

REFERENCE TITLE: **rubbish; removal; penalties**

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

# **HB 2719**

Introduced by  
Representative Petersen

**AN ACT**

**AMENDING SECTIONS 9-499 AND 11-268, ARIZONA REVISED STATUTES; RELATING TO  
ILLEGAL DUMPING.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-499, Arizona Revised Statutes, is amended to read:

9-499. Removal of rubbish, trash, weeds, filth, debris and dilapidated buildings; removal by city; costs assessed; collection; priority of assessment; responsibility of payment; definitions

A. The governing body of a city or town, by ordinance, shall compel the owner, lessee or occupant of property to remove from the property and its contiguous sidewalks, streets and alleys any rubbish, trash, weeds or other accumulation of filth, debris or dilapidated buildings that constitute a hazard to public health and safety. An ordinance shall require:

1. Written notice to the owner, the owner's authorized agent or the owner's statutory agent and to the occupant or lessee. The notice shall be served either by personal service or by certified mail. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. The notice shall be given not less than thirty days before the day set for compliance and shall include the legal description of the property and the cost of such removal to the city or town if the owner, occupant or lessee does not comply. The owner shall be given not less than thirty days to comply. The city or town may record the notice in the county recorder's office in the county in which the property is located. If the notice is recorded and compliance with the notice is subsequently satisfied, the city or town shall record a release of the notice.

2. Provisions for appeal on both the notice and the assessments, unless the removal or abatement is ordered by a court.

3. That any person that recklessly places or causes to be placed any rubbish, trash, filth or debris on any property not owned or under the control of that person:

(a) Is guilty of a class 1 misdemeanor or a civil violation unless that person immediately removes or causes to be removed the rubbish, trash, filth or debris from that property. **NOTWITHSTANDING SECTION 13-707, THE PENALTY FOR A VIOLATION OF THIS SECTION MAY NOT EXCEED THE AMOUNT OF THE MAXIMUM FINE FOR A CLASS 1 MISDEMEANOR AND MAY NOT INCLUDE ANY PERIOD OF INCARCERATION.** One hundred percent of any assessed fine or civil penalty shall be deposited in the general fund of the city or town in which the fine or civil penalty was assessed. At least fifty percent of the fine or civil penalty shall be used by the city or town for the purposes of illegal dumping cleanup.

(b) In addition to any fine or penalty imposed for a violation of this section, is liable for all costs that may be assessed pursuant to

1 this section for removing, abating or enjoining the rubbish, trash, filth  
2 or debris and for all costs incurred by the owner, lessee, occupant or  
3 lienholder of the property in the removal and disposal of the rubbish,  
4 trash, filth or debris.

5 (c) If required to remove any rubbish, trash, filth or debris  
6 pursuant to this section, shall provide the city or town with a receipt  
7 from a disposal facility or other documentation evidencing lawful disposal  
8 of the rubbish, trash, filth or debris.

9 B. Any person that places or causes to be placed any rubbish,  
10 trash, filth or debris on any property that is more than forty acres in  
11 size and that is not owned or under the control of that person retains  
12 ownership of the rubbish, trash, filth or debris until the person lawfully  
13 disposes of the rubbish, trash, filth or debris.

14 C. The ordinance may provide that if any person with an interest in  
15 the property, including an owner, lienholder, lessee or occupant, after  
16 notice as required by subsection A, paragraph 1 of this section does not  
17 remove or cause to be removed the rubbish, trash, weeds, filth, debris or  
18 dilapidated buildings and abate the condition that constitutes a hazard to  
19 public health and safety, the city or town may remove, abate, enjoin or  
20 cause their removal.

21 D. The governing body of the city or town may prescribe by  
22 ordinance a procedure for the removal or abatement, and for making the  
23 actual cost of the removal or abatement, including the actual costs of any  
24 additional inspection and other incidental connected costs, an assessment  
25 on the property from which the rubbish, trash, weeds, buildings or other  
26 accumulations are removed or abated.

27 E. The ordinance may provide that the cost of removal, abatement or  
28 injunction of the rubbish, trash, weeds, filth, debris or dilapidated  
29 buildings from any property, and associated legal costs for abatement or  
30 injunctions, shall be assessed on the property from which the rubbish,  
31 trash, weeds, accumulations or dilapidated buildings are removed, abated  
32 or enjoined. THE ORDINANCE MAY NOT INCLUDE ANY PERIOD OF INCARCERATION  
33 FOR A VIOLATION OF THIS SECTION BY A PERSON WITH AN INTEREST IN THE  
34 PROPERTY. The city or town may record the assessment in the county  
35 recorder's office in the county in which the property is located,  
36 including the date and amount of the assessment, the legal description of  
37 the property and the name of the city or town imposing the assessment.  
38 Any assessment recorded after July 15, 1996 is prior and superior to all  
39 other liens, obligations, mortgages or other encumbrances, except liens  
40 for general taxes. A sale of the property to satisfy an assessment  
41 obtained under this section shall be made on judgment of foreclosure and  
42 order of sale. A city or town shall have the right to bring an action to  
43 enforce the assessment in the superior court in the county in which the  
44 property is located at any time after the recording of the assessment, but  
45 failure to enforce the assessment by such action shall not affect its

1 validity. The recorded assessment is prima facie evidence of the truth of  
2 all matters recited in the assessment and of the regularity of all  
3 proceedings before the recording of the assessment. The assessment  
4 provided for in this subsection shall not be levied against state or  
5 federal property.

