

Apache Junction, AZ Code of Ordinances

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ARTICLE 9-1: PROPERTY MAINTENANCE STANDARDS

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

~~(A) It is hereby found and declared that there are nonresidential and residential properties within the city which are, or may become in the future, public nuisances due to deterioration, lack of maintenance and appearance on exterior surfaces and in yard areas, infestation, lack of essential storage areas for household items, existence of fire hazards and unsanitary conditions which constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the city. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and slums, and that if the same are not curtailed and removed, such conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate, and that by reason of timely regulations and restrictions as contained herein, the growth of slums and blight and increase in crime may be prevented and neighborhood property values may be enhanced.~~

(A) ~~(B)~~ 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 ~~fix~~ identify certain responsibilities and duties ~~upon~~ of owners, occupants and operators; to authorize and establish enforcement and abatement procedures ~~which affords property owners the due process they are entitled to under the law~~; to ~~fix~~ set penalties for the violations of this code; and to provide for the repair, demolition, or vacation of premises unfit for human habitation, or occupancy or use.

(B) ~~(C)~~ 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. ~~It shall be fairly, sensibly, consistently and reasonably applied by enforcement officers.~~

(C) Conflict of ordinances.

(a) 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.

(b) 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.

§ 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, 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~~ left unattended on a public highway, public property or ~~elsewhere in the city, including~~ 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 ~~other~~ public ~~property~~ or ~~on~~ private property ~~or elsewhere in the city~~, 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.

~~**AUTHORIZED PRIVATE RECEPTACLE.** A litter storage and collection receptacle including 60-, 90-, 300-, and 440-gallon plastic barrels; 2-, 3-, 4-, 6-, and 8-cubic yard metal bins; 20-, 30-, and 40-cubic yard~~

roll-off containers (approximate sizes); and compactors.

~~**BLIGHT.** Conditions including accumulation of debris; fences with holes, breaks, rot, or those that are crumbling, peeling or rusting; landscaping that is dead, uncontrolled or is not maintained or is damaged; any other similar conditions of disrepair and deterioration; and the exterior visible use or display of tarps, plastic sheeting, or other similar materials 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.~~

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; 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 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 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 CODE. The construction codes that were in force at time of building construction, including plumbing and mechanical codes, electric codes, residential construction codes, energy conservation 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 section 33-1409, 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. 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, 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, ~~JUNK~~, 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, ~~paper, cardboard~~, 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**, ~~with little or no apparent aesthetic or economic value which is present in a state of disarray~~, any solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, weeds, cigarettes, cardboard, ~~tin~~ **metal or plastic** cans, yard clippings, leaves, tree trimmings, ~~metal, wood, glass, bedding, and construction materials~~; or any ~~other~~ 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 and which results in a condition of gainful or productive use.

DRIVEWAY. An unobstructed paved area, or compliantly dust proofed per § 9-1-3 (B)(9)(a), directly connecting 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, ~~junk~~, 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, decorative 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 their 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. ~~A condition that may cause personal physical harm.~~ Any source of potential damage, harm or adverse health effects on something or someone.

~~**IMMINENT HAZARD.** A condition that presents an immediate likelihood for causing personal physical harm.~~

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

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

INFESTATION. ~~The apparent presenece~~ The presence, within or contiguous to, a structure or premises of damaging, or unhealthful insects, rodents, reptiles or pests.

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 which is inoperable due to mechanical failure or mechanical disability; or any vehicle which is missing a legally assigned license plate, or one 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 Apache Junction 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 for building code violations.

JUDGE. A City of Apache Junction Municipal Court Judge or other judicial officer who has authority to issue inspection and abatement warrants.

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, etc.), bondo, fiberglass, etc. or dent repair exceeding 23% of surface area, replacement of roof.

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

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 transmissions 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. The 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.

MUNICIPAL COURT. The City of Apache Junction Municipal Court.

~~**OCCUPANT.** A person, persons or legal entity that, through rights of ownership, tenancy or otherwise, has possession or the use and enjoyment of the subject real property.~~

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

OWNER. A ~~current~~ 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 which, 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 which 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 one 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 that is leased or rented to one 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 one (1) owner, each owner is a responsible person, even when a homeowner's association has been formed to manage and maintain such commonly owned property. Such a homeowner's 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. ~~SECURING~~ and shall include the use of materials with sufficient

strength and structural value installed in a manner that ~~to~~ restricts or prohibits access.

