

ARTICLE 9-1: PROPERTY MAINTENANCE STANDARDS

Section

- 9-1-1 Findings, application and intent
- 9-1-2 Definitions
- 9-1-3 Public nuisances prohibited
- 9-1-4 Enforcement and abatement
- 9-1-5 Cargo containers

§ 9-1-1 FINDINGS, APPLICATION AND INTENT.

(A) The purpose of this article is to protect the public health, safety, morals, and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises; to establish minimum standards governing structures and other physical components and conditions essential to make structures fit for human habitation, occupancy and use; to identify certain responsibilities and duties of owners, occupants and operators; to authorize and establish enforcement and abatement procedures; to set penalties for violations of this code; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.

(B) This article, adopted under the authority of A.R.S. § 9-240(B)(21), § 9-276(16) and (19) and § 9-499, shall apply to all buildings, structures and lands within the city without regard to the use, date of construction, improvement or alteration.

(C) *Conflict of ordinances.*

(1) In any case where a provision of this chapter is found to be in conflict with a provision of any city zoning, building, fire, safety or health ordinance or code existing on the effective date of this chapter, the provision of the city zoning, building, fire, safety or health ordinance or code shall prevail.

(2) Nothing in this chapter shall be construed to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter

(Ord. 1255, passed 1-3-2006; Am. Ord. 1467, passed 12-4-2018)

§ 9-1-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. A vehicle, motor home, trailer or semi-trailer that is of a type subject to registration in the state, whether lost, stolen, abandoned or otherwise unclaimed, and that has been abandoned on a public highway, public property or private property. Evidence that a vehicle was left unattended for a period of 48 hours within the right-of-way of any highway, road, street or other public thoroughfare, or for a period of 72 hours on public property or private property, is prima facie evidence of abandonment.

ANIMAL WASTE. Household pet waste and waste from stables, kennels, pet pens, chicken coops, veterinary establishments and others of a similar nature.

APPROVED. Acceptable to the Code Official.

BLIGHT or BLIGHTED. Unsightly conditions of a building, structure, accessory building, fence, landscaping or property characterized by neglect, lack of maintenance, damage or any other similar conditions of disrepair or deterioration, unsanitary or unsafe conditions, or the existence of conditions that endanger life or property by fire and other causes. Examples include, but are not limited to: the accumulation of debris, wood, scrap iron or other metal, boxes, paper, vehicle parts, tires, inoperable equipment or vehicles, discarded appliances; or any items that may harbor insect or vermin infestation or create a fire hazard; landscaping that is overgrown, dead or damaged; weeds; fences that are broken, rotted, damaged or leaning; or buildings or structures exhibiting general disrepair or dilapidation, including but not limited to, deteriorated shingles, peeling paint, broken doors or windows, boarded-over windows, or any other evidence of neglect or lack of maintenance; and the exterior visible use or display of tarps, plastic sheeting, or other similar materials as weather protection for roofs or structures, or as, flexible or inflexible screening, fencing, or wall covering upon any parcels within the city regardless of the condition of other properties in the neighborhood.

BOARDINGHOUSE. A single-family, detached or attached dwelling unit in which any of the rooms are rented or leased to persons on a transient or temporary basis, but which does not include group homes, dormitories, convalescent homes, nursing homes, substance abuse detoxification centers or substance abuse treatment centers.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter and enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings or vehicles situated on private property and used for purposes of a building.

BUILDING CODE. The construction codes that were in force at time of building construction, including plumbing and mechanical codes, electric codes, residential construction codes, energyconservation codes and existing building

construction codes, and includes any property maintenance codes, neighborhood preservation codes, anti-blight codes or other similar codes, however denominated. With respect to manufactured homes, as defined in A.R.S. § 41-4001, **BUILDING CODE** means the federal construction codes applicable to manufactured homes constructed after June 15, 1976, and the Arizona codes applicable to mobile homes constructed before that date.

BUILDING, ENCLOSED. A building with a perimeter composed of rigid walls and a roof.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

DEBRIS, TRASH, LITTER. Substance or material of little or no apparent value, aesthetic or economic, including but not limited to: broken glass, broken concrete, broken plaster or gypsum board, scrap lumber, siding or roofing material, ceiling tile or floor covering material, broken asphalt materials, clay, tile or plastic pipe or any similar discarded scrap building or construction materials, scrap metal of all types, appliances or parts thereof, parts of motor vehicles, tires, glass, wood or lumber, indoor furniture and mattresses, bedding, boxes, crates, packing cases, cabinets, household fixtures, plumbing fixtures, including but not limited to, toilets, or any other plumbing material, abandoned, broken or neglected equipment, or the scattered remains of items, shopping carts on residential zoned property, any solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, weeds, cigarettes, cardboard, metal or plastic cans, yard clippings, leaves, tree trimmings, or any material in which insects may breed or multiply or which provides harborage for rodents, reptiles or vermin, or which would contribute to the spread of fire or prevent its rapid control.

DETERIORATION or DISREPAIR. A decline of the general condition or appearance of a building, structure, or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect, or lack of maintenance.

DEVELOPED PROPERTY. Property that has been modified purposefully from its original state, resulting in a condition of gainful or productive use.

DRIVEWAY. An unobstructed paved area, or compliantly dustproofed area per §9-1-3(B)(9)(a), that directly connects a public or private street with vehicle parking, loading or maneuvering areas. For residential properties, a **DRIVEWAY** connects from a street to a garage, carport, or other properly maintained and compliant parking area.

DUMPING. Unlawful placement of debris, trash, litter, waste matter, rubbish or garbage upon any private or public property.

EXTERIOR INSPECTION. The visual inspection of any portion of a residential dwelling unit that can be seen from a public street or other right-of-way, or that can be seen from an adjacent property if a complaint or consent to enter is received from the adjacent property owner, lawful resident or lawful tenant.

FENCE, MATERIALS PROHIBITED. Includes: rope; string; wire products, including but not limited to, chicken wire, wire fabric, and similar welded or woven wire fabrics; chain; netting; dangerous cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence or any other materials that are not manufactured specifically as fencing materials. The Director may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

FENCE, SCREEN WALL, and/or RETAINING WALL. Freestanding, self-supporting structures constructed of durable, decay- and moisture-resistant wood, chain link, metal, masonry, or other opaque standard fencing materials, maintained where vertical structural members do not list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall through the middle 1/3 of the base, designed for decorative purposes or to provide privacy, security, screening, or bank retention between grade separations.

GARBAGE. An accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition, and its waste wrappers or containers.

GRASS. Barnyard grass, bermuda grass, bluegrass, brome, crab grass, foxtail, Johnson grass ragweed, rye grass, wild oats, or hybrids thereof.

HABITABLE ROOM/SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered **HABITABLE SPACE**.

HAZARD. Any source of potential damage, harm or adverse health effects on something or someone.

IMMINENT DANGER. Any condition that could cause serious or life-threatening injury or death at any time.

IMPROVED PROPERTY. Parcels on which buildings or other structures are legally located.

INFESTATION. The presence, within or contiguous to, a structure or premises of damaging or unhealthful insects, rodents, reptiles or pests. Insect, rodent, reptile or pest droppings indicate a presence.