6 F. Assessments that are imposed under this section run against the  
7 property until paid and are due and payable in equal annual installments  
8 as follows:

9 1. Assessments of less than ~~five hundred dollars~~ \$500 shall be paid  
10 within one year after the assessment is recorded.

11 2. Assessments of ~~five hundred dollars~~ \$500 or more but less than  
12 ~~one thousand dollars~~ \$1,000 shall be paid within two years after the  
13 assessment is recorded.

14 3. Assessments of ~~one thousand dollars~~ \$1,000 or more but less than  
15 ~~five thousand dollars~~ \$5,000 shall be paid within three years after the  
16 assessment is recorded.

17 4. Assessments of ~~five thousand dollars~~ \$5,000 or more but less  
18 than ~~ten thousand dollars~~ \$10,000 shall be paid within six years after the  
19 assessment is recorded.

20 5. Assessments of ~~ten thousand dollars~~ \$10,000 or more shall be  
21 paid within ten years after the assessment is recorded.

22 G. An assessment that is past due accrues interest at the rate  
23 prescribed by section 44-1201.

24 H. A prior assessment for the purposes provided in this section  
25 shall not be a bar to a subsequent assessment or assessments for these  
26 purposes, and any number of assessments on the same property may be  
27 enforced in the same action.

28 I. This section applies to all cities and towns organized and  
29 operating under the general law of this state, and cities and towns  
30 organized and operating under a special act or charter.

31 J. Notwithstanding subsection F of this section, for residential  
32 property of four or fewer units, a city or town may not require payment of  
33 the assessments imposed under this section by the homeowner if the  
34 property was serving as a rental and had a tenant during the time of the  
35 removal of the rubbish, trash, filth or debris.

36 K. For the purposes of this section:

37 1. "Dilapidated building" means any real property structure that is  
38 likely to burn or collapse and its condition endangers the life, health,  
39 safety or property of the public.

40 2. Owner does not include a state or federal landowner.

41 3. "Property" includes real property and structures on the real  
42 property.

1           Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to  
2 read:

3           11-268. Removal of rubbish, trash, weeds, filth, debris and  
4                   dilapidated buildings; removal by county; costs  
5                   assessed; collection; priority of lien; definitions

6           A. The board of supervisors, by ordinance, shall compel the owner,  
7 lessee or occupant of buildings, grounds or lots located in the  
8 unincorporated areas of the county to remove rubbish, trash, weeds, filth,  
9 debris or dilapidated buildings that constitute a hazard to public health  
10 and safety from buildings, grounds, lots, contiguous sidewalks, streets  
11 and alleys. Any such ordinance shall require and include:

12           1. Reasonable written notice to the owner, any lienholder, the  
13 occupant or the lessee. The notice shall be given at least thirty days  
14 before the day set for compliance and shall include the estimated cost to  
15 the county for the removal if the owner, occupant or lessee does not  
16 comply. The notice shall be either personally served or mailed by  
17 certified mail to the owner, occupant or lessee at his last known address,  
18 or the address to which the tax bill for the property was last mailed. If  
19 the owner does not reside on the property, a duplicate notice shall also  
20 be sent to the owner at the owner's last known address.

21           2. Provisions for appeal on both the notice and the assessments.

22           3. That any person, firm or corporation that recklessly places any  
23 rubbish, trash, filth or debris on any private or public property located  
24 in the unincorporated areas of the county not owned or under the control  
25 of the person, firm or corporation:

26           (a) Is guilty of a class 1 misdemeanor unless that person, firm or  
27 corporation immediately removes or causes to be removed the rubbish,  
28 trash, filth or debris from that property. **NOTWITHSTANDING SECTION**  
29 **13-707, THE PENALTY FOR A VIOLATION OF THIS SECTION MAY NOT EXCEED THE**  
30 **AMOUNT OF THE MAXIMUM FINE FOR A CLASS 1 MISDEMEANOR AND MAY NOT INCLUDE**  
31 **ANY PERIOD OF INCARCERATION.** One hundred ~~per cent~~ **PERCENT** of any assessed  
32 fine shall be deposited in the general fund of the county in which the  
33 fine was assessed. At least fifty ~~per cent~~ **PERCENT** of the fine shall be  
34 used by the county for the purposes of illegal dumping cleanup.

