title 49.

(b) Chapters 5 and 6 of ARS title 49.

(c) The comprehensive environmental response, compensation, and liability act (CERCLA) of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9675).

(d) The federal water pollution control act (FWPCA) amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1387).

(e) The resource conservation and recovery act (RCRA) of 1976 (P.L. 94-580; 90 Stat. 2795; 42 United States Code sections 6901 through 6992).

13. Water used in gardening, lawn care, landscape maintenance and related activities.

14. Discharges from ponds used for watering livestock and wildlife.

15. Landscaping rubble used to reclaim land.

16. Mining industry off-road waste tires that are larger than three feet in outside diameter and that are buried at the site and rock, leachate material, tailing and slag that are produced and maintained at the site of the mining or metallurgical operation.

17. Inert material.

18. Effluent as defined in ARS 45-101.

19. Return flows from irrigated agriculture.

20. Materials generated on site that are processed or reused on site if the following conditions are met:

a On-site processing or reuse of the materials is technically feasible.

b At least seventy-five per cent by weight or volume of the materials that are accumulated on site for processing or reuse each year are processed or reused in that same year.

c Materials that are accumulated on site for processing or reuse are managed in a manner that:

(i) Controls wind dispersion and other surface dispersion of the materials so that the materials do not create a public nuisance or pose an imminent and substantial endangerment to public health or the environment. Visible materials that are dispersed beyond the boundaries of the site shall be collected on a regular basis by the operator of the site.

(ii) Does not discharge hazardous substances as defined in section 49-281 to surface water, groundwater or subsurface soils in a manner that creates a public

nuisance or poses an imminent and substantial endangerment to public health or the environment.

(iii) Controls vector breeding and fire hazards.

(iv) Controls public access to the materials by the use of reasonable measures.

C. Nothing in this section shall affect the County's authority to require abatement of any environmental nuisance pursuant to ARS 49-141 to 144.

D. **"Approval"** shall mean the written and signed approval of the Department of Development Services Environmental Health Officer of a plan to construct, reconstruct, rebuild, convert, reuse or alter any sewage disposal system which discharges or disposes of sewage, sewage effluent, or non-hazardous waste.

E. **"Director"** means the Director of Yuma County Department of Development Services or the director's designee..

F. **"Discharge"** means the direct or indirect addition of any pollutant to the waters or soils of the County from a facility in such a manner that there is a reasonable probability that the pollutant may reach an aquifer.

G. **"Environmental Health Section"** means the Environmental Health Section of the Yuma County Department of Development Services.

H. **"Environmental Health Officer"** means the Environmental Health Manager of the Yuma County Department of Development Services Environmental Health Section or his designated representative.

I. **"Environmental nuisance"** is defined as the creation or maintenance of a condition on or in the soil, air or water that causes, or threatens to cause, harm to the public health or to the environment. Subject to this limitation, the following not all inclusive conditions constitute environmental nuisances:

1. A condition or place in a populated area which constitutes a breeding place for flies, rodents, mosquitoes and other insects which are capable of carrying and transmitting disease-causing organisms to any person or persons.

2. A place, condition or building which is controlled or operated by any individual or agency and which is not maintained in a sanitary condition.

3. Sewage, human excreta, wastewater or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

4. A vehicle or container which is used in the transportation of solid waste and which is defective and allows leakage or spillage of contents.

5. The maintenance of an overflowing solid waste container, the contents of which may be accessible to flies.

6. The pollution or contamination of any domestic waters.

§ 00-02-1003

INTENT AND PURPOSE

A. It shall be unlawful for any person to deposit or cause or permit to be deposited any solid or other non-hazardous waste whether treated or untreated into or upon any territory of the County of Yuma, except at authorized disposal sites, including any deposit into streams or bodies of water above or below the ground. When solid waste is being disposed upon the surface of any premises, the Environmental Health Officer may order the owner or occupants thereof who contribute to such disposal to abate the same forthwith.

Source: ARS §49-140

B. It shall be unlawful for any person to:

1. Practice open burning at a solid waste facility without approval issued by ADEQ, the Director or the Environmental Health Officer.
2. Scavenge at a solid waste facility.
3. Damage or destroy signs posted at a solid waste facility.
4. Dump or dispose of solid waste in violation of any provision of this ordinance or any applicable rule adopted pursuant to ARS 49-Chapter 4.
5. Operate a solid waste facility in a manner inconsistent with the solid waste facility plan after it has been approved or any rule adopted pursuant to article 4 of ARS Title 49-Chapter 4.

