



City of Apache Junction

Development Services Department



Council Memo

Proposed Chapter 9, Health and Sanitation Amendments

DATE: November 5, 2018

TO: Mayor and City Council

THROUGH: Bryant Powell, City Manager
Matt Busby, Assistant City Manager

FROM: Dave Zellner, CBO, Building and Safety Manager
Larry Kirch, Director of Development Services

SUBJECT: Staff recommended revisions to Apache Junction City Code, Volume I, Chapter 9: Health and Sanitation, Article 9-1: Property Maintenance Standards

BACKGROUND:

The city council gave direction to staff on January 4, 2017 to draft amendments to the Property Maintenance Standards, which are contained in Volume I, Chapter 9, Article 9-1 of the city code. Staff struggle daily with applying the property maintenance codes due to issues with the construction of the ordinance, and many citizens are frustrated by perceived lack enforcement.

The city most recently amended Article 9-1 in 2006 and staff is recommending several amendments to improve the code. These proposed changes were developed by city code compliance staff, the building and safety manager, and the director of development services with the assistance of the city attorney

SYNOPSIS OF PROPOSED CHANGES:

§ 9-1-1 Findings, Applications and Intent

Deleted first paragraph as it was unnecessary; second paragraph cleaned up; third paragraph added in references to enabling legislation; and added section regarding conflicts of ordinances.

§ 9-1-2 Definitions

Added needed definitions, revised some definitions and deleted unnecessary definitions. Some definitions were pulled from state law, other valley municipality ordinances and the International Property Maintenance Code.

- Removed the term “junk” from the definitions and ordinance (using this term always leads to arguments).
- For “Blight or Blighted”- added language from state definition.
- Added “Exterior Inspection” and “Interior Inspection” based on ARS § 9-1301.
- Added definition for “Lawful Tenant” based on ARS § 9-1302 with language to prevent use in unpaid rent eviction scenarios or no written lease scenarios.
- Added definitions “Major Body Repair,” “Minor Body Repair,” “Major Vehicle Repairs” and “Minor Vehicle Repairs” to address the types of automobile repair appropriate for residential areas.

§ 9-1-3 Public Nuisances Prohibited

In general, the state enabling legislation focuses on the prevention of public nuisances. Staff has tried to align the city standards with the states standards.

§ 9-1-3(A)

Retitled section to focus on exterior conditions not just storage, and added specific requirement, § 9-1-3(A) (1) (b), for the handling of garbage. It must be stored in an acceptable receptacle. This is to address the piling of garbage on porches, lots or being piled in open trailers, etc. Staff is not requiring trash services, just the use of cans, totes or other receptacles that prevent leakage and access from rodents and insects, and are washable.

§ 9-1-3(A) (1) (e)

There are certain construction projects that do not require permits, like fences not over six feet in height. To address situations where materials for such a project are stored for multiple months staff have added a limit of 60 days. This does not mean the project has to be done in 60 days, but does mean that the stored material must be properly stored inside a building or in a solid fenced, rear yard, and no higher than the walls.

§ 9-1-3(B) Vehicles

Code enforcement has long struggled with inoperable vehicles either being stored in yards and driveways, and with persons running auto repair or auto salvage businesses in residential zoned areas. This has a blighting influence on neighborhoods and has been a source of many complaints. Staff believes the new language strengthens staff’s ability to deal with these issues, while respecting the right of citizens to perform maintenance on their personal vehicles. The language was adopted from other valley municipal codes.

(B) (6) (a)

The dustproofing requirements, which are required under state law, were edited to align with the state language.

§ 9-1-3(D) Exterior of buildings, structures and signage

Added language based on state law and other valley city ordinances to provide more specific guidance on exterior building conditions and proper maintenance.

(D) (3)

Deleted sections that are addressed in the zoning code.

§ 9-1-3(F) Individual Property Inspections

This section is pulled almost verbatim from ARS § 9-1302. While staff do not get a high volume of calls regarding poor conditions at residential rental properties, situations do come up that staff have no way to properly address. This section does not mandate residential rental inspections, rather it provides staff a legal method to address poor conditions found in some of the rental properties in the city when a complaint is received or exterior conditions of the property indicate that the owner is not maintaining the property properly. For the city to inspect the interior of a residential rental property based on a request from a tenant, the tenant must attest that they have a written lease and are current on all rent, fees and deposits. This is to prevent code enforcement from being used in eviction situations to retaliate on property owner.

§ 9-1-3(G) Residential Rental Dwelling Unit Conditions

Like § (F) above this section comes almost verbatim from ARS § 9-1303, which is the state standard for the health and safety of occupants of residential rental property.

§ 9-1-4 Enforcement and Abatement

The bulk of the changes to this section are editorial. Some changes of note, that affect the initial efforts for compliance, are reducing the minimum initial compliance/abatement time from 14 calendar days to 10 calendar days, eliminating one level of offense and the associated fine, and increasing the fine amounts.

The code officers have always had discretion to allow compliance/abatement times of more than 14 days if it seemed necessary. The reduction to ten calendar days is primarily to speed up the abatement of very offensive issues like garbage, stagnate pools, or other health and safety issues.

Currently there are four levels of offense with escalating penalties for civil and criminal offenses. The penalties for first three offense levels are \$250, \$500, and \$750, respectively. The fourth offense level is specifically criminal, and the penalties include a \$1000 fine and other criminal penalties. Surprisingly staff has many cases that move through all four offense levels. With each level taking 2-3 months to reach the penalty issuing stage a neighbor, or neighborhood, may have to suffer a nuisance or violation for a year or more. As you would surmise, most people become much more abiding, once jail time is a potential penalty. In order to reduce some of the period to abate some of the more entrenched situations staff have reduced the levels to three, which should help bring compliance and abatement times to less than a year in the worst cases.

In pursuing, the many cases staff have had go to the court stage after a citation is issued, staff have found that the fine amounts do not seem to be as painful as the efforts to abate certain situations, additionally the fines have not been changed for 12 years and inflation has muted the impact. Staff is proposing raising the first and second level fines to \$350 and \$600. Staff hopes these will act as better incentives to obtaining compliance.

§ 9-1-4(G) Inspection Warrants

To make the inspection warrant process clearer staff has included new language in the Enforcement and Abatement section. Obtaining warrants will help staff deal with the many properties where an owner may be deceased, incarcerated or otherwise incommunicado and staff need to document violations for the abatement process. It will also assist staff in addressing those properties where excessive numbers of large vehicles and structures are noted extending above walls or found in current aerials.

§ 9-1-5 Cargo Containers

This section was an inconsistent duplicate of the same section in the zoning code so staff has chosen to delete it and let the one in the zoning code be the applicable code.