SLUM AREA. An area in which the public health, safety or welfare is threatened because of any of the following: (a) dilapidated, deteriorated, aging or obsolescent buildings or improvements; (b) the inadequate provision for ventilation, light, air, sanitation or open spaces; (c) overcrowding; and, (d) 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. ~~The entire width between the boundary lines of every way publicly owned or maintained when any part thereof is dedicated to the use of the public for purposes of vehicular traffic.~~

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, ~~and other structure~~ that is constructed or placed on land or that which is 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 which are dangerous or injurious to the health or safety of the occupants of such ~~structure~~, building improvement, dwelling unit or premises, the occupants of neighboring dwellings or 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, uncleanness, overcrowding, or inadequate drainage, lacking operating utility service or other essential equipment, or is vermin infested.

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

UNCONTROLLED VEGETATION. Plants, trees, shrubs, grass, etc. that is allowed to grow unattended or which contains 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 which equipment is a hazard to life, health, property or a risk to the public or occupants of the premises or structure.

UNSAFE STRUCTURE. A structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants, in the event of fire, or because such structure 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 and fixtures and appliances to properly operate, including water service, sewer service, electric service and gas service.

UTILITY TRAILER. ~~A vehicle without motor power designed for carrying property and for being drawn by a motor vehicle.~~ A vehicle designed to be pulled by a motor vehicle which is used to carry property, trash, or special equipment. Boat trailers and homemade trailers are included as utility trailers.

VEHICLE. ~~excepting devices moved by human power or used exclusively upon stationary rails or tracks.~~

VEHICLE. Every device by which any person or property is or may be transported or drawn upon a street; 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 horsenettle, 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.

§ 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) ~~Outside storage.~~ 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 or garbage.

(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 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 ~~garbage, junk~~, debris, trash, or litter, on any land within the city unless stored safely within a lawful, enclosed building or structure, ~~or screened by a lawful fence or screen wall~~ or within a trash receptacle in such a manner as to not be visible from the public right-of-way ~~or neighboring property~~, except as authorized by the city or for collection under this chapter.

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

~~(e)~~ (e) Nothing in this section shall prohibit the outside storage of materials specifically permitted under the ~~Z~~ zoning ~~C~~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 is 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, ~~junk~~, trash or litter, ~~animal waste~~, obstruction, or similar matter or any hazardous material which is offensive to sight or smell or which 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 which has an airtight door or lid, snaplock or other locking device which 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 subsection shall not apply to appliances which are being used for animal or livestock purposes and have a latch or lock on the outside which requires a key or combination access.

(4)(a) It is unlawful for any business, corporation, firm or person to fail to provide ~~an~~ 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 or deposited upon any alley, street, public place or private property from such site.

(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 inoperative or unlicensed motor 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.

(2) The City of Apache Junction authorizes citizens to perform minor vehicle repairs to their vehicles within a residential district. Major vehicle repairs are only authorized if such work is being conducted inside a garage, carport or an approved structure.

(3)(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 one (1) vehicle may be undergoing repair at one (1) time.

(d) Vehicle repairs shall not exceed ten (10) calendar days.

(e) The painting of vehicles or other parts thereof in any residentially zoned district is prohibited.

(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.

~~(1) It shall be unlawful for any person other than the occupant to cause or allow any abandoned or inoperable vehicle not registered to the occupant to be parked or stored except in complete conformance with the terms of this subsection. All abandoned or inoperable vehicles or vehicles in residential areas being restored or repaired for longer than 10 calendar days shall be stored safely within a lawful enclosed building or structure or screened by a lawful fence in such a manner as to not be visible from beyond the lot boundaries or shall be stored on the premises of a business enterprise operated in a lawful place and manner in accordance with the provisions of the city code where the storage of the vehicle is necessary to the operation of the nonresidential business enterprise.~~

~~(2) If a vehicle, awaiting repairs, cannot be stored in compliance with this section, the registered owner must submit, in writing to the Code Compliance Division, a request for extension of the 10-day requirement referenced above. The written notification must include the name and physical address of the registered owner of the vehicle, the date the current registration expires, the license plate number, what repairs are required and when the repairs will be completed. In no case shall the extension be longer than 30 calendar days including the time the vehicle has already been parked. After the 30-calendar day extension has expired, the vehicle must be stored in accordance with this section.~~

~~(3) Any vehicle stored at a condominium, townhome or apartment complex that is awaiting repairs is subject to the time limits of this section and if no such structure for storing a vehicle is granted by the Code Compliance Division, the vehicle must be covered by a tarp or covering that is in good repair and secured to the vehicle in a manner that will prevent it from being blown off the vehicle thereby exposing the vehicle to public view.~~

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

(5) The display of **one (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 **three (3)** vehicles or boats may be displayed for sale at the same residence within a 12-month period and only **one (1)** vehicle or boat shall be displayed for sale at **one (1)** time.