C. A violation of this section is a class 2 misdemeanor per ARS 49-791

Source: ARS §49-Chapter 6

§ 00-02-1004 Abatement of environmental nuisances

A. If Yuma county has reasonable cause to believe from information furnished to it or from its own investigation that a person is maintaining an environmental nuisance, the Environmental Health Officer may serve an abatement order on the person requiring the person to abate the nuisance within twenty-four hours at the expense of the owner or occupant. The order may be given to the owner or occupant personally, delivered by certified mail or left at the residence of the owner or occupant. If the owner or occupant fails or refuses to comply with the order within the time specified in the order the director may cause the nuisance to be removed, and the owner, occupant or other person who caused the nuisance shall pay the expenses of removal.

B. An abatement order issued pursuant to this ordinance becomes final unless within fifteen days after receipt of the order an appeal is made pursuant to ARS 41-1092 to 1092.12.

C. If a person fails or refuses to comply with an abatement order issued under this section or if the director has reason to believe that a person is creating an actual or potential endangerment to the public health or environment because of acts performed in violation of this article or a rule applicable to any environmental nuisance described in ARS 49-141, the director may file an action in superior court to restrain and enjoin the person from further violations, to compel compliance with an order or to abate an environmental nuisance.

Source: ARS §49-142, 143

§ 00-02-1005 Right to enter premises for inspection or abatement

If the Director, Environmental Health Officer or department deems it necessary to enter a building, structure or other property within its jurisdiction in accordance with ARS 49-144, for the purpose of examining, destroying, removing or preventing an environmental nuisance and is refused entrance, any member of the department may make complaint of the refusal under oath to a justice of the peace. The justice shall issue a warrant directing the sheriff or other peace officer accompanied by and under the direction of the Director or Environmental Health Officer to examine, destroy, remove or prevent, between the hours of sunrise and sunset, the environmental nuisance.

Source: ARS §49-144

§ 00-02-1006 Compliance orders; appeal; enforcement

A. If the Director or Environmental Health Officer determines that a person is in violation of a rule adopted or a condition of a permit issued pursuant to this ordinance or ARS 49-203, subsection A, paragraph 6, any provision of article 2 or 3 of ARS title 49, a discharge limitation or any other condition of a permit issued under article 2 or 3 of ARS title 49 or is creating an imminent and substantial endangerment to the public health or environment, the director may issue an order requiring compliance within a reasonable time period.

B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance if applicable and the right to a hearing.

C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by personal service.

D. A compliance order becomes final and enforceable in superior court unless within thirty days after the receipt of the order the alleged violator requests a hearing before a hearing officer. If a hearing is requested, the order does not become final until the hearing officer has issued a final decision on the appeal. Appeals shall be conducted according to ARS 49-321.

E. At the request of the Director or Environmental Health Officer the county attorney may commence an action in superior court to enforce orders issued under this section once an order becomes final.

Source: ARS §49-143

§ 00-02-1007 Criminal violations; classification; civil penalties; definition

A. It shall be unlawful to:

1. Dispose of solid waste at a site without a permit or appropriate authority under this ordinance.
2. Fail to monitor, sample or report unauthorized disposal as required by a permit issued under this ordinance.
3. Violate a disposal limitation specified in a permit issued under this ordinance.
4. Violate a water quality standard.

B. A person who knowingly performs an act prohibited under this ordinance is guilty of a class 6 felony per ARS 49-263.

C. A person who knowingly or recklessly manifests an extreme indifference for human life in performing an act prohibited under this ordinance is guilty of a class 2 felony per ARS 49-263.

D. A violation of any provision of this chapter for which a penalty is not otherwise prescribed is a class 2 misdemeanor per ARS 49-263.

§ 00-02-1007.01 Injunctive relief; Civil penalties

A. If the Director or Environmental Health Officer has reason to believe that a person is in violation of any provision this ordinance, a rule adopted pursuant to ARS 49 article 4, any condition of an approved solid waste facility plan or that a person is creating or maintaining an imminent and substantial endangerment to the public health or the environment, the Director or Environmental Health Officer, may through the County Attorney request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health or the environment, without regard to whether the person has requested a hearing.

B. A person who violates a provision of this ordinance, material permit condition or requirement for approval relating to solid or medical waste is subject to a civil penalty of not more than ten thousand dollars (\$10,000.00) for each day, for each violation. The county attorney, at the request of the Director or Environmental Health Officer, may file an action in superior court to recover civil penalties provided for in this section.