INOPERABLE VEHICLE. Any vehicle that is physically incapable of its intended operation and is partially or wholly dismantled, discarded, wrecked, on blocks or on similar devices, stripped or scrapped; or a vehicle with missing or deflated tires or missing wheels; or any vehicle that is inoperable due to mechanical failure or mechanical disability; or any vehicle

that is missing a legally assigned license plate or that has an expired registration sticker, or one that does not have a current registration legally issued by any state.

INSPECTION WARRANT. An order, in writing, signed by a judge of a court of competent jurisdiction, directed to a state, county or local official, authorizing entry onto private property to inspect for violations of the city code or other relevant laws and regulations.

INTERIOR INSPECTION. A physical or visual inspection of the interior of a residential rental dwelling unit, and other portions of a residential rental dwelling unit that are not visible from a public street, right-of-way or neighboring property that is made for the purpose of discovering or confirming building code violations.

JUDGE. A city municipal court judge or other judicial officer authorized to issue inspection and abatement warrants.

JUNK VEHICLE. A vehicle that is in such a state of deterioration that it cannot be profitably dismantled or salvaged for parts and cannot be profitably restored (A.R.S § 28-4881).

LAND. All parcels within the exterior boundaries of the city limits, whether developed, improved, undeveloped or unimproved.

LANDSCAPING. The placement of trees, shrubs, vegetative and organic or inorganic materials, including gravel, cinders, rock and bark materials.

LAWFUL TENANT. In regards to a residential rental dwelling unit, a renter or occupant that has a signed lease agreement with an owner of record, agent or property manager and is not currently in arrears for rent payments. A tenant can sign an affidavit on a form produced by the Building and Safety Manager, or provide a signed copy of the lease, and a declaration by the owner of record, agent or property manager that they are current on monthly rent.

MAJOR BODY REPAIR. The removal and replacement of body panels, straightening of frame, replacement of more than one hinged appurtenance (hood, door, trunk, and the like), bondo, fiberglass, and the like, or dent repair exceeding 23% of surface area, replacement of roof.

MINOR BODY REPAIR. Bondo, fiberglass, and the like, and dent repair not exceeding 25% of surface area; replacing glass, windows; replacing a bumper and installation of appurtenances like mirrors, tailgates, and the like.

MANAGING AGENT. A person, corporation, partnership or limited liability company that is authorized by the owner to operate and manage the property.

MAJOR VEHICLE REPAIRS. The pulling of an engine block, repair or replacement of a transmission and front and rear axles, major body repair, dismantling, and similar work associated with automobiles, boats or other motorized or nonmotorized vehicle repair.

MINOR VEHICLE REPAIRS. Routine maintenance such as changing oil and tires; replacement of water pump, alternator, brakes, shocks, oil and air filters, and spark plugs; minor body repairs and similar work associated with automobiles, boats or other motorized or nonmotorized vehicle repair.

MOTOR HOME. A motor vehicle that is designed as temporary living quarters and that:

- (1) Is built onto as an integral part of, or is permanently attached to, a motor vehicle chassis;
- (2) Contains at least 4 of the following independent, life-support systems if each is permanently installed, operable and designed to be removed only for purposes of repair or replacement:
 - (a) A cooking facility with an onboard fuel source;
 - (b) A gas or electric refrigerator;
 - (c) A toilet with exterior evacuation;
 - (d) A heating or air conditioning system, with an onboard power or fuel source separate from the vehicle engine;
 - (e) A potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection;
 - (f) A 110-125 volt electric power supply.

MUNICIPAL COURT. The City of Apache Junction Municipal Court.

OCCUPANT or **TENANT.** Any person who occupies the whole or any part of such building or land, whether alone or with others.

OWNER. A person, persons or legal entity listed as titleholder for parcels of land in the official records of the Pinal or Maricopa County Recorder's Office, or any person or entity with any ownership or possessory or beneficiary right or interest, including deed holders, mortgagees, lessees and other tenants, residents, and any agent of any of same.

PERSON. A human being, individual, enterprise, corporation, trust, association, partnership, firm or society.

PLANT GROWTH. Vegetation of any and all kinds, whether living or dead.

POLLUTED. A condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, debris, garbage, or any other foreign matter that, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition.

POTENTIAL HAZARD. A condition that can cause an unreasonable risk of death or serious personal injury or serious damage to property, and that can become an imminent hazard if further deterioration occurs.

PRIVATE PREMISES. Any parcel of land, developed or undeveloped, or any dwelling, house, building or other structure, designed or used, either wholly or in part, for residential or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

PRIVATE PROPERTY. Land owned by any person other than the United States, the State of Arizona, a county, a city, a school district or a special district.

PROPERTY. Includes buildings, grounds, lots and tracts of land.

PUBLIC PLACE or PUBLIC RIGHT-OF-WAY. Any street, sidewalk, easement, boulevard, alley or other public way, and any public park, square, space, ground or building.

PUBLIC NUISANCE. To be injurious to health, indecent, offensive to the senses or an obstruction to the free use of property that interferes with the comfortable enjoyment of life or property by an entire community a neighborhood, or by a considerable number of persons.

RESIDENTIAL DWELLING UNIT. A building or structure or part of a building or structure that is used for a home or residence by 1 or more persons who maintain a household. It also means a mobile/manufactured home, regardless of ownership of the land.

RESIDENTIAL RENTAL DWELLING UNIT. A dwelling unit leased or rented to 1 or more tenants. A dwelling unit that is occupied in part by the owner of the dwelling unit is not a **RESIDENTIAL RENTAL DWELLING UNIT**, unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, a bathroom and a separate entrance, unless otherwise provided in the city's zoning ordinance. **RESIDENTIAL RENTAL DWELLING UNIT** does not include an owner-occupied, mobile/manufactured home in a mobile/manufactured home park that is not owned by the landlord of the mobile home park.

RESPONSIBLE PERSON. An owner, occupant, tenant, renter, lessor, lessee, manager, agent, lienholder or any fiduciary or person with power of attorney, or other person who is occupying or having charge, possession or control of the premises, or has the authority and ability to act on behalf of, or in the interest of, the owner. When property is held in common by more than 1 owner, each owner is a **RESPONSIBLE PERSON**, even when a homeowners' association has been formed to manage and maintain such commonly-owned property. Such a homeowners' association shall also be a **RESPONSIBLE PERSON**.

SECURING. The action deemed necessary by the Building Official or designee to protect the general safety and welfare of occupants and public, and shall include the use of materials with sufficient strength and structural value installed in a manner that restricts or prohibits access.

SLUM AREA. An area in which the public health, safety or welfare is threatened because of any of the following:

- (1) Dilapidated, deteriorated, aging or obsolescent buildings or improvements;
- (2) The inadequate provision for ventilation, light, air, sanitation or open spaces;
- (3) Overcrowding; and
- (4) The existence of conditions that endanger life or property by fire and other causes.

SOUND CONDITION. Free from decay or defects and capable of performing the task for which it was designed and in the manner it was intended.

STORED. Parking, leaving, locating, keeping, maintaining, depositing, remaining or being physically present on private property.