(6)(a) 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.

~~No later than October 1, 2008,~~ 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:

1. Paving with asphaltic concrete;
2. Paving with Portland cement based concrete;
3. Surfacing with a penetrating asphalt and a gravel surface 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;
6. Surfacing with any other dustproof paving treatment method that has been approved by the Development Services Director or his or her designee; ~~or~~

~~7. Demonstrating to the satisfaction of the Development Services Director or his or her designee on at least an annual basis, on a form as required by the Development Services Director and pursuant to a test method approved by the Development Services Director, that the average threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 centimeters per second. For purposes of administering this subsection, the Development Services Director may designate the Air Quality Control Department of Pinal County as an entity authorized to approve such applications.~~

~~(b) For non-dustproofed surface areas that are utilized intermittently at developments other than residential buildings with 4 or fewer units, for a period of 30 calendar days or less during the calendar year, for surfaces that are used for parking, maneuvering, ingress and egress on an intermittent, short-term basis, the owner~~

~~and/or operator may, as an alternative, effect dustproofing by effecting 1 or more of the following pursuant to a plan approved in writing by the Development Services Director:~~

- ~~1. Installation of a temporary or permanent dustproof surface;~~
- ~~2. Application of a dust suppressant; or~~
- ~~3. Routine watering of traveled surface as a dust suppressant and for the creation of an encrusted dustproof native surface after the activity ends.~~

~~(e)~~(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.

~~(d)~~(a) Any dust-proofing shall be maintained in a manner that prevents visible track-out or particulate clouds.

~~(7)~~(9)(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. ~~No later than October 1, 2009,~~ 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 or particulate clouds over 10 feet in length.

~~(c) For non-stabilized surface areas that are utilized intermittently at a residential property with 4 or fewer units, for a period of 30 calendar days or less during the calendar year, for surfaces that are used for parking, maneuvering, ingress and egress on an intermittent, short-term basis, the owner and/or operator may, as an alternative, effect stabilization by effecting 1 or more of the following pursuant to a plan approved in writing by the Development Services Director:~~

- ~~1. Installation of a temporary or permanent surface stabilization;~~
- ~~2. Application of a dust suppressant; or~~

~~3.—Routine watering of traveled surface as a dust suppressant and for the creation of an encrusted dustproof native surface after the activity ends.~~

(d)(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.

~~(8)~~(10) Vehicle parking shall not be allowed on unpaved, ~~or~~ unstabilized, ~~vacant~~ and/or undeveloped lots.

~~A vacant lot means any 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. ~~or may harbor infestations.; however, this section shall not prohibit the temporary storage of such material in authorized receptacles for collection.~~

(b) Any landscaping, visible from public property or from beyond the lot boundaries, that is dead, damaged, or characterized by uncontrolled ~~growth~~ **vegetation**, or presents a deteriorated or slum like 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 which 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 owner or occupant of a parcel of land within the city shall allow thereon weeds or grass which reach a height of 10 inches or more. This provision shall not apply to single residence rear yards not visible from the adjacent right of way or to crops supporting bona fide livestock grazing where lawful or on lots where the dwelling is at least 100 feet from the public place or public right of way except that the first 50 feet~~

~~viewable from the public place shall be governed by this section, unless otherwise determined to be a fire or health hazard. All structures shall have a 30-foot buffer zone.~~

(5) 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 non-pollinating varieties of such trees.

(D) Exterior of buildings, 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, ~~screen walls~~, retaining walls, foundations, cooling devices, outdoor stairs, porches, and railings as visible from the adjacent public place, ~~or~~ public right-of-way(s) 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 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.

(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 which 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.

~~(2)~~ (3) It is unlawful for any person to erect or maintain within the city any fence which is, or may be,

dangerous to persons, children or animals due to design, construction, materials, maintenance or placement.