Source ARS 49-768

§ 00-02-1008 Solid Waste Disposal Facilities; rules; inspections; enforcement

A. The County shall enforce rules relating to the design, construction, operation and maintenance of all existing and proposed Solid Waste Disposal facilities in this County. The rules are specified in ARS title 49 chapter 4 and include:

1. Standards for the design, construction, operation and maintenance of Solid Waste Disposal facilities.
2. ADEQ approval of the plans for the facility before construction begins.
3. Inspection of the facility during the construction period.
4. Final inspection by the County of the construction of the facility before the facility is put into operation.
5. Routine operation and maintenance inspections.
6. Additional inspections at any time if the County receives information indicating that the facility is being operated in violation of the established standards.
7. Fees charged by the County for all inspections it performs shall be in amounts sufficient to cover the actual cost of performing the inspections.

B. Inspections required by subsection A, paragraph 3 of this section shall be performed by a registered engineer who shall keep detailed records of the design and construction process and make these records available to the county. Final inspections required by subsection A, paragraph 4 shall include inspection of the records kept by the engineer as well as inspection of the facility. The facility shall not be operated until the final

inspection has been completed and the facility meets the established standards.

C. If an annual inspection required by subsection A, paragraph 5 reveals that the facility is not being operated in compliance with established standards, the county may allow the owner of the facility ninety days to bring the facility into compliance and reinspect the facility at the end of that period.

D. If the Director or Environmental Health Officer determines that any solid waste disposal facility has not been approved or does not conform to the original approved construction plans or is being operated in violation of the established standards, the Director or Environmental Health Officer may issue an order to the owner to modify the facility to conform to the approved plans or to cease and desist from operating the facility in violation of those standards or to cease and desist from all operation of the facility.

E. If the Director or Environmental Health Officer determines that the owner of any solid waste disposal facility has violated the terms of a cease and desist order issued pursuant to subsection D of this section or has knowingly operated a facility in violation of the established standards, the Director or Environmental Health Officer may impose on the owner a civil penalty of one thousand five hundred dollars (\$1500.00) for each day the violation continues. Civil penalties collected under this subsection shall be deposited in the general fund.

F. If an owner refuses to pay a civil penalty imposed pursuant to subsection E of this section, the Director or Environmental Health Officer may authorize the county attorney to bring an action in the superior court to collect the amount of the penalty and the costs of the action brought to collect the civil penalty.

G. The Director shall hold hearings pursuant to title 41, chapter 6, article 10 if the owner of a facility requests a hearing in any enforcement proceeding under this section. Decisions of the Director after hearings are subject to judicial review pursuant to title 41, chapter 6, article 10.

H. If the Director or Environmental Health Officer contracts with a consultant under section 49-203, an owner of any solid waste disposal facility may request that the Director or Environmental Health Officer expedite the review or inspection process by requesting that the Director or Environmental Health Officer use the services of the consultant and by agreeing to pay to county the costs of the consultant's services.

I. For the purposes of this section "Solid Waste Disposal facility" or "facility" means a site constructed and designed to contain and dispose of domestic or construction waste generated off or on site.

Source: ARS §49-361

§ 00-02-1009 Remedial action criteria; rules

A. Remedial actions shall:

1. Assure the protection of public health and welfare and the environment.

2. To the extent practicable, provide for the control, management or cleanup of the solid waste so as to allow the maximum beneficial use.

3. Be reasonable, necessary, cost-effective and technically feasible.

B. The Director or Environmental Health Officer shall enforce the rules necessary to implement this article:

1. The selection of remedial actions including the establishment of the level and extent of cleanup at a site or a portion of a site shall provide for the selection of a remedial action by comparison of alternative remedial actions, which may include no action, monitoring, source control, controlled migration, physical containment, remediation and the consideration of other criteria. The selected remedial action shall meet the requirements of the following:

(a) For remediation of soil, the selected remedial action shall be consistent with the soil Remediation standards adopted pursuant to ARS 49-152.

(b) For remediation of waters within the county, the selected remedial action shall address, at a minimum, any well that at the time of selection of the remedial action that either supplies water for municipal, domestic, industrial, irrigation or agricultural uses or is part of a public water system if the well would now or in the reasonably foreseeable future produce water that would not be fit for its current or reasonably foreseeable end uses without treatment due to the release of hazardous substances. The specific measures to address any such well shall not reduce the supply of water available to the owner of the well.

2. Incentives for initiating early remedial actions, implementing innovative remedial technologies and initiating voluntary remedial actions.