STREET or HIGHWAY. A right-of-way within which improvements are constructed for the conveyance of vehicular and pedestrian traffic, and includes highways, streets, roads and alleys, including the entire width.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act that was prohibited, or failed to do an act that the defendant was legally required to do.

STRUCTURE. Includes any building or improvement constructed or placed on land, or built or constructed on a portion thereof. Any piece of work artificially built up or composed of parts joined together in some definite manner.

STRUCTURE UNFIT FOR HUMAN OCCUPANCY. A building improvement, dwelling unit or premises that has conditions that are dangerous or injurious to the health or safety of its occupants or to the occupants of neighboring dwellings, or to residents of the city, including defects increasing the risk of fire or accident, inadequate ventilation, light, potable water or sanitary facilities, dilapidation, disrepair, structural defects, uncleanliness, overcrowding, inadequate drainage, lacking

operating utility service or other essential equipment, or infested with vermin.

TRASH. All non-putrescible wastes consisting of both combustible and noncombustible, solid waste material, excluding ashes.

UNCONTROLLED VEGETATION. Plants, trees, shrubs, grass, and the like, allowed to grow unattended, or containing a mixture of weeds and other plant materials, all of which includes trees, shrubs, weeds, grass, as well as other vegetation that grows unattended along fence lines and walls.

UNDEVELOPED PROPERTY. Vacant land with no lawfully approved use.

UNSAFE EQUIPMENT. Includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other mechanical, plumbing or electrical equipment on the premises or within the structure that is in such disrepair or condition that it is a hazard to life, health, property or a risk to the public or occupants of the premises or structure.

UNSAFE STRUCTURE. A structure found to be dangerous to the life, health, property or safety of its occupants or the public by not providing minimum safeguards to protect or warn occupants, in the event of fire, or because it contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

UNSHELTERED. Any area on a premise located outside a garage or structure in such a manner as to be visible to a person standing upon any public street, sidewalk or at ground level upon any adjoining piece of property.

UTILITY SERVICE. Those services required for plumbing and electrical systems, heating and cooling systems, ventilation systems, fixtures and appliances to properly operate, including water service, sewer service, electric service and gas service.

UTILITY TRAILER. A vehicle designed to be pulled by a motor vehicle, and which is used to carry property, trash or special equipment. Boat trailers and homemade trailers are included as **UTILITY TRAILERS**.

VEHICLE. Every device by which any person or property is or may be transported or drawn upon a street or highway; including but not limited to, automobiles, motor homes, travel trailers, utility trailers or watercraft, but excluding devices moved by human power or used exclusively upon stationary rails or tracks.

WEEDS. Bull thistle, cocklebur, foxtail, horseweed, lambsquarters, London rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sowthistle, white hosenettle, willow weed, and those types of plant growth defined as noxious weeds in A.R.S. § 3-201, regardless of whether a particular property owner or occupant who is the subject of enforcement action under this code regards the growth as desirable.

(Ord. 1255, passed 1-3-2006; Am. Ord. 1467, passed 12-4-2018)

§ 9-1-3 PUBLIC NUISANCES PROHIBITED.

The following acts, omissions, conditions, and things in or upon any land or structure in the city constitute public nuisances, the existence of which are hereby prohibited and declared to be unlawful, and are enforceable and punishable as set forth below.

(A) *Exterior property and premises.*

(1) (a) Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The responsible person shall keep that part of the exterior property that such responsible person occupies or controls in a clean and sanitary condition. Exterior property and premises shall be free from any accumulation of debris, trash, litter, garbage or junk vehicles.

(b) Garbage shall only be stored in approved receptacles designed to prevent leakage, designed to prevent access from animals, rodents and insects, and designed to be washable. Bagged or loose garbage shall not be stored for more than 24 hours outside of an enclosed building or an approved receptacle. Date-stamped photos shall be prima facie evidence of garbage stored in violation of this section.

(c) No person shall deposit or cause to be deposited, store or maintain any debris, trash or litter, on any land within the city, unless stored safely within a lawful, enclosed building or structure, or within a trash receptacle in such a manner as to not be visible from the public right-of-way or a neighboring property, except as authorized by the city or for collection under this chapter.

(d) It is unlawful for any person to place any garbage, debris, trash or litter upon any private or public property not owned or under the control of that person. In addition to any civil penalty or criminal fine that may be imposed for violation of any provision of this section, that person shall be liable for all costs that may be assessed pursuant to this article for the removal of the garbage, debris, trash or litter.

(e) Nothing in this section shall prohibit the outside storage of materials specifically permitted under the zoning code, and arranged in accordance with the provisions of and covered under a permit issued in accordance with the permit requirements of the city code. Exterior storage of materials for work that does not require a permit is limited to 60 calendar days. Dated photos of such storage are prima facie evidence for enforcement purposes.

(2) No person shall deposit in or allow to be deposited, sweep upon, or permit to drain into any public right-of-way, natural terrain feature, river bed or wash, or any public place of the city, any garbage, debris, trash or litter, obstruction, or similar matter or any hazardous material offensive to sight or smell or that impedes passage or is detrimental to public health, except when authorized by the city.

(3) It is unlawful to store, keep or maintain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person, and in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other appliance or container with an airtight door or lid, snaplock or other locking device that may not be released from the inside, without first removing the door or lid, snaplock or other locking device from the icebox, refrigerator or container. This division shall not apply to appliances used for animal or livestock purposes, with a latch or lock on the outside requiring a key or combination access.

(4) (a) It is unlawful for any business, corporation, firm or person to fail to provide approved litter or trash receptacles for the containment of litter and trash generated within or upon their premises, or to allow litter or trash from approved receptacles to become windblown and be disbursed about the area.

(b) It is unlawful for any property owner, agent or contractor to cause, maintain, permit or allow to be caused, maintained or permitted any accumulation of any litter or debris on any construction or demolition site, before, during or after completion of the project, to become windblown and carried from the site, or deposited upon any alley, street, public place or private property.

(5) It is unlawful to allow the accumulation of putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, animal or human excreta, sewage, or other offensive substances; provided that nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner approved by the Pinal or Maricopa County Health Officer or other ordinances of this city.

(B) *Vehicles.*

(1) Except as provided for in other regulations, no inoperable vehicle or junk vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. This applies to all residential districts, and MHP, RVP, MPC and PI districts.

(2) Performance of minor vehicle repairs is not prohibited within residential districts, except where not allowed under covenants, conditions and restrictions "CC&R," homeowners' association "HOA" rules, or by the owner or management of a multifamily property.

(3) Major vehicle repairs shall be conducted inside a garage or an approved structure.

(4) (a) All vehicle repairs performed must be customary and incidental to the principal use of the property.

(b) Any vehicle undergoing repair must be titled to the owner or occupant of the property.

(c) Only 1 vehicle may be undergoing repair at 1 time.

(d) Vehicle repairs shall not exceed 10 calendar days, unless performed inside a garage or other approved structure.

(e) The painting of vehicles or other parts thereof in any residentially zoned district is prohibited, unless performed inside a legally permitted and inspected spray booth.

(f) While conducting vehicle repairs, it is the property owner's responsibility to ensure that any and all fluids are not discharged into the stormwater drainage system or soil.