~~(3) Fences with strands of barbed wire shall not be constructed or allowed to remain if heretofore constructed, except as follows:~~

~~(a) Barbed wire fencing less than 6 feet above the ground shall be permitted only in those zoning districts which permit the keeping of livestock and shall be erected and maintained only for the keeping of livestock.~~

~~(b) Barbed wire fencing less than 6 feet above the ground shall not be erected or maintained within 10 feet of any public place or public right of way, public easement, or reservation for roadway purposes.~~

~~(c) Barbed wire fencing less than 6 feet above the ground shall be secured to posts or stays not more than 8 feet from each other.~~

~~(d) Fences containing strands of barbed wire, razor wire or concertina wire over 6 feet above the ground shall be permitted only in industrial and commercial zoning districts, and strands of barbed wire, razor wire or concertina wire shall be permitted only when over 6 feet above the ground and erected at the top of any fence. If the fence is inclined, it shall project over private property.~~

~~(4) Electrically charged fences shall not be erected or allowed to remain except as follows:~~

~~(a) Electrically charged fences shall be permitted only in zoning districts which permit the keeping of livestock and shall be erected and maintained only for the keeping of livestock.~~

~~(b) No electrically charged fence other than one which has an unmodified Underwriter's Laboratory ("UL") approved charger, shall be permitted.~~

~~(c) All electrically charged fences shall be completely enclosed within another fence.~~

~~(5)~~ (4) It shall be unlawful to allow any swimming pool or similar body of water to stagnate, or, be left untreated allowing for the growth algae, and thereby become eutrophie, 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) Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 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 (1372 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.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the

provisions of this section.

~~(6) It shall be unlawful for any person to maintain or display any sign that is damaged or deteriorated to a condition constituting a visual blight. Visual blight shall include conditions detectable from beyond the lot boundaries such as chipping, peeling, fading, or rusting surfaces; the presence of cracks, holes, buckles, warps, or splinters in any sign component; and defective bulbs, fluorescent tubes, or neon or other inert gas light segments.~~

~~(7) (5) No person shall attach any sign to any public utility structure, traffic control device, streetlight standard, or similar structure in the public right of way excepting those signs erected by a public utility or government agency.~~ 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 and signs for city sponsored events.

~~(8) (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 ~~similar to the~~ same color ~~of~~ 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-inch diameter and the support must be 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 which is not securely protected from insects or rodents or which are foul, malodorous, nauseous, or offensive to the senses.

(F) *Individual Property Inspections*

(a). 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:

1. Conditions that materially affect the health and safety of the occupants as prescribed by section 9-1-3 (G)
 2. A significant level of crime associated with the property.
 3. A documented history of building code violations.
 4. The owner repeatedly fails to comply with building code enforcement requirements imposed by the city.
 5. There is probable cause that the residential rental property is not in compliance with the city's building code.
 6. 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.
- (b). If the city determines pursuant to subsection 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.
- (c). 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 required 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 carry imposed loads with safety.

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 conformed 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 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) 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. ~~all of which will be handled fairly, consistently and indiscriminately with all the due process that property owners and responsible parties are entitled to under the law.~~ Verbal warnings **or door hangers** are strongly encouraged before any formal **notices of violations** 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 ~~ten~~ 10 ~~14~~ calendar days from the date of the notice, unless otherwise stated;
- (d) A re-inspection 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-month consecutive period; and
- (g) A warning that failure to comply may also result in an administrative or court ordered abatement action by the city, which the owner or responsible person will be financially liable through a lien process which 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 was not able to be delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such 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 and his or her designee shall be responsible for filing civil and criminal citations with the Apache Junction Municipal Court with the following minimum penalties:

(a) First offense during 24-consecutive month period: civil penalty of ~~\$250~~ \$350.00;

(b) Second offense during 24-consecutive month period: civil penalty of ~~\$500~~ \$600.00;

~~(c) Third offense during 24-consecutive month period: civil penalty of \$750;~~

~~(d)~~ (c) ~~Fourth~~ Third offense and subsequent offenses within 24 months of first offense: criminal fine of \$1,000.00, 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 which was 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 ~~3~~ 2 (two) successive civil violations have been committed within a consecutive 24 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 which 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 as 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.

(a) As set forth herein, the code official may seek the issuance of an inspection warrant by the Judge if the code official or his 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:

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

(2) 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.

(3) 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.

(b) 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.

(c) 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.

(d) 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.

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

~~(G)~~ (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) Re-inspection 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 which 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-month consecutive period; and

(i) 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 such 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 and 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.

~~(H)~~ **(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 re-inspected 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 such 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 which 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 which indicates 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.

~~(H)~~ **(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.

(J) *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 which 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.