C. In selecting remedial actions, the Director or Environmental Health Officer shall consider the following factors:

1. Population, environmental and welfare concerns at risk.

2. Routes of exposure.

3. Amount, concentration, properties, environmental fate, such as the ability to bioaccumulate, persistence and probability of reaching the waters of the county, and the form of the substance present.

4. Physical factors affecting human and environmental exposure such as hydrogeology, climate and the extent of previous and expected migration.

5. The extent to which the amount of land or water available for beneficial use will be preserved by a particular type of remedial action.

6. The technical practicality and cost-effectiveness of alternative remedial actions applicable to a site.

7. The availability of other appropriate federal or state remedial action and enforcement mechanisms, including, funding sources established under CERCLA.

D. Notwithstanding this article, the Director or Environmental Health Officer may approve a remedial action that may result in quality exceeding quality standards after the completion of the remedy if the director finds that the remedial action meets the requirements of this

section.

E. The approval pursuant to this section does not affect the classification of an aquifer pursuant to ARS 49-224.

F. Remedial actions required by this article shall be consistent with the requirements of title 45, chapter 2, except as provided in ARS 49-290.01.

Source: ARS §49-282.06

§ 00-02-1010 Enforcement; inspections and information gathering; civil penalties

A. Except as provided in ARS 49-286, the provisions of this Ordinance are independent of and are not subject to the enforcement remedies of ARS 49-264.

B. This section does not preclude the Director or Environmental Health Officer from initiating actions pursuant to section 505 of the clean water act and section 1449 of the safe drinking water act. The Director or Environmental Health Officer shall not initiate any action under section 107(a) or 107(f) of CERCLA or section 7002 of the resource conservation and recovery act to the extent that the action is inconsistent with this article, except under any of the following circumstances:

1. In an action initiated by the Director or Environmental Health Officer filing a complaint contemporaneously with a consent decree or any other agreement to provide contribution protection or a covenant not to sue under CERCLA.

2. In an action involving a facility at a site listed on the national priorities list on April 29, 1997. In an action involving a facility at a site on the national priorities list that is listed after April 29, 1997 the Director or Environmental Health Officer may initiate an action if the facility is not being remediated pursuant to this article or any other provision of this title.

C. The Director or Environmental Health Officer may initiate an action to recover damages under section 107(f) of CERCLA but may recover only the proportionate share of these damages from a defendant who is also a responsible party under this article.

D. Judicial actions initiated pursuant to this section have precedence over all other civil proceedings per ARS 49-287.

E. If there is a release or the threat of a release of a hazardous substance which may present an imminent and substantial danger to the public health or welfare or the environment:

1. The Director or Environmental Health Officer may take such remedial action as he deems necessary to protect the public health or welfare or the environment.

2. The County Attorney may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health or welfare or the environment from the release.

3. The Director or Environmental Health Officer may issue an order requiring abatement of such release or threat of a release and appropriate remedial action if the action is consistent with the criteria listed in and rules adopted pursuant to ARS 49-282.06 and before taking such action the Director or Environmental Health Officer provides written notice to the responsible party, if known, and the owner of the real property where the facility is located if the owner is not a responsible party. The notice shall include:

(a) The reasons for the remedial action.

(b) A reasonable time for beginning and completing the actions, taking into account the urgency of the actions for protecting public health or welfare or the environment.

(c) The steps taken to comply with the criteria listed in and rules adopted pursuant to ARS 49-282.06.

(d) The intention of this County to take remedial action and the possible liability of the responsible party for the costs of such actions if that action is not taken by the responsible party.

4. The Director or Environmental Health Officer may take action pursuant to ARS 49-287.01 through 49-287.07, or enter into a settlement under ARS 49-292 or any other applicable provision of this ordinance. Actions taken by the Director or Environmental Health Officer pursuant to ARS 49-287.01 through 49-287.07 may substantially affect the rights and obligations of persons who may be liable under this article for the release or threatened release of a hazardous substance at a site or portion of a site for purposes of determining insurance coverage. Any action taken by the Director or Environmental Health Officer pursuant to ARS 49-287.01 through 49-287.07 is not appealable unless otherwise provided.

F. A remedial action order issued under subsection E of this section becomes final and enforceable in superior court for purposes of subsections I and J of this section unless, within thirty days after the receipt of the order, the recipient moves to quash or modify the order in superior court. If the motion to quash or modify the order raises issues of fact, the recipient of the order and the county are entitled to conduct expedited discovery on application to the court and are entitled to a priority for trial. A party who undertakes the actions prescribed in a remedial action order issued pursuant to this section may obtain a court order to recover the reasonable and necessary costs of the actions if the party demonstrates to the court that the actions required by the order were arbitrary and capricious or otherwise were not in accordance with law, that the party is not a responsible party as prescribed by ARS 49-283 or for the amount of costs incurred that exceeded the party's share of liability pursuant to ARS 49-285.

