

RESOLUTION 2015-105

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; DECLARING AS PUBLIC RECORD PROPOSED AMENDMENTS TO THE CITY OF SIERRA VISTA CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF CHAPTER 91, PUBLIC NUISANCES AND PROPERTY MAINTENANCE; PROVIDING FOR THE REPEAL OF CHAPTER 92, JUNKED MOTOR VEHICLES; AMENDING CHAPTER 93, NOISE, RELATING TO STANDARDS FOR PROHIBITED NOISE; AMENDING CHAPTER 150, BUILDING, UPDATING REGULATIONS GOVERNING BUILDING AND PROPERTY MAINTENANCE; AMENDING SECTION 152.01 TO ADOPT BY REFERENCE THE 2015 INTERNATIONAL FIRE CODE AS AMENDED; AMENDING TITLE XV, LAND USAGE, TO ESTABLISH CHAPTER 155 PROVIDING FOR FORECLOSURE REGISTRY AND REAL PROPERTY REGISTRATION SYSTEM; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICES AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista, through its Code of Ordinances, Development Code and Building Codes, regulates the safety and appearance of properties and the quiet enjoyment within City neighborhoods in order to support an attractive, nuisance-free community for its residents and businesses; and

WHEREAS, the efficient and effective enforcement of City codes and regulations in the area of property maintenance will assist property owners and residents throughout the community; and

WHEREAS, by updating and reorganizing various sections of the City's Codes and Ordinances related to property maintenance, the City will be better able to communicate requirements to property owners as well as enforce provisions when necessary;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA AS FOLLOWS:

SECTION 1

The policy of the City of Sierra Vista relating to declaring proposed text amendments to the City Code as a public record be, and hereby is, reaffirmed.

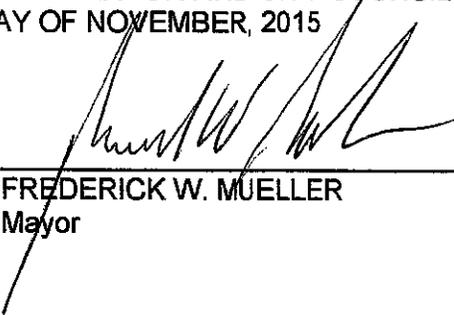
SECTION 2

That the certain documents titled Exhibits A-F, attached hereto, providing for the repeal of Chapter 91, Public Nuisances and Property Maintenance; providing for the repeal of Chapter 92, Junked Motor Vehicles; amending Chapter 93, Noise, Relating To Standards For Prohibited Noise; amending Chapter 150, Building, Updating Regulations Governing Building and Property Maintenance; amending Section 152.01 to adopt by reference the 2015 International Fire Code as amended; amending Title XV, Land Usage, to establish Chapter 155 Providing for Foreclosure Registry and Real Property Registration System, copies of which are on file in the office of the City Clerk, is hereby declared a public record for 30 days.

SECTION 3

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

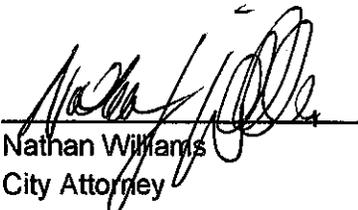
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA THIS 12TH DAY OF NOVEMBER, 2015



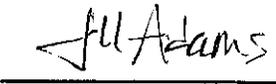
FREDERICK W. MUELLER
Mayor

Approval as to Form:

Attest:



Nathan Williams
City Attorney



Jill Adams
City Clerk

PREPARED BY:
Matt McLachlan, AICP
Community Development Director

EXHIBIT "A"

CHAPTER 91: PUBLIC NUISANCES AND PROPERTY MAINTENANCE

~~§ 91.02 DEFINITIONS.~~

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

~~—ABATE.~~ Correct, including, but not limited to, repair, rehabilitate, demolish, or remove.

~~—ACCESSORY IMPROVEMENTS.~~ Improvements to land other than buildings, including, but not limited to, driveways, parking areas, pools, bridges, monuments, signs, sidewalks, walkways, exterior steps, railings, fences, screening walls, and retaining walls.

~~—AGGREGATE MATERIAL.~~ Any rock fragments, pebbles, sand, gravel, cobbles, crushed base, asphalt, dirt or similar material.

~~—AIRCRAFT.~~ Any contrivance invented, used, or designated for navigation or for flight in the air, including, but not limited to, airplanes, helicopters and lighter than air dirigibles, and hot air balloons.

~~—ATTRACTIVE NUISANCE.~~ The maintaining of a condition, instrumentality, machine, or other agency that is dangerous to young children because of a child's inability to appreciate peril and which may reasonably be expected to attract them.