~~§ 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 subsection (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 subsections (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)~~

ARTICLE 9-2: REFUSE, GARBAGE, DEBRIS, JUNK, TRASH, AND LITTER REMOVAL

Section

9-2-1 Hauling refuse, garbage, debris, junk, trash and litter

9-2-2 Vehicles and receptacles to be spillproof

9-2-3 Spilled refuse, garbage, debris, junk, trash and litter

9-2-4 Dumping refuse, garbage, debris, junk, trash and litter

§ 9-2-1 HAULING REFUSE, GARBAGE, DEBRIS, JUNK, TRASH AND LITTER.

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the city in violation of any of the provisions in this chapter.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-2-2 VEHICLES AND RECEPTACLES TO BE SPILLPROOF.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the city any refuse, garbage, junk, debris, trash, litter, unless such material is contained in watertight vehicles or vehicles with watertight receptacles constructed to prevent any such material from falling, leaking or spilling and any odor from escaping.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-2-3 SPILLED REFUSE, GARBAGE, DEBRIS, JUNK, TRASH AND LITTER.

Any person hauling any refuse, garbage, junk, debris, trash and litter along the streets of the city shall immediately replace in the conveyance used for such hauling any such material which may fall upon any street.

(Ord. 1255, passed 1-3-2006)

§ 9-2-4 DUMPING REFUSE, GARBAGE, DEBRIS, JUNK, TRASH AND LITTER.

It is unlawful for any person to place or cause to be placed any refuse, debris, garbage, junk, trash or litter

upon any public or private property within the city, except as specifically permitted in this chapter.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

ARTICLE 9-3: CONSTRUCTION SITES

Section

9-3-1 Truckloads causing litter

9-3-2 Construction sites

9-3-3 Inspection approval

§ 9-3-1 TRUCKLOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-3-2 CONSTRUCTION SITES.

(A) In addition to all other requirements of this code, it shall be a condition for the continuation of a building permit that a litter receptacle be provided, on site, for all buildings or structures for which such permit is issued. The litter receptacle shall be of such design as to insure that all materials deposited therein will not be blown out during heavy winds, shall have a minimum capacity of 3 cubic yards per 1,000 square feet of gross floor area of the building or structure under construction and shall be of a type approved by the Building Official.

(B) The Building Official shall issue a stop work order for any building or structure if the litter receptacle, when required, is not provided at the inception of the framing stage of construction.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-3-3 INSPECTION APPROVAL.

(A) In addition to all other requirements of this code, it shall be a condition of inspection approval for all buildings or structures under construction that the construction site be free of all litter.

(B) The Building Official may issue a stop work order when inspection reveals that any construction site is not being maintained free of litter.

(Ord. 1255, passed 1-3-2006)

ARTICLE 9-4: PRIVATE RECYCLING CONTAINERS

Section

9-4-1 Definitions

9-4-2 Registration required

9-4-3 Application

9-4-4 Containers

9-4-5 Litter and trash prohibited

§ 9-4-1 DEFINITIONS.

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

CODE ENFORCEMENT OFFICE. The Building ~~Inspection~~ **Division** and ~~Zoning~~ **Code** Compliance Division of the Development Services Department.

RECYCLING CONTAINER. Any private container, whether attended or unattended, and whether operating for profit or not, where the public is asked to bring materials to be donated or left to be recycled, reclaimed, processed or reused, including but not limited to newspapers, bottles or cans.

(Ord. 1255, passed 1-3-2006)

§ 9-4-2 REGISTRATION REQUIRED.

(A) It is unlawful for any person, firm or corporation to place or keep a recycling container within the city limits without complying with all of the provisions of this article and without first having registered the recycling containers as required by this article.

(B) All recycling containers not registered as required by this article shall be subject to immediate removal by the city.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-4-3 APPLICATION.

(A) Applications for recycling container registration shall be made to the code enforcement office on a form provided by that office. The application shall contain the following information:

(1) The name and address of the owner or operator and a telephone number where the owner or operator, or the agent of the owner or operator, can be reached.

(2) The location, size and type of proposed recycling container.

(3) The type of materials to be collected.

(B) The application shall be accompanied by a written and signed statement:

(1) From the owner of the property where the container is to be placed, granting his or her permission for the placement of the container; and

(2) Where applicable, a statement from the religious or non-profit corporation as required by Vol. I, § 9-4-4(D).

(C) The term of registration for each recycling container shall be for a period not to exceed 1 year and shall expire on January 1 of each calendar year.