G. If there is a release or the threat of a release of any pollutant which may present an imminent and substantial danger to the public health or welfare, the Director or Environmental Health Officer may take such remedial action as is deemed necessary to protect the public health, welfare or the environment.

H. Any remedial action costs, other than nonrecoverable costs, incurred by the Director or Environmental Health Officer pursuant to the procedures in subsection E of this section may be recovered in a civil action brought by the county attorney against any responsible party pursuant to ARS 49-287.07.

I. A responsible party who wilfully violates or fails or refuses to comply with any order of the Director or Environmental Health Officer under subsection E, paragraph 3 of this section may, in an action brought in superior court to enforce such order, be assessed a civil penalty of not more than two thousand five hundred dollars (\$2,500.00) for each day in which the violation occurs or the failure to comply continues. All civil penalties assessed pursuant to this subsection shall be deposited in the general fund.

J. A responsible party who fails, without sufficient cause, to properly provide remedial action on order of the Director or Environmental Health Officer pursuant to subsection E, paragraph 3 of this section may be liable to this county for punitive damages in an amount up to three times the amount of any costs incurred by the Director or Environmental Health Officer as a result of the failure to take proper action. The county attorney may commence a civil action against the responsible party to recover the remedial action costs and the punitive damages. Any punitive damages received by this county pursuant to this subsection shall be deposited in the general fund. The Director's or Environmental Health Officer's failure to comply with the requirements of ARS 49-282.06 or the Director's or Environmental Health Officer's order to take a remedial action that causes the responsible party to incur costs that exceed the responsible party's proportionate share of liability pursuant to ARS 49-285 is a defense to an action for punitive damages and the amount of the punitive

damages requested may be reduced, in full or in part.

K. If the Director or Environmental Health Officer act pursuant to this section, he may undertake such investigations, monitoring, surveys, testing and other information gathering as he may deem necessary or appropriate to identify the existence and extent of the release or threat of a release, the source and nature of the hazardous substances and the extent of danger to the public health or welfare or to the environment. In addition, the director may undertake such planning, legal, fiscal, economic, engineering, architectural and other studies or investigations as he may deem necessary or appropriate to plan and direct remedial actions, to recover the costs of remedial actions, other than nonrecoverable costs, and to enforce this article.

Source: ARS §49-286

§ 00-02-1011 Ownership of solid waste

Solid waste offered or set out for collection, transportation, storage, disposal or recovery becomes, upon acceptance by a management agency or solid waste facility, the sole property of the accepting management agency or solid waste facility. Solid Waste not so accepted by a management agency or solid waste facility remain the sole property of the generator of such solid waste.

Source ARS 49-745

§ 00-02-1012 Private enterprise recycling and solid waste management

A. The county shall not prohibit or unreasonably restrain a private enterprise from delivering commercial or industrial recycling services or commercial or industrial solid waste management services within or to a municipality.

B. The municipalities of the county shall prescribe rules for the delivery of recycling services and commercial or industrial solid waste management services that promote availability of these services and promote competition in the delivery of these services in accordance with ARS 49-746.

C. It shall not be presumed to be an unreasonable restraint for a municipality to have limited the number of commercial or industrial solid waste management service companies to one company for each sixty thousand or fewer persons in order to facilitate the regulation of solid waste collection pursuant to ARS 49-765 provided that at least seven companies are permitted under such an ordinance.

D. For purposes of this section, the population of a municipality is deemed to be the official estimate as last determined by the department of economic security pursuant to ARS 41-1954.

§ 00-02-1013 Agricultural landfills; notice

A. A single family residence located on a farm or ranch of more than forty acres in an unincorporated area may operate on site a landfill for the disposal of solid waste resulting from the residents' household activities. The owner or operator of the farm or ranch shall comply with all of the following:

1. The landfill does not violate the floodplain provisions of ARS 49-772, subsection C or the wetland provisions of ARS 49-772, subsection D.
2. The owner or operator submits to the Environmental Health Officer a location map and a written, general description of the landfill within thirty days after disposing of solid waste.
3. The landfill does not create an environmental nuisance.