~~—AUTHORIZED PRIVATE RECEPTACLE.~~ A litter storage and collection receptacle.

~~—BLIGHT or BLIGHTED.~~ Unsightly, unsafe, or unsanitary conditions including, but not limited to, the accumulation of litter or debris; fences, buildings or other structures that have holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is dead, damaged, or has uncontrolled growth or lack of maintenance; any other similar conditions of neglect, excessive use, decay, degeneration, infestation, disrepair and deterioration that contribute to the depreciation of neighborhood property values or affect the health, safety, economic, aesthetic, or general welfare of citizens.

~~—BUILDING.~~ Any structure used or intended for supporting or sheltering any use or occupancy.

~~—CLOSED CONTAINER.~~ A container designed for transporting loose material such as garbage, refuse, or aggregate material with sides, top, and bottom made of solid and durable material, such as metal or plastic, which will resist normal wear and tear and without any holes, cracks, or openings through which materials contained therein may escape, regardless of the degree to which the container is filled.

~~—COMPLIANCE ORDER.~~ An order notifying the recipient that he or she is subject to civil or criminal prosecution for a violation of this chapter unless the violation is corrected.

~~—DEBRIS.~~ Junk, including, but not limited to, lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, equipment that is abandoned, broken, or neglected, or the scattered remains of something of little or no apparent economic value.

~~—DESIGNEE.~~ A person authorized in writing by the City Manager to carry out specific actions to enforce this chapter.

~~—DETERIORATED or DETERIORATION.~~ A lowering in quality in the condition or appearance of a building, structure, or parts thereof. The fact or process of decay or degeneration, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, vermin infestation, unsafe or unsanitary conditions, or any other evidence of physical decay or neglect.

~~—ENCLOSED CARGO AREA.~~

~~— (1) A part of a vehicle designed for carrying objects or materials with all of the following characteristics:~~

~~— (a) Bottom and vertical sides made of solid and durable material such as metal, wood, or plastic which can resist normal wear and tear and is without holes, cracks, or openings through which the materials being contained may escape, regardless of the degree to which the cargo area is filled;~~

- ~~— (b) A tailgate or equivalent device;~~
- ~~— (c) Seal on any opening used to empty a load from the cargo area including bottom dump gates and tailgates that are sufficient to prevent material from escaping;~~
- ~~— (d) A cover or tarpaulin covering the top of the cargo area that is securely fastened to prevent the covering or the load from becoming loose, detached, or in any manner a hazard to other users of the roadway, public thoroughfare, or right-of-way.~~
- ~~— (2) ENCLOSED CARGO AREA shall not include any part of a vehicle's cab or passenger compartment, nor shall it include frame rails, fenders, or decks of low beds or flat beds.~~
- ~~— EXTERIOR SURFACE. Building exterior surfaces and attachments to the buildings, including, but not limited to, walls, roofs, doors, windows, gutters, down spouts, antennas, fixtures, satellite dishes, porches, garages, patios, and chimneys.~~
- ~~— GARBAGE. Any 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.~~
- ~~— GRAFFITI. Any unauthorized inscription, figure, drawings or other defacement that is written, marked, scratched, carved, painted or otherwise affixed to any exterior building surface, unscreened area, accessory improvement, or vehicle in a place which can be seen by the public and that degrades the beauty and appearance of property.~~
- ~~— HEARING OFFICER. The administrative appeals officer appointed by the City Council.~~
- ~~— IMMINENT HAZARD. A condition that presents an immediate likelihood for causing serious personal harm due to a condition of incompleteness, deterioration, breaking, leaking, exposure, blight, or scattered with debris, litter, or garbage.~~
- ~~— INFESTATION. The presence or apparent presence of insects, rodents, birds, animals, or other noxious pests of a kind or in a quantity that may have an adverse effect upon a building or structure or upon the health, safety, aesthetics, or general welfare of citizens.~~
- ~~— JUNKED MOTOR VEHICLE. Any motor vehicle of a type subject to registration under A.R.S. Title 28, but does not have lawfully affixed license plates assigned to the vehicle by any state and is not one of these vehicles exempted under A.R.S. § 28-1410. In addition, the vehicle must exhibit one or more of the following conditions: substantially dismantled, abandoned as defined by A.R.S. § 28-1401, substantially damaged, inoperable, or having the status of a hulk or shell.~~
- ~~— LAND. All land in the city whether improved or unimproved.~~
- ~~— LITTER. All putrescible and nonputrescible solid waste consisting of both combustible and noncombustible wastes including, but not limited to, ashes, street cleanings, garbage, rubbish, dead animals, abandoned or junked vehicles or parts thereof, solid market and industrial waste, paper, rags, empty barrels, crates, packing cases, excelsior, packing material, wrappings, cigarettes, cardboard, cans, yard clippings, leaves, metal, mattresses, bedding, crockery, trash, boxes, bottles, glass, cartons, refuse, plaster, plastic, asphalt, tile, rock, bricks, concrete dribble, or other materials tending to create an unsightly condition and having an adverse effect upon the health, safety, economic, aesthetic, or general welfare of adjoining properties or occupants thereof.~~
- ~~— MAJOR REPAIR. The removal from any vehicle, or a major portion thereof, including, but not limited to, the differential, transmission, head, engine block or oil pan.~~
- ~~— NOTICE TO ABATE. A notice issued to a property owner concerning a violation of this chapter.~~
- ~~— NOXIOUS WEED. Any species of plant which is, or is liable to be, detrimental or destructive and difficult to control or eradicate and shall include any species that the Arizona Commission of Agriculture and Horticulture, after investigation and hearing, determines to be a noxious weed.~~
- ~~— PARK. An area used for a reservation, playground, recreation center, or any other public area in the city owned or used by the city and devoted to recreation.~~
- ~~— PERSON. A human being, enterprise, corporation, association, partnership, firm, or society.~~