(D) A separate registration shall be obtained for each recycling container location.

(Ord. 1255, passed 1-3-2006)

§ 9-4-4 CONTAINERS.

(A) Each recycling container shall have a firmly closing lid and have a capacity of not less than 3 cubic yards and not greater than 6 cubic yards except for reverse recycling bins. The container shall be constructed of painted metal, rubber, wood or plastic and shall be properly maintained in a safe and good condition. The use of shipping or cargo containers for this purpose is prohibited.

(B) Reverse recycling bins shall comply with all requirements of this article except that they shall have a capacity of not less than 3 cubic yards and not greater than 35 cubic yards.

(C) Containers shall be clearly marked to identify the materials requested to be left for recycling, the name of the operator or owner of the recycling container and a telephone number where the owner, operator or agent of the owner or operator may be reached at any time. The size for the sign or markings on any side of the container shall not exceed 25% of the total area of the same side of the container. All markings required by this section shall be neatly lettered or stenciled in a professional manner.

(D) No container shall identify a religious or non-profit corporation without the written permission of such religious or non-profit corporation; the permission must be submitted at the time that the application is made for a recycling container permit. The city reserves the right to make further inquiries and require proof of the religious or non profit status that is being claimed.

(E) Containers may be located only within the parking lot of private property lawfully zoned, developed and used for commercial or industrial purposes, or at schools, churches or charitable organizations which have similar parking facilities.

(Ord. 1255, passed 1-3-2006)

§ 9-4-5 LITTER AND TRASH PROHIBITED.

(A) No person shall place any litter, garbage or trash at any recycling container, and no person shall place any material in any recycling container except the materials named on the outside of the container. No person shall leave any materials outside of a container.

(B) Each recycling container owner or operator shall provide adequate enough pickups and clean up of the general area to prevent any materials from accumulating outside the containers.

(C) The owner or operator of the recycling container and the property owner shall jointly or severally maintain all exterior areas within 25 feet of the container free from litter.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-4-6 ENFORCEMENT.

(A) The code enforcement office is assigned the responsibility of enforcing this article and is granted the authority expressly granted or implied as needed and necessary for enforcement.

(B) For a violation of this article or issued registration, the code enforcement office or a designee may revoke a registration, which has been issued under this article, upon 10 days written notice to the permit

holder who may request a hearing with the code enforcement office prior to the expiration of the 10-day notice; and/or

(C) The code enforcement office or a designee may commence an action in Municipal Court against the operator or owner, or agent of the operator or owner, of a recycling container which is in violation of this article or issued registration.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 1-1-11

§ 9-4-7 IMPOUNDMENT.

(A) In addition to the penalties provided for in this code, any recycling container which is in violation of this article or issued registration may be removed at the operator's or owner's expense. The container shall be impounded until the operator or owner reimburses the city for the cost of removal and storage. In the event the operator or owner of an impounded recycling container has not reimbursed the city within 60 days of its removal, the city may dispose of the container or use it for some city-related purpose.

(B) Prior to the removal and impoundment of a recycling container, the city shall conspicuously attach a notice to the container allowing the owner or operator 24 hours to bring the container into compliance. The code enforcement office shall also attempt to contact the owner or operator at the phone number listed on the registration application or container and advise as to the posting of the notice. If the container has not been brought into compliance by the time established by the notice, the container will be removed and impounded.

(C) In the event any recycling container creates a hazard to the health, welfare and safety of the public, the container shall be immediately removed and impounded without the notice as outlined in division (B) of this section.

(Ord. 1255, passed 1-3-2006)

ARTICLE 9-5: COLLECTION OF RESIDENTIAL SOLID WASTE

Section

9-5-1 Legislative purpose

9-5-2 Definitions

9-5-3 Residential solid waste collection agency

9-5-4 Permitted days and hours of collection

9-5-5 Container standards; placement for and removal after collection; application to mobile/manufactured home/recreational vehicle and trailer parks and subdivisions

9-5-6 Vehicle maintenance

9-5-7 Appeals

9-5-8 Penalties

§ 9-5-1 LEGISLATIVE PURPOSE.

It is the purpose of this article to regulate the collection of residential solid waste to promote the public

health, safety and general welfare of the citizens of the city, and to avoid and mitigate the detrimental effects of random trash collection, insufficient solid waste containers and substandard collection vehicles and equipment through reasonable regulation. It is not the purpose of this article to prohibit or unreasonably restrain private enterprise from delivering solid waste collection services within or to the residents of the city. In addition, this article is not intended to favor local enterprise by prohibiting out-of-town or out-of-state competition.