B. A person engaged in farming or ranching on at least forty acres in an unincorporated area may operate an agricultural landfill on the property for disposal of solid waste, but not hazardous waste, generated on the property. The person shall comply with all of the following:

1. The landfill does not accept household waste, household hazardous waste or conditionally exempt small generator waste.
2. The owner or operator submits to the Environmental Health Officer a location map and a written, general description of the landfill within thirty days after disposing of solid waste.
3. The landfill does not violate the floodplain provisions of ARS 49-772, subsection C or the wetland provisions of ARS 49-772, subsection D.
4. The landfill does not create an environmental nuisance.

§ 00-02-1014 Federal used oil program: incorporation by reference

A. The department shall administer 42 United States Code section 6935, as amended on January 1, 1997, as the used oil program. For that purpose, 40 Code of Federal Regulations part 279, as amended on January 1, 1997, is adopted by reference. For purposes of this program, the United States, the environmental protection agency and the administrator shall be applied to mean the State, the County and the Director, respectively.

B. The County may adopt rules for the administration of the federal program. Rules adopted pursuant to this subsection shall not be more stringent than or conflict with 40 Code of Federal Regulations part 279.

C. The following requirements apply in addition to 40 Code of Federal Regulations part 279:

1. A used oil collection center, as defined in 40 Code of Federal Regulations part 279, shall register with ADEQ by obtaining an identification number. A request for an identification number must include:

- (a) The company name.
- (b) The name of the owner of the company.
- (c) The mailing address and telephone number of the company.
- (d) The location of the collection center.
- (e) A description of the type of used oil activity at the company.

2. A person who sends used oil fuel to a person who burns the used oil fuel for energy recovery shall certify to the burner that the used oil fuel has been analyzed or otherwise tested for compliance with the used oil specifications in 40 Code of Federal Regulations part 279.

3. Each used oil fuel transporter, used oil fuel marketer and used oil processor and re-refiner, as defined in 40 Code of Federal Regulations part 279, shall submit to ADEQ a written report each calendar quarter with a copy provided to the County. The report shall be submitted within thirty days after the end of the calendar quarter to which the report applies, and it shall contain a copy of the tracking information required to be kept pursuant to 40 Code of Federal Regulations part 279 or a summary of such tracking information on a reporting form supplied by the State.

4. Each person who burns used oil fuel in devices identified in 40 Code of Federal Regulations section 279.61(a)(1) through (3) shall submit to ADEQ and the County a written annual report. The report shall be submitted by February 1 for the previous calendar year and shall contain the following

information:

- (a) The name, address and telephone number of the person reporting.
- (b) The name, address and telephone number of the burner facility.
- (c) The United States environmental protection agency identification number of the burner facility.
- (d) The total volume of on-specification used oil burned.
- (e) The period being reported.
- (f) The total volume of self-generated used oil burned on site.
- (g) The total volume of used oil fuel burned.
- (h) A summary of the tracking information required to be kept pursuant to 40 Code of Federal Regulations part 279.

5. Used oil fuel marketers and used oil fuel burners shall label all tanks that store on-specification used oil with the words "on-specification used oil". The department may sample and test used oil or used oil fuel to determine its properties or characteristics as prescribed in this article and rules adopted pursuant to this article.

6. A household "do-it-yourselfer" used oil generator, as defined under 40 Code of Federal Regulations part 279, shall send its used oil to a "do-it-yourselfer" collection station, a household hazardous waste collection center, a used oil collection center, a used oil fuel marketer or a used oil processor or refiner.

D. In administering this section or in adopting or administering rules pursuant to this section, the department shall maintain the level of discretion that is permitted pursuant to applicable federal rules.

E. Any client names or related identifying data required to be submitted to the department pursuant to this section is confidential.

§ 00-02-1015 Prohibited practices

A. Used oil shall not be used or disposed of by any of the following methods:

- 1. Discharge into sewers or waters within the County as defined in ARS 49-201 except pursuant to a permit issued by appropriate regulatory authorities.
- 2. Incineration except at a facility authorized to incinerate hazardous waste under ARS 49-922 or the federal act. Burning for energy recovery is not considered incineration for purposes of this section, unless the Director determines pursuant to rule that the purpose of the burning is for destruction of listed or characteristic hazardous waste rather than energy recovery.
- 3. Disposal on land unless the used oil is disposed of in a landfill that is subject to 40 Code of Federal Regulations part 257 or 258 and that has an approved solid waste facility plan. This prohibition does not apply to used oil that is used as an ingredient in an explosive material.
- 4. Dispersal as a dust suppressant or contact herbicide.

B. For the purposes of subsection A, paragraph 3 of this section, normal minimal leakage from properly maintained vehicles and equipment shall not be considered disposal on land.