(5) It shall be unlawful for any person to display any vehicle or boat for sale, rent or lease on undeveloped property, and no owner or occupant of undeveloped property shall allow or permit such displays.

(6) The display of 1 vehicle or boat for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, and is not being sold in connection with an automobile sales business. No more than 3 vehicles or boats may be displayed for sale at the same residence within a 12-month period, and only 1 vehicle or boat shall be displayed for sale at 1 time.

(7) For all developments other than residential buildings with 4 or fewer units, affected surfaces subject to the dustproofing requirement include any areas utilized for parking, maneuvering or ingress and egress of on- or off-road vehicles. Access lanes and working surfaces for vehicles shall qualify as affected surfaces. All parking, maneuvering, ingress and egress areas at developments other than residential buildings with 4 or fewer units must be maintained with 1 or more of the following permanent dustproof paving methods:

(a) Paving with asphaltic concrete;

(b) Paving with Portland cement-based concrete;

(c) Surfacing with a penetrating asphalt and a gravel surface known as chip sealing;

(d) Surfacing with, and uniformly maintaining a 2-inch-deep layer of rock having a nominal size of 1/4-inch or larger;

(e) Surfacing with a 2-inch-deep layer of recycled asphalt;

(f) Surfacing with any other dustproof paving treatment method that has been approved by the Development Services Director or his or her designee.

(8) Undisturbed surfaces at developments other than residential buildings with 4 or fewer units shall be exempt from the dustproofing requirements of this section, but only if those undisturbed surfaces are fenced or otherwise clearly delineated from affected surfaces by means of a fence or other physical barrier. Delineated, long-term storage stalls, where a vehicle, trailer or other item is stored and not normally removed and replaced more than once in a 60-day period, shall also be considered undisturbed surfaces.

(9) Any dustproofing shall be maintained in a manner that prevents visible track-out.

(10) (a) For any residential property with 4 or fewer units, affected surfaces subject to the stabilization requirement include any areas in a front yard utilized for parking, maneuvering or ingress of on- and off-road vehicles. All parking, maneuvering, ingress and egress areas that are 3,000 square feet or more in size, at residential buildings with 4 or fewer units, must be stabilized with 1 or more of the following methods:

1. Paving with asphaltic concrete;
2. Paving with Portland cement-based concrete;
3. Surfacing with a penetrating asphalt and a gravel surface commonly known as chip sealing;
4. Surfacing with, and uniformly maintaining a 2-inch-deep layer of rock having a nominal size of 1/4-inch or larger;
5. Surfacing with a 2-inch-deep layer of recycled asphalt; or

6. Surfacing with any other surface treatment that has approved by the Development Services Director or his or her designee.

(b) Any stabilization shall be maintained in a manner that prevents visible track-out over 10 feet in length.

(c) Undisturbed surfaces at a residential property with 4 or fewer units shall be exempt from the stabilization requirements of this section, but only if those undisturbed surfaces are fenced or otherwise clearly delineated from affected surfaces by means of a fence or other physical barrier. Even if not physically delineated, long-term storage stalls where a vehicle, trailer or other item is stored and not normally removed and replaced more than once in a 30-calendar-day period shall also be considered undisturbed surfaces. Access lanes to such long-term storage stalls shall similarly qualify as undisturbed surfaces.

(11) Vehicle parking shall not be allowed on an unpaved, unstabilized, and/or undeveloped lot. For purposes of this limitation, adjoining, commonly-owned parcels shall be deemed a single lot.

(C) *Land maintenance and weeds.*

(1) (a) All persons owning or occupying land or places of business within the city shall keep the sidewalk or public places fronting or bordering their property free of weeds or grass in excess of 10 inches, or when such conditions create a blighting condition.

(b) Any landscaping, visible from public property or from beyond the lot boundaries, that is dead, damaged or characterized by uncontrolled vegetation, or presents a deteriorated or slumlike appearance, is uncared for and any weeds, tall grass, shrubs or growth (whether growing or otherwise) higher than 10 inches, or any dead trees, bushes, shrubs or portions thereof, including stumps, or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than 8 feet, or dry fronds longer than 5 feet and closer than 8 feet to the ground, shall be removed and disposed of in a lawful manner.

(2) No owner or occupant of land shall allow or permit trees, shrubs, or plant growth on that land to impede, obstruct, or interfere with vehicular or pedestrian passage on any street, sidewalk or alley within the city, or allow such overgrowth to interfere with the visibility of passing traffic or obstruct traffic control devices or signals.

(3) No owner or occupant of land within the city shall allow plant growth that is dead, or so dry as to be readily flammable or combustible on such land that may constitute a fire hazard or other threat to the public health or safety.

(4) No person shall offer to sell, sell or plant any male mulberry tree (*morus alba*) or olive tree (*olea europea*) in the city unless it is one of the nonpollinating varieties of such trees.

(D) *Exterior building, structures and signage.*

(1) It shall be unlawful for an owner or occupant to fail to properly maintain, repair or replace the exposed exterior surfaces of a building or structure, including siding, stucco, brick, stone, wood, exterior windows, doors, canopies, metal awnings, roofs, exhaust ducts, chimneys, painted surfaces, window screening, fences, retaining walls, foundations, cooling devices, outdoor stairs, porches and railings as visible from the adjacent public place, public right(s)-of-way or neighboring property. In addition, all premises shall be structurally sound and impervious to moisture and weather elements.

(a) Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(b) Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition

and good repair.

(c) Every handrail and guard shall be firmly fastened and capable of supporting normally a imposed loads, and shall be maintained in good condition.

(2) (a) All buildings, structures, accessory structures, detached garages, fences, walls and storage structures shall be maintained in a structurally sound condition, free from blight and in good repair, and must not be erected, altered or occupied contrary to applicable law. Sleeping or living in an accessory structure, which is not a legal accessory dwelling unit or residential addition, is contrary to applicable law.

(b) Upon issuance of a stop work order, no person shall continue any work on any building, structure, accessory structure, detached garage, fence, wall or storage structure erected, altered or occupied contrary to applicable law.

(c) No person shall cause, allow, leave or permit to be, or remain in or upon any private lot, building, structure or property any insect, bee, wasp, pigeon, rat, rodent or any vector or vermin infestation of any kind. All premises shall be kept free from the presence or apparent evidence of insects and rodent infestation, other noxious pests, nesting places and any other unsightly or unsanitary condition that could harbor insects, rodents or other vector or vermin.

(d) No person shall cause, allow or permit any condition or place in populous areas that constitutes a breeding place for flies, rodents, mosquitoes and other insects that are capable of carrying and transmitting disease-causing organisms to any person or persons, or any condition or place that constitutes a feral colony of honeybees that is not currently maintained by a beekeeper, and that poses a health or safety hazard to the public.

(3) It is unlawful for any person to erect or maintain within the city any fence that is, or may be, dangerous to persons, children or animals due to its design, construction, materials, maintenance or placement.

(4) It shall be unlawful to allow any swimming pool or similar body of water to stagnate, or, to be left untreated, allowing for the growth algae, and thereby become polluted or offensive to the senses and unsafe for its intended use. No person shall allow any swimming pool, architectural pool, pond or spa to remain or be maintained in a condition that may breed insects or result in insect or other infestations; become polluted or stagnant; or create a blighting condition.