(Ord. 1255, passed 1-3-2006)

§ 9-5-2 DEFINITIONS.

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

PUBLIC WORKS DIRECTOR. The head of the Public Works Department or designee thereof.

RESIDENTIAL SOLID WASTE. Any garbage, trash, rubbish or refuse, including solid, liquid, semi-solid liquid, or semi-solid or contained gaseous material, and any recyclable material, collected from any structure or premises used as a domicile, dwelling or habitation, including single and multi-family dwellings, duplexes, patio homes, trailers, mobile/ manufactured homes, mobile/manufactured home/recreational vehicle and trailer parks and subdivisions, rooming houses, group homes, boarding houses, apartments, condominiums or townhouses.

RESIDENTIAL SOLID WASTE COLLECTION AGENCY VEHICLE. Any motor vehicle suitable for collection of residential solid waste that is in compliance with this chapter.

RESIDENTIAL SOLID WASTE CONTAINER. Any container used for storage of residential solid waste and meets the container standards of this article.

(Ord. 1255, passed 1-3-2006)

§ 9-5-3 RESIDENTIAL SOLID WASTE COLLECTION AGENCY.

The city or any other person, individual, partnership, association, company or corporation may collect residential solid waste within the city limits provided they comply with the provisions of this article, and other applicable city regulations including but not limited to possessing a current valid city business license and current valid sales tax license and paying all applicable transaction privilege taxes pursuant to Vol. I, Chapter 8.

(Ord. 1255, passed 1-3-2006)

§ 9-5-4 PERMITTED DAYS AND HOURS OF COLLECTION.

(A) Residential solid waste shall be collected twice a week, on Mondays and Thursdays. Where such collection day falls on a Monday that is also a federal or state holiday, and due to the holiday residential solid waste is not collected by the residential solid waste collection agency, such waste must be collected on the immediate Tuesday thereafter. In the case such holiday falls on a Thursday, the waste must be collected on the immediate Friday thereafter. The collection agency may collect residential solid waste once a week if it

also collects recyclable materials from the same customer at the same time as the residential solid waste and obtains a variance from the Arizona Department of Environmental Quality based on an acceptable plan approved by the Pinal County Department of Environmental Services demonstrating that no public health hazards or nuisances will exist and that fly breeding will be controlled by either biological, chemical or mechanical means.

(B) Residential solid waste shall be collected between the hours of 6:00 a.m. and 5:00 p.m. mountain standard time, on authorized collection days referenced in division (A) of this section. In the case of an emergency, residential solid waste collection agencies may request extended hours. Such request must be submitted to the Public Works Director telephonically, and, if subsequently approved, residential solid waste collection agencies must within 24 hours thereafter submit a written request to the Director substantiating the need for the extended hours.

(C) Nothing in this article restricts the city from allowing special collection days in connection with community cleanup programs.

(Ord. 1255, passed 1-3-2006; Am. Ord. 1329, passed 4-7-2009)

§ 9-5-5 CONTAINER STANDARDS; PLACEMENT FOR AND REMOVAL AFTER COLLECTION; APPLICATION TO MOBILE/MANUFACTURED HOME/RECREATIONAL VEHICLE AND TRAILER PARKS AND SUBDIVISIONS.

(A) *Container standards.* All containers used by a single-family dwelling unit to store residential solid waste and for collection thereof shall be constructed out of plastic or galvanized metal, and shall have a minimum capacity of 65 gallons and a maximum capacity of 90 gallons. In the case of containers which serve multi-family dwelling units, such containers must be made of suitable material with a minimum capacity to contain 1 yard of residential solid waste per unit per week. On all containers there shall be identifying marks with the name and telephone number of the residential solid waste collection agency in letters with a height of no less than 3 inches but no greater than 6 inches. It is unlawful to place residential solid waste outside of the appropriate containers awaiting collection, even if contained in plastic bags, paper boxes or other receptacles.

(B) *Placement for and removal after collection.* Residential solid waste containers shall be placed for collection as follows:

(1) All residential solid waste containers shall be located, positioned and placed for collection in a manner as to facilitate the safe handling of containers by residential solid waste collection agency vehicles.

(2) Residential solid waste containers may be located in alleyways that are sufficiently passable in a safe manner by residential solid waste collection vehicles.