§ 00-02-1016 Violation: classification

- A. A person who knowingly violates a provision of the used oil program prescribed by ARS 49-802 is guilty of a class 2 misdemeanor.
- B. An act or omission punishable under this section or any other section of criminal law may be punished under both, but any punishments, including fines, shall be concurrent.
- C. A used oil fuel burner is not liable in any criminal proceeding for a violation of this article relating to the burning of off-specification used oil if the used oil fuel burner in good faith relied on the certification of a used oil fuel marketer that the used oil meets the definition of on-specification used oil as defined.

§ 00-02-1017 Violation; civil penalty

- A. Except as otherwise provided, a person who violates any provision of this article or a rule or order adopted or issued pursuant to this ordinance is subject to a civil penalty of not more than ten thousand dollars (\$10,000.00) per day for each violation.
- B. The County Attorney, at the request of the Director or Environmental Health Officer, may file an action in superior court to recover civil penalties provided by this ordinance. This subsection shall not be construed to reduce the authority of the County Attorney under any other provision of law.

§ 00-02-1018 Biohazardous Medical Waste

- A. Biohazardous medical waste includes wastes that contain material that is likely to transmit etiologic agents that have been shown to cause or contribute to increased human morbidity or mortality of epidemiologic significance.
1. The storage, collection, transportation, treatment and disposal of Biohazardous medical waste and medical sharps, beginning with the placement by the generator of the waste in containers for the purpose of waste collection shall be done in accordance with AAC R18-13-1401 thru 1409. In the case of self-hauling of waste by the generator, all storage facilities under the generator's control and all waste handling practices including storage, treatment and transportation shall be in accordance with these rules. The department shall enforce the rules regarding the transportation of Biohazardous medical waste and medical sharps.
- B. All transporters, collectors, treatment and disposal vehicles of Biohazardous medical waste shall obtain a Biomedical Waste Transporter Permit. Beginning with the placement of the waste in containers for the purpose of waste collection all containers and transport vehicles shall be pest and leak resistant and operated by a trained operators, knowledgeable concerning handling of biohazardous medical wastes.
- C. Biohazardous medical waste is defined as 1 or more of the following:
1. Cultures and stocks: Discarded cultures and stocks generated in the diagnosis, treatment or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals.
 2. Human blood and blood products: Discarded products and materials containing free-flowing blood or free-flowing blood components.
 3. Human pathologic wastes: Discarded organs and body parts removed during surgery. Human pathologic wastes do not include the head or spinal column.
 4. Medical sharps: Discarded sharps used in animal or human patient care, medical research, or

clinical laboratories. This includes hypodermic needles; syringes; pipettes; scalpel blades; blood vials; needles attached to tubing; broken and unbroken glassware; and slides and coverslips.

5. Research animal wastes: Animal carcasses, body parts, and bedding of animals that have been infected with agents that produce, or may produce, human infection.

D. The transporter shall register with the Department in addition to possessing a permit, license, or approval.

E. Upon receiving all of the following information from a transporter, the Department shall issue the registration after assigning a registration number to the transporter:

1. The name, address, and telephone number of the transportation company or entity.
2. All owners' names, addresses, and telephone numbers.
3. All names, addresses, and telephone numbers of any agents authorized to act on behalf of the owner.
4. A copy of either the certificate of disclosure required by ARS. 49-109 or a written acknowledgment that this disclosure is not required.
5. Photocopies or other evidence of the issuance of a permit, license, or approval if required by an environmental agency, or other governmental agency with jurisdiction.
6. A copy of the transportation management plan required in subsection (F).

F. A person who transports biohazardous medical waste shall maintain in each transporting vehicle at all times a transportation management plan consisting of both of the following:

1. Routine procedures used to minimize the exposure of employees and the general public to biohazardous medical waste throughout the process of collecting, transporting, and handling.
2. Emergency procedures used for handling spills or accidents.

G. A transporter who accepts biohazardous medical waste from a generator shall leave a copy of the tracking document described in R18-13-1406(B) with the person from whom the waste is accepted. A transporter shall ensure that a copy of the tracking document accompanies the person who has physical possession of the biohazardous medical waste. Upon delivery to a Department-approved transfer, storage, treatment, or disposal facility, the transporter shall obtain a copy of the tracking document, signed by a person representing the receiving facility, signifying acceptance of the biohazardous medical waste.