(a) No person shall permit or cause the discharge of water from any swimming pool, architectural pool or spa into any public street, alleyway, rights-of-way or any abutting or adjacent public or private property.

(b) 1. Private swimming pools, hot tubs and spas, containing water more than 18 inches (457 mm) in depth shall be completely surrounded by a fence or barrier, not less than 60 inches (1,524 mm) in height above the finished ground level, measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

2. Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

(5) No person shall attach or place signs on any right-of-way, alleyway, or to any public or private utility pole or structure, streetlight, traffic control device, tree, fence, fire hydrant, fire escape, building access ladder, bridge, curb, sidewalk, park bench or other location on public property, except for official government signs, signs for city-sponsored events and signs permitted by state law.

(6) Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height, with a minimum stroke width of 0.5 inch (12.7 mm).

(E) *Vacant buildings and land.*

(1) All vacant or abandoned buildings, structures or portions thereof, shall be secured at all points of ingress and egress and maintained against unauthorized entry at all times. Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building in violation of this chapter and in any provision under Vol. I, Chapter 7, and any vacated or abandoned building not securely closed at all times, shall be secured. Any wood, metal or other material used for securing a vacated or abandoned building must be the same color as the building.

(2) Any vacant lot or land, which has been used for dumping on more than 2 occasions within a 24-month consecutive period, shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands may include any of the following: permanent fencing; ditch and berm; placement of 4-foot-high barrier posts at 4-foot intervals; and other equally effective methods. Signs stating "No Dumping" shall be erected in accordance with the same state laws relating to "No Trespassing" signage. The required signage must be a minimum of 12 by 18 inches in size, with two 3-inch lettering mounted on durable-grade vinyl, aluminum, fiberglass or similar substrate. The signage must be mounted on a steel support post, a minimum of 1½ inches in diameter, and placed a minimum of 18 inches in the ground. Metal fasteners must be used to anchor the signage to the support post.

(3) It is unlawful to maintain any privy, vault, cesspool, septic system, sump, pit, private drain, or like place or thing that is not securely protected from insects or rodents, or that is foul, malodorous, nauseous or offensive to the senses.

(F) *Individual property inspections.*

(1) For individual residential rental properties, the city may conduct interior inspections if an exterior inspection of the property reveals, or if the property is found to have any of the following:

- (a) Conditions that materially affect the health and safety of the occupants as prescribed by §9-1-3(G).
- (b) A significant level of crime associated with the property.
- (c) A documented history of building code violations.
- (d) The owner repeatedly fails to comply with building code enforcement requirements imposed by the city.
- (e) There is probable cause that the residential rental property is not in compliance with the city's building code.
- (f) A complaint is received from a lawful tenant or consent for inspection is given by the owner of record, agent or property manager, a lawful resident or a lawful tenant of the residential rental unit.

(2) If the city determines, pursuant to division (G) of this section, that an interior inspection is reasonably necessary and the property's tenant has vacated the premises, the city may require an additional inspection and approval by the city before a new occupancy is permitted.

(3) Before entry, the city shall receive consent of the owner of record or a lawful tenant, or on issuance of a warrant. A **LAWFUL TENANT** is a tenant that presents an executed lease and is not late in the paying of rent.

(G) *Residential rental dwelling unit conditions.* For the purposes of this chapter, a condition that materially affects the health and safety of the occupants of a residential rental dwelling unit includes any of the following conditions.

(1) Inadequate sanitation, ventilation or space requirements, including the following:

- (a) Lack of or inadequate water closets, lavatories, bathtubs or showers.
- (b) Lack of a required kitchen sink or a kitchen sink that does not comply with the building code of the city or town in which the property is located.
- (c) Lack of hot and cold running water to plumbing fixtures.
- (d) Lack of adequate heating and cooling.
- (e) Lack of or improper operation of required ventilating equipment, or broken or missing windows or doors that create a hazardous condition or a potential attraction to trespassers.
- (f) Lack of minimum amounts of natural light and ventilation as required by the building code.
- (g) Inadequate room and space dimensions as required by the building code.
- (h) Lack of adequate electricity and lighting as required by the building code.
- (i) Infestation of insects, vermin or rodents.
- (j) Lack of connection to a sewage disposal system as required by the building code.
- (k) Lack of adequate garbage and rubbish storage and removal facilities.

(2) Structural hazards, including the following:

- (a) Significantly deteriorated or inadequate foundations, or foundation areas that are not provided with adequate drainage.
- (b) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (c) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (d) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that significantly sag, split or buckle due to defective material or deterioration.
- (e) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration, or that are of insufficient size or strength to safely carry imposed loads.

(3) Hazardous wiring that does not conform with the building code, or that has not been maintained in good condition, or both, and that is not being used in a safe manner.

(4) Hazardous plumbing that does not conform with the building code, or that has not been maintained in good condition, or both, and that is not free of cross-connections and siphonage between fixtures.

(5) Hazardous mechanical equipment, including vents that do not conform with the building code, or that have not been maintained in good and safe condition and that are not working properly.

(6) Faulty weather protection that may include:

- (a) Significantly deteriorated, crumbling or loose plaster.
- (b) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors. Use of tarps or other unapproved materials for more than 30 calendar days.
- (c) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
- (d) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- (7) Fire hazards or inadequate fire protection, including:
 - (a) Any building or portion of a building or any device, apparatus, equipment, combustible waste or vegetation that is not in compliance with the building code, and that is in such a condition as to cause a fire or explosion, or to provide a ready fuel to augment the spread and intensity of a fire or explosion arising from any cause.
 - (b) Any building or portion of a building that is not provided with fire-resistive construction or fire-extinguishing systems or equipment required by the building code, except those buildings or portions of buildings that conform with all applicable building code laws, and that have fire-resistive integrity and fire-extinguishing systems or equipment that has been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
 - (c) Lack of adequate fire-detection systems as required by law.
- (8) Faulty materials or construction that is not specifically allowed or approved by the building code, or that has not been adequately maintained in good and safe condition.
- (9) Hazardous or unsanitary premises, including those premises on which an accumulation of weeds, vegetation, refuse, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions constitute fire, health or safety hazards.
- (10) Inadequate maintenance, including any building or portion of a building that is determined to be an unsafe building in accordance with the building code.
- (11) Unhealthy conditions, including any condition as defined in the building code that results in the failure to maintain minimum standards of sanitation, health or safety, or that renders air, food or drink unwholesome or detrimental to health.
- (12) Inadequate exits, including all buildings or portions of a building that are not provided with adequate exit facilities as required by the building code, and that have not been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
- (13) Improper occupancy, including all buildings or portions of a building that are occupied for living, sleeping, cooking or dining purposes and that were not designed and permitted to be used for such occupancies, or that are occupied in excess of the maximum occupancy load allowed by any applicable provision of the building code or state law.

(Ord. 1255, passed 1-3-2006; Am. Ord. 1316, passed 2-19-2008; Am. Ord. 1467, passed 12-4-2018) Penalty, see Vol. I, § 9-1-4

§ 9-1-4 ENFORCEMENT AND ABATEMENT.