~~—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 of which because of its nature or location, constitutes an unhealthy, unsafe, or unsightly condition.

~~—POOL.~~ A constructed or excavated exterior area designed to contain a regular supply of water.

~~—PRIVATE PROPERTY.~~ Any real property not owned by the federal government, state, county, city, or political subdivision of the state.

~~—PUBLIC PLACE.~~ Any street, sidewalk, boulevard, alley, or other public way and any public park, square, space, ground, or building.

~~—REFUSE.~~ Solid waste, including garbage.

~~—STORE.~~ The parking, leaving, locating, keeping, maintaining, depositing, remaining, or having a physical presence.

~~—STREET or HIGHWAY.~~ The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

~~—STRUCTURE.~~ That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

~~—VEGETATION.~~ Plant growth, whether living or dead, characterized by grass, weeds, bushes, cactus or trees.

~~—VEHICLE.~~ Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracts.

(’76 Code, § 9-2-2) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06)

PUBLIC NUISANCES

§ 91.10 PUBLIC NUISANCE.

~~—It shall be unlawful, a public nuisance, and a violation of this code for any resident, occupant, or owner of record to erect, maintain, use, place, deposit, cause, allow, leave or permit to be or remain in or upon any land, lot, building, structure or premises, or in or upon any right-of-way, street, avenue, alley, easement, park, parkway or other place in the city any one or more of the following:~~

~~—(A) Privies, vaults, cesspools, sumps, pits, pools, accumulated waters, or like places which are not securely protected from insects or rodents, or which are foul or malodorous.~~

~~—(B) Animal waste in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any laws of the city, county, state, or federal government provided, however, that nothing in this chapter shall be deemed to prohibit the utilization of the animal manure on any farm, garden, or ranch in a manner and for the purposes as are compatible with customary practices.~~

~~—(C) All places used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair, or rebuilding of automobiles, trucks, tractors, or machinery of any kind; or for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, trailers, or other vehicles, machinery of any kind or of any of the parts thereof; or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life of property by others. Nothing contained in this chapter shall be deemed to prohibit the disassembling, repair, rebuilding or the storage of any of the parts thereof on any land where the disassembling, repair, rebuilding, or storage are customary and incidental to the principal use of the land.~~

~~—(D) Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish, or fowl, butcher trimmings and offal, or any waste vegetation or animal matter in any quantity, garbage, human excreta, sewage, or other offensive substances;~~

~~provided nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner approved by the health officer of the county.~~

~~—(E) Burning or disposing of refuse, sawdust, or other material in a manner as to cause or permit ashes, sawdust, soot, or cinders to be cast upon the streets or alleys of the city, or to cause or permit the smoke, ashes, soot or gases arising from the burning to interfere substantially and unnecessarily with the use and enjoyment of public or private property or to injure or endanger the health of others; provided this subsection shall not apply where the person responsible for the action has properly obtained a fire permit from the city or the county health officer. Nothing contained in this subsection shall not be deemed to authorize any burning not authorized under the provisions of other sections of this city code.~~

~~—(1) Smoke. Smoke emissions from any source that exceed a greater density than the density described as No. 1 on the Ringlemann Chart. However, smoke may be emitted, which is equal to but not darker than No. 2 on the Ringlemann Chart, for not more than four minutes in any 8-hour period. For the purpose of grading the density of smoke, the Ringlemann Chart, shall