H. A transporter who transports biohazardous medical waste in a vehicle dedicated to the transportation of biohazardous medical waste shall ensure that the cargo compartment can be secured to limit access to authorized persons at all times except during loading and unloading. In addition, the cargo compartment shall be constructed in compliance with 1 of the following:

1. Have a fully enclosed, leak-proof cargo compartment consisting of a floor, sides, and a roof that are made of a non-porous material impervious to biohazardous medical waste and physically separated from the driver's compartment.
2. Haul a fully enclosed, leak-proof cargo box made of a non-porous material impervious to biohazardous medical waste.
3. Tow a fully enclosed leak-proof trailer made of a non-porous material impervious to biohazardous medical waste.

I. A person who transports biohazardous medical waste in a vehicle not dedicated to the transportation of

biohazardous medical waste, but that is used longer than 30 consecutive days, shall comply with the following:

1. Subsections (D) and (F) through (J).
2. Clean the vehicle as prescribed in R18-13-1407(A)(2)(b) before it is used for another purpose.

J. A person who transports biohazardous medical waste shall comply with all of the following:

1. Accept only biohazardous medical waste packaged as prescribed in AAC R18-13-1407.
2. Accept biohazardous medical waste only after providing the generator with a signed tracking form as prescribed in AAC R18-13-1406(B), and keep a copy of the tracking document for 1 year.
3. Deliver biohazardous medical waste to a Department-approved biohazardous medical waste storage, transfer, treatment, or disposal facility within 24 hours of collection or refrigerate the waste for not more than 90 days at 40°° F. or less until delivery.
4. Not hold biohazardous medical waste longer than 96 hours in a refrigerated vehicle unless the vehicle is parked at a Department-approved facility.
5. Not unload, reload, or transfer the biohazardous medical waste to another vehicle in any location other than a Department-approved facility, except in emergency situations. Combination vehicles or trailers may be uncoupled and coupled to another cargo vehicle or truck trailer as long as the biohazardous medical waste is not removed from the cargo compartment.

K. A generator who sets biohazardous medical waste out for collection for off-site treatment or disposal shall package the biohazardous medical waste in either of the following:

1. A red disposable plastic bag that is:
 - (a). Leak resistant,
 - (b). Impervious to moisture,
 - (c). Of sufficient strength to prevent tearing or bursting under normal conditions of use and handling,
 - (d). Sealed to prevent leakage during transport,
 - (e). Puncture resistant for sharps, and
 - (f). Placed in a secondary container. This container shall be constructed of materials that will prevent breakage of the bag in storage and handling during collection and transportation and bear the universal biohazard symbol. The secondary container may be either disposable or reusable.
2. A reusable container that bears the universal biohazard symbol and that is:
 - (a). Leak-proof on all sides and bottom, closed with a fitted lid, and constructed of smooth, easily cleanable materials that are impervious to liquids and resistant to corrosion by disinfection agents and hot water, and
 - (b). Used for the storage or transport of biohazardous medical waste and cleaned after each use unless the inner surfaces of the container have been protected by disposable liners, bags, or other devices removed with the waste. "Cleaning" means agitation to remove visible particles combined with 1 of the following:
 - (i). Exposure to hot water at a temperature of at least 180 degrees Fahrenheit for a minimum of 15 seconds.
 - (ii). Exposure to an EPA-approved chemical disinfectant used under established protocols and regulations.
 - (iii). Any other method that the Department determines is acceptable, if the

determination of acceptability is made in advance of the cleaning.

M. A generator shall handle any container used for the storage or transport of biohazardous medical waste that is not capable of being cleaned, or that is disposable packaging, as biohazardous medical waste.

N. A generator shall not use reusable containers for any purpose other than the storage of biohazardous medical waste.

O. A generator shall not reuse disposable packaging and liners and shall manage such items as biohazardous medical waste.

§ 00-02-1019 Effective date

This ordinance shall become operative and in force and effect from and after thirty days from the date of adoption by the County of Yuma, by and through the Yuma County Board of Supervisors.

ADOPTED by the County of Yuma, Arizona, by and through the Yuma County Board of Supervisors, sitting in regular session this 2nd Day of October, 2000

AND BE IT DULY ENACTED according to law.

YUMA COUNTY BOARD OF SUPERVISORS

BY Lucy K. Hays CHAIRMAN
YUMA COUNTY BOARD OF SUPERVISORS

ATTEST

BY Wally Hill
WALLY HILL
CLERK OF THE BOARD

APPROVED AS TO FORM AND DETERMINED AS WITHIN THE SCOPE OF PERFORMANCE OF DUTY OF THE BOARD OF SUPERVISORS

YUMA COUNTY ATTORNEY

BY John Tate
DEPUTY COUNTY ATTORNEY