(A) *Introduction.* The goal of this section is to seek voluntary compliance. Code Compliance Officers are empowered to use their discretion in working with residents to become compliant. Identification of violations may arise through citizen complaints, anonymous complaints or proactive observations. Verbal warnings or door hangers are strongly encouraged before any formal warnings are issued. The city has the option to pursue compliance administratively by civil/criminal citation or complaints resulting in mandatory fines and other consequences, through court intervention, and may collect any administrative costs associated with abatement procedures through liens and possible foreclosure, and civil collection actions.

(B) *Pre-civil/criminal citation/complaint; notice of violation.*

(1) If, after an inspection and after informal attempts have failed to encourage compliance with this article, the city shall serve the owner, owner's statutory or authorized agent, occupant, lessee or person in control of the property with a notice of violation. Such notice shall contain the following:

- (a) Legal identification of property;
- (b) Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
- (c) The expected compliance deadline of at least 10 calendar days from the date of the notice, unless otherwise stated;
- (d) A reinspection date;
- (e) Physical address, email address and telephone number of a city representative to contact;
- (f) A warning that failure to comply may result in the filing of a civil or criminal misdemeanor case, depending on

whether this violation is the first, second, third or fourth violation over a 24- consecutive-month period; and

(g) A warning that failure to comply may also result in an administrative or court-ordered abatement action by the city, for which the owner or responsible person will be financially liable through a lien process that may include foreclosure of the property.

(2) Any notice issued under this article shall be deemed effective on the date when written notice is hand-delivered or mailed certified, return receipt requested, to the individuals referenced above. If the notice is returned showing that the letter could not be delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by the notice. Any recorded notice shall run with the land, and shall constitute legal notice for all purposes of this article to all parties and entities thereafter acquiring an interest in the property. Officers may use their discretion in granting extensions for compliance with the code, depending on the violators' efforts to date and financial ability to comply.

(C) *Civil/criminal citations and complaints.*

(1) If the owner or other responsible party fails to comply with the notice of violation, a civil/criminal action to enforce the provision of this article may be commenced and a summons shall be issued in accordance with the procedures set forth in the Arizona Revised Statutes and applicable city ordinances. Jurisdiction of proceedings in this article shall be in the municipal court of the city.

(2) The City Manager, or his or her designee, shall be responsible for filing civil and criminal citations with the municipal court with the following minimum penalties:

(a) First offense during a 24-consecutive-month period: civil penalty of \$350;

(b) Second offense during a 24- consecutive-month period: civil penalty of \$600;

(c) Third offense and subsequent offenses within 24 months of first offense: criminal fine of \$1,000, and other criminal penalties as a result of a class 1 misdemeanor conviction.

(3) The 24-month period shall be calculated from the dates the violations are committed. The owner or responsible party shall receive the progressively higher civil penalty upon a finding of responsibility for any violation of this article committed within 24 months of the commission of another violation for which the owner or responsible party was found responsible or was convicted. In no event shall the court reduce the minimum dollar penalties referenced above. A criminal case shall only be filed only after 2 successive civil violations have been committed within a 24-consecutive-month period.

(4) Every day any violation of any provision of this article continues shall constitute a separate violation or offense. The owner of record, as reflected in the Pinal or Maricopa County Recorder's Office, may be presumed to be a person having lawful control over the building, structure or parcel of land that is the subject of the violation. If more than 1 person is recorded as the owner of the property, the persons may be jointly and severally presumed to be the persons having lawful control over the building, structure or parcel of land.

(D) *Civil and criminal hearing procedure.* A person lawfully served with a civil citation or complaint shall appear at the time and place stated in the citation or summons, or may appear prior to the time and admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted. If the allegations are admitted, the court shall enter judgment for the city and impose the minimum dollar sanction as noted above. If the defendant denies the allegations, the court shall set the matter for hearing. Civil hearings are to be held informally and held without a jury, and the city is required to prove the allegations by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the defendant elects to be represented by counsel, the defendant shall so notify the court at least 10 court days prior to the hearing date. Hearings shall be recorded by technological devices, including tape recording or by stenographer. If the court finds in favor of the defendant, the court shall enter an order dismissing the citation or complaint. If the court finds in favor of the city, the court shall enter judgment for the city and impose the minimum dollar sanction noted above, or in the case of a criminal matter, shall order, in addition to the mandatory minimum dollar amount referenced above, up to \$2,500, other terms such as up to 3 years probation, compliance deadlines, community service, up to 6 months jail time, and other reasonable terms as a consequence of a class 1 misdemeanor conviction.

(E) *Appeal of civil/criminal court hearing.* Any party may appeal the judgment of the municipal court to the Superior Court under A.R.S. § 12-124. Appeals from civil proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure - Civil. Appeals from criminal proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure - Criminal.

(F) *Court-ordered abatement.*

(1) In addition to any other options available to encourage compliance set forth in this article, the City Attorney may apply to the municipal court for an order permitting the city to abate any condition that constitutes a violation of this article.

(2) Pursuant to A.R.S. § 9-500.21, after notice has been provided to the owner and/or responsible party of the application and hearing date, the municipal court judge shall conduct a hearing on the City Attorney's application, with prior notice to the owner or responsible party as required under the Code of Civil Procedure Service of Process rules. The hearing shall be informal, open to the public and be recorded by technological devices, including tape recording or stenographic devices. Evidence may be taken from any interested party and considered in determining whether a condition in violation of this article exists and what, if any, abatement action should be permitted. Any person who fails to appear after notice of the hearing may be deemed to have waived any right to introduce evidence. The court's determination shall be

based on the preponderance of evidence standard. Upon finding the abatement is appropriate, the court may order an administrative search warrant and/or a demolition, board-up, or clean-up abatement warrant.

(3) The reasonable costs of any abatement plus a 5% administrative fee as permitted by the court's order, as well as 10% interest per annum, shall be the responsibility of the owner and/or responsible party, and it may be collected as a lien on the property or other lawful method by the city contained within this article or other applicable law.

(G) *Inspection warrants.*

(1) As set forth herein, the Code Official may seek the issuance of an inspection warrant by the judge, if the Code Official or his or her authorized designee is denied access to any property, building or structure that the Code Official has authority to inspect. The Code Official shall, in a supporting affidavit, establish that there is probable cause that a violation of this chapter or the city code exists, and that the proposed inspection is reasonable and necessary. Probable cause may be established based on any of the following:

(a) Previous inspections have shown violations and the present inspection is necessary to determine whether those violations have been abated.

(b) Complaints have been received by the Code Enforcement Division and presented to the issuing Code Enforcement Officer from persons, who by status or position have personal knowledge of the violations of law occurring on the subject property, building or structure.

(c) The inspection of the premises in question was to be made pursuant to an administrative plan containing neutral criteria supporting the need for the inspection.

(2) In executing an inspection warrant on an occupied property, the Code Enforcement Officer shall, before entry, make a reasonable effort to present the person's credentials, authority and purpose to the owner, occupant, agent, manager or person in possession of the property, and produce the warrant or a copy thereof upon request. A copy of the warrant shall be left with the owner, occupant, agent, manager or person in possession of the property.