(3) Residential solid waste containers for single-family dwelling units may be placed at the curb in front of the premises, except that at any corner lot, such containers may be placed at the curb of the side street. Containers placed may be positioned curbside beginning at 4:00 p.m. the day before collection, but must be

removed no later than 6:00 a.m. after the day of collection. Single-family dwelling unit containers may not be placed on sidewalks or curbs in any manner so as to interfere with or be hazardous to pedestrians or vehicles.

(4) Multi-family dwelling unit residential solid waste containers may not be placed on sidewalks, curbs or anywhere within the public right-of-way, in a manner so as to interfere with or be hazardous to pedestrians, vehicles or other residences or other structures.

(C) *Application to mobile/manufactured home/recreational vehicle and trailer parks and subdivisions.*

With the exception of division(B)(1) under this section, the provisions of this section do not apply to mobile/manufactured home/recreational vehicle and trailer parks and subdivisions in which a common container is placed, maintained or is otherwise controlled or provided by the operator, manager or homeowner's association of the park or subdivision, provided such container is located within the boundaries of the park or subdivision and is not located within the city's right-of-way.

(Ord. 1255, passed 1-3-2006) Penalty, see Vol. I, § 9-5-8

§ 9-5-6 VEHICLE MAINTENANCE.

(A) All vehicles used for solid waste collection from single- and multi-family dwelling units within the city limits shall be maintained in good condition and repair, readily cleanable construction and be watertight, and shall comply with all applicable state regulations. In addition, all drivers of residential solid waste collection vehicles shall be licensed in accordance with all applicable laws.

(B) The outside of each vehicle must be clearly identified with the name and phone number of the residential solid waste collection agency.

(Ord. 1255, passed 1-3-2006)

§ 9-5-7 APPEALS.

Any person aggrieved by any action or decision made by the Public Works Director may appeal such action or decision by filing a written notice of appeal and request for a hearing in the office of the City Manager. Upon receipt of such notice, the City Manager or designee thereof, shall notify the appellant within 5 working days of the scheduled hearing time, date and place, which shall in no case take place more than 10 working days from the date of receipt of the notice of appeal. The hearing shall be conducted informally. The appellant and Public Works Director may present any relevant evidence. Hearsay evidence may be considered and witnesses need not be sworn nor cross-examined. The City Manager or designee thereof shall sustain, overrule or otherwise modify the Public Works Director's action or determination and shall send such notification to appellant within 3 working days after completion of the hearing. The decision shall be final and conclusive, except that appellant may pursue any proper judicial proceeding.

(Ord. 1255, passed 1-3-2006)

§ 9-5-8 PENALTIES.

Any person violating any of the provisions of this article, shall be guilty of a class 1 misdemeanor, and shall be subject to the penalty and multiple charging provisions set forth in Vol. I, § 1-1-11.

(Ord. 1255, passed 1-3-2006)

ARTICLE 9-6: COLLECTION OF COMMERCIAL SOLID WASTE

Section

9-6-1 Compliance with city business and sales tax licensing provisions

9-6-2 Permitted days and hours of collection

§ 9-6-1 COMPLIANCE WITH CITY BUSINESS AND SALES TAX LICENSING PROVISIONS.

The city or any other person, individual, partnership, association, company or corporation may collect commercial solid waste within the city limits provided they comply with the provisions of this article, and other applicable city regulations including but not limited to possessing a current valid city business license and current valid sales tax license and paying all applicable transaction privilege taxes pursuant to Vol. I, Chapter 8.

(Ord. 1255, passed 1-3-2006)

§ 9-6-2 PERMITTED DAYS AND HOURS OF COLLECTION.

Commercial solid waste shall be collected between the hours of 6:00 a.m. and 5:00 p.m., Mountain Standard Time, Mondays through Fridays. In the case of an emergency, commercial solid waste collection agencies may request extended hours. Such request must be submitted to the Public Works Director telephonically, and if subsequently approved, commercial solid waste collection agencies must, within 24 hours thereafter, submit a written request to the Director substantiating the need for the extended hours. The collection agency may collect commercial solid waste once a week if it also collects recyclable materials from the same customer at the same time as the commercial solid waste, and obtains a variance from the Arizona Department of Environmental Quality based on an acceptable plan approved by the Pinal County Department of Environmental Services demonstrating that no public health hazards or nuisances will exist and that fly breeding will be controlled by either biological, chemical or mechanical means.

(Ord. 1255, passed 1-3-2006; Am. Ord. 1329, passed 4-7-2009)