35           (b) In addition to the fine that is imposed for a violation of this  
36 section, is liable for all costs that may be assessed pursuant to this  
37 section for the removal of the rubbish, trash, filth or debris.

38           B. The ordinance may provide that if any person with an interest in  
39 the property, including an owner, lienholder, lessee or occupant of the  
40 buildings, grounds or lots, after notice as required by subsection A,  
41 paragraph 1 **OF THIS SECTION**, does not remove the rubbish, trash, weeds,  
42 filth, debris or dilapidated buildings and abate the condition that  
43 constitutes a hazard to public health and safety, the county, at the  
44 expense of the owner, lessee or occupant, may remove, abate, enjoin or

1 cause the removal of the rubbish, trash, weeds, filth, debris or  
2 dilapidated buildings.

3 C. The board of supervisors may prescribe by the ordinance a  
4 procedure for such removal or abatement and for making the actual cost of  
5 the removal or abatement, including the actual costs of any additional  
6 inspection and other incidental costs in connection with the removal or  
7 abatement, an assessment on the lots and tracts of land from which the  
8 rubbish, trash, weeds, filth, debris or dilapidated buildings are removed.

9 D. The ordinance may provide that the cost of removal, abatement or  
10 injunction of the rubbish, trash, weeds, filth, debris or dilapidated  
11 buildings from any lot or tract of land located in the unincorporated  
12 areas of the county and associated legal costs be assessed in the manner  
13 and form prescribed by ordinance of the county on the property from which  
14 the rubbish, trash, weeds, filth, debris or dilapidated buildings are  
15 removed, abated or enjoined. ~~THE ORDINANCE MAY NOT INCLUDE ANY PERIOD OF~~  
16 ~~INCARCERATION FOR A VIOLATION OF THIS SECTION BY A PERSON WITH AN INTEREST~~  
17 ~~IN THE PROPERTY.~~ The county shall record the assessment in the county  
18 recorder's office in the county in which the property is located,  
19 including the date and amount of the assessment and the legal description  
20 of the property. Any assessment recorded after August 6, 1999 is prior  
21 and superior to all other liens, obligations or other encumbrances, except  
22 liens for general taxes and prior recorded mortgages. A sale of the  
23 property to satisfy an assessment obtained under this section shall be  
24 made on judgment of foreclosure and order of sale. The county may bring  
25 an action to enforce the lien in the superior court in the county in which  
26 the property is located at any time after the recording of the assessment,  
27 but failure to enforce the lien by such action does not affect its  
28 validity. The recorded assessment is prima facie evidence of the truth of  
29 all matters recited in the assessment and of the regularity of all  
30 proceedings before the recording of the assessment. The assessment  
31 provided for in this subsection shall not be levied against state or  
32 federal property.

33 E. Assessments that are imposed under subsection D of this section  
34 run against the property until they are paid and are due and payable in  
35 equal annual installments as follows:

36 1. Assessments of less than ~~five hundred dollars~~ \$500 shall be paid  
37 within one year after the assessment is recorded.

38 2. Assessments of ~~five hundred dollars~~ \$500 or more but less than  
39 ~~one thousand dollars~~ \$1,000 shall be paid within two years after the  
40 assessment is recorded.

41 3. Assessments of ~~one thousand dollars~~ \$1,000 or more but less than  
42 ~~five thousand dollars~~ \$5,000 shall be paid within three years after the  
43 assessment is recorded.

1           4. Assessments of ~~five thousand dollars~~ \$5,000 or more but less  
2 than ~~ten thousand dollars~~ \$10,000 shall be paid within six years after the  
3 assessment is recorded.

4           5. Assessments of ~~ten thousand dollars~~ \$10,000 or more shall be  
5 paid within ten years after the assessment is recorded.

6           F. A prior assessment for the purposes provided in this section is  
7 not a bar to a subsequent assessment or assessments for such purposes, and  
8 any number of liens on the same lot or tract of land may be enforced in  
9 the same action.

10          G. Before the removal of a dilapidated building the board of  
11 supervisors shall consult with the state historic preservation officer to  
12 determine if the building is of historical value.

13          H. If a county removes a dilapidated building pursuant to this  
14 section, the county assessor shall adjust the valuation of the property on  
15 the property assessment tax rolls from the date of removal.

16          I. If a person, firm or corporation is required to remove any  
17 rubbish, trash, filth or debris pursuant to subsection A, paragraph 3 OF  
18 THIS SECTION, the person, firm or corporation shall provide the county  
19 with a receipt from a disposal facility to indicate that the rubbish,  
20 trash, filth or debris has been disposed of as required by law.

21          J. For the purposes of this section:

22           1. "Dilapidated building" means any real property structure that is  
23 likely to burn or collapse and its condition endangers the life, health,  
24 safety or property of the public.

25           2. Occupant does not include any corporation or association  
26 operating or maintaining rights-of-way for and on behalf of the United  
27 States government, either under contract or under federal law.

28           3. Owner does not include a state or federal landowner.