(3) In executing an inspection warrant on an unoccupied property, the Code Enforcement Officer authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person, or at the time reasonably believed to be in such condition. In such case, a copy of the inspection warrant shall be conspicuously posted on the property.

(4) Any person who willfully refuses to permit an inspection lawfully authorized by warrant issued pursuant to this section is guilty of a class 1 misdemeanor.

(5) An inspection warrant shall be executed within 5 calendar days from its issuance. The warrant shall be returned to the judge within 3 court business days after the inspection warrant is executed.

(H) *Administrative abatement/lien procedure.*

(1) The city may, as another option, administratively abate the illegal conditions by first serving a notice to abate, which shall include the following:

(a) Legal identification of property;

(b) Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;

(c) The expected compliance deadline of at least 30 calendar days from the date of the notice;

(d) Reinspection date;

(e) Address and telephone number of a city representative to contact;

(f) Cost estimate to correct the violation, including labor and benefits of officers;

(g) A warning that if the violation is not corrected within the 30- calendar-day deadline, the city may abate the nuisance and assess the owner, his or her statutory or authorized agent, lessee, occupant, or person in control of the property the cost of such abatement plus a 5% administrative charge, and record a lien against the property for payment of the assessments that may result in foreclosure of the property;

(h) A warning that failure to comply may also result in the filing of a civil or criminal misdemeanor case, depending on whether this violation is the first, second, third or fourth violation over a 24-consecutive- month period; and

(i) A reminder that the notice may be appealed by filing a notice of appeal at the Development Services Department within 20 calendar days after the notice was served; the Board of Adjustment and Appeals will hear and decide the appeal within 60 calendar days of filing the notice of appeal.

(2) If a property owner or responsible party fails to comply with the notice within the 30-calendar- day deadline, Code Compliance Officers may work with the property owner or responsible party and grant an extension. However, if compliance is not forthcoming, the city may correct or abate the conditions as described in the notice. The city shall pay the cost and expense of the abatement from any appropriation made available for that purpose.

(3) Upon commencement of action on the property, the city shall assess the property for the cost of work performed,

including but not limited to, all additional inspections and other incidental connected costs, and for associated legal costs plus a 5% administrative fee. If the assessment is paid in full, including 10% interest annually calculated, the city shall release the assessment.

(4) In the event it is necessary to enforce the assessment by sale, the sale shall be made from a judgment of foreclosure and order of sale. The city shall have the right to enforce the assessment in the Superior Court of Pinal or Maricopa County at any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessments or liens for the purposes provided for in this article shall not be a bar to a subsequent assessment or lien. Any number of liens or assessments on the same parcel may be enforced in the same action.

(5) The assessment is prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. The city may dispose of any property or material removed from real property as a result of abatement in any manner, including but not limited to, destruction or donation.

(I) *Boarding, securing, vacating and demolition.*

(1) If it is determined that a structure constitutes a public nuisance as defined in this article, the City Manager, or his or her duly appointed agent, may declare such structure a hazard with great potential for actual and serious physical harm. After notice is communicated to any owner of record in a notice to secure the structure, and the owner does not secure the structure to city specifications, the hazard may be summarily abated by the city through boarding and fencing. The notice to secure shall be in the same format and shall be served in the same manner as a notice to abate, as referenced above, and all associated costs to board and fence may be collected pursuant to a lien in the same manner as a notice to abate. If however, the conditions pose an imminent hazard, the City Manager or his or her designee may order immediate abatement without notice. Such abatement shall be limited to the minimum work necessary to remove the hazard.

(2) Whenever the City Manager or his or her designee finds that a structure contains an imminent hazard or health hazard, he or she may declare it unfit for human occupancy and order it to be vacated or to remain vacant. A structure declared unfit for occupancy shall not be leased, rented or occupied until it has been reinspected and deemed fit for occupancy by the city. City Code Compliance Officers shall post a legible notice on the principal entrance stating "do not enter, unsafe to occupy". Entry will be considered a trespass under A.R.S. § 13-1504, a class 1 misdemeanor.

(3) Prior to demolishing a structure, the city shall issue a notice of intent to demolish structure to the owner or responsible party with any legal interest in the property, and may record the notice in the Pinal or Maricopa County Recorder's office. This notice and abatement and all associated demolition costs shall be enforced in the same manner as a notice to abate.

(4) Any structure that has been declared to be an imminent hazard by the City Manager or his or her designee, shall immediately be vacated and shall not be re-occupied until the City Manager or his or her designee has issued a certificate of compliance, indicating that imminent hazards do not exist and that incipient hazards and health hazards are acknowledged and minimized by the persons responsible for the property. A legible notice, as referenced above, shall be posted on the principal entrance prohibiting entry. No person occupying a structure after the city has posted on the structure a notice of its hazardous condition, shall be eligible for relocation assistance or be considered a displaced person.

(J) *Appeal of notice to abate, notice to secure, and notice of intent to demolish.* An appeal of a notice to abate, notice to secure and notice of intent to demolish shall be filed in writing with the Development Services Department Director, or his or her designee, within 20 calendar days after the notice was served. An appellate hearing shall be scheduled by the Development Services Department Director, or his or her designee, before the Board of Adjustment and Appeals no later than 60 calendar days after the notice of appeal has been filed, and such hearing must have been held and be concluded within the same time period.

(K) *Grounds for appeal.*

(1) The following are appropriate grounds for an appeal:

- (a) The claim that the property or building subject to the notice is not in violation under the code.
- (b) A claim that the true intent of the code has been incorrectly interpreted.
- (c) A claim that the statement for costs for correcting or abating the violation is excessive.

(2) The Board may affirm, reverse or modify the notice. The Board shall conduct the hearing as it does other Board matters in its quasi-judicial role. There shall be no fee for filing an appeal with the Board.

(3) The filing of the notice of appeal shall act as an automatic stay of enforcement of any compliance deadlines until the Board makes its final determination. Upon making its final determination and after it has been served on the appellant, the stay terminates and the violator has the balance of the time left set forth in the notice. Failure to comply within this time period may result in the issuance of a civil or criminal citation or the filing of a complaint and abatement procedures, subjecting the property owner and/or responsible party to liens and possible foreclosure.

(4) Failure of a person to file an appeal shall constitute a waiver of the right to a hearing of the appeal before the Board, and such person shall be estopped to deny the validity of any order or action of the city that could have been timely appealed.

(5) Once the Board has rendered its decision, a party may apply to the Superior Court within 30 calendar days for further appellate relief in accordance with the Arizona Rules of Procedure for Special Actions. The filing of a special action will not stay enforcement of any notice unless ordered by a court of competent jurisdiction.

(Ord. 1255, passed 1-3-2006; Am. Ord. 1467, passed 12-4-2018)

§ 9-1-5 CARGO CONTAINERS.

(A) *Purpose and intent.*

(1) It is the purpose and intent of this section to amend the strict prohibition set forth in Ordinance 630 relating to cargo containers by allowing cargo containers through issuance of an administrative permit process which strikes a balance between such use and aesthetics.

(2) Because of what appears to be a number of illegally placed and illegally used cargo containers since the 1988 passage of Ordinance 630, it is the Mayor and Council's desire to allow individuals the ability to use cargo containers provided they meet the mandates set forth in this section.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CARGO CONTAINER, (also known as **CARGO POD, SHIPPING CONTAINER, MOBILE-MINI, STORAGE CONTAINER**). A portable, reusable and prefabricated vessel no larger than 9 feet tall, 10 feet wide, and 40 feet long, without an axle or wheels, which was: 1) originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods, or commodities; and/or 2) designed for or capable of being mounted or moved on a rail car or being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship. This definition does not include, and therefore does not allow, a semi-truck trailer in any form (intact, dissected, with or without wheels), railroad car (with or without wheels), mobile or manufactured home, park model, recreational vehicle, or bus, to be used as a **CARGO CONTAINER**.

(C) *Cargo containers placed on residential properties.* A single 40-foot long cargo container, or two 20-foot long cargo containers, may be placed on residential property designated General Rural ("GR") or Single-Family Residential or Single-Family Manufactured Home ("R1-43" or "R1-43MH") with minimum lot sizes of 1.25 gross acres, subject to the following restrictions:

(1) They are used as an emergency accommodation, for no more than 60 calendar days, in conjunction with required home repairs as a result of damage caused by flood, fire, wind, or termites. Should such repair period extend beyond 60 calendar days, the homeowner may apply for a 30-calendar day extension.

(2) They are used for temporary storage of equipment and materials during general construction provided such activity is authorized by a valid building permit issued to a duly licensed and bonded contractor who has obtained a city privilege license or a property owner acting as an owner or owner/builder of a single-family residence.

(3) They are used for permanent storage as long as they are located to the side or rear of the principal residential structure when physically and practically possible, and must be set back from a neighboring property line in accordance with the zoning district's minimum accessory building setback. Containers shall not be located between the principal residential structure and the public street.

(4) They are not connected with utilities.

(5) Permanent cargo containers shall be uniformly painted with an earth tone color and free from surface rust and advertising signage. If the container is publicly visible to adjacent neighboring properties and/or from the public street, the unit user shall install and maintain landscaping that will, within 5 years of planting, effectively screen at least 75% of the container from public view. A suggested plant list and planting guide is available at the Department of Development Services.

(6) A building permit may be required if the property owner chooses to install structural screening around the container and/or apply building materials to the container, including awnings. Additionally, if the property owner wishes to custom paint the container with a color scheme different than the required uniform earth tone color, the unit user shall first receive approval from the Development Services Director or his/her designee. **EARTH TONE** shall be defined as a color scheme that draws from a color palette of browns, tans, and greens natural to the Sonoran Desert environment. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt, moss or trees, and rocks.

(D) *Cargo containers placed on commercial, industrial, public and quasi-public properties.* Any number of cargo containers may be placed on commercial, industrial, public and quasi-public properties, subject to the following restrictions:

(1) They are not located in or on a setback, off-street parking space, utility/drainage/roadway easement, landscape setback, open space, fire lane, or otherwise are not placed in such a location as to compromise emergency, pedestrian, or customer egress and ingress circulation.

(2) They are used for storage of materials for the primary business.

(3) They are used for temporary storage of equipment and materials during general construction provided such activity is authorized by a valid building permit issued to a duly licensed and bonded contractor who has obtained a city privilege license or a property owner acting as an owner or owner/builder of a single family residence.

(4) There is already a legally established primary commercial, industrial, or public and quasi-public use on the property.

(5) They are not connected with utilities.

(6) Permanent cargo containers shall be uniformly painted with an earth tone color as defined in this section and free from surface rust and advertising signage. If the cargo container is publicly visible to adjacent neighboring properties and/or from the public street, the unit user shall apply for approval from the Department of Development Services to install and maintain a minimum 9-foot high structural screening that is compatible with the design and architecture of the principal building. Visual examples of acceptable structural screening devices (such as a masonry wall or completely opaque wooden fence) are available at the Department of Development Services.

(7) Permanent cargo containers shall be located to the rear or side of the principal building so that their presence is minimized from public view and from neighboring properties. The unit user shall obtain approval from the Development Services Director or his/her designee to properly locate the container.

(E) *Administrative permit required.*

(1) Placement and use of all cargo containers in the city must be approved by the Development Services Director or his or her designee upon review of an administrative permit application, site plan, exterior building elevations and receipt of a nonrefundable \$100 processing fee .

(2) The Development Services Director or his or her designee shall notify the applicant of his or her decision to deny or grant the permit with any noted conditions within 10 business days from the date of the applicant's submittal.

(F) *Appeal, enforcement and abatement.* Any aggrieved applicant shall have the right to appeal the Development Services Director's denial or conditional approval to the City Manager or his or her appointed designee thereof (hereinafter the "Appellate Hearing Officer") within 10 business days after receiving written notice of a denial/conditional approval. Appeal requests shall be limited only to the application of the criteria under which the Director has discretion, including: type and/or size of container(s), set-up, location on property, purpose of container, establishment of a primary use on property, color selection, screening criteria, plant selection and additional permits required. The required minimum lot size of 1.25 acres for residential property placements is not an issue the Director has discretion to act upon and therefore failure to meet this standard lot size requirement as required by the Council is not appealable. Failure to appeal to the City Manager or appointed designee waives all administrative rights and remedies. The Appellate Hearing Officer must hold a hearing within 10 business days and shall decide such matter and notify the applicant of such decision within 10 business days thereafter. This decision shall be final and binding, subject only to the judicial appeal process pursuant to A.R.S. § 12-901 *et seq.* Furthermore, if the applicant fails to comply with the conditions of the permit and/or those set by the Appellate Hearing Officer and maintains, uses or stores a cargo container in violation of such conditions and/or in violation of this section, the applicant is subject to the property maintenance standards civil and criminal penalties and abatement provisions under Vol. I, § 9-1-4.

(G) *No superseding actions.* Nothing in this section supersedes any other restrictions or requirements that may exist in present or future leases, rental agreements, development agreements, and planned development stipulations or special/conditional use permit stipulations. In addition, this section shall not be construed to authorize any cargo container that was illegally placed, maintained, stored or used before the effective date of this section.

(H) *Exemptions.*

(1) The only cargo containers that are completely exempt from the provisions of this section are the 3 located at 936 W. Apache Trail, 57 E. 20th Avenue, and 2296 S. Cactus Road. These 3 cargo containers were originally exempted by Ordinance 630 and are in the same locations and condition as originally placed. Should they be replaced or removed, they lose their exempt status and all of the provisions of this section shall apply.

(2) The screening and permitting provisions of this section do not apply to those cargo containers used on residential properties in an emergency situation, as described in division (C)(1), within the initial 60-calendar day or 30-calendar day extension periods, or to those used for temporary storage during general construction as described in divisions (C)(2) and (3).

(I) *Building permit applicability.* The building permit exemption provisions under Vol. I, §7-1-2 Uniform Administrative Code (1997 Edition), Section 301.2.1(1) Building Permits, apply to cargo containers with square footage up to the maximum square feet for the cargo container dimensions set forth in division (B) of this section. However, a building permit shall be required if any such units are structurally combined with or affixed to a regulated building structure as determined by the Building Official.

(Ord. 1302, passed 2-19-2008; Am. Ord. 1365, passed 9-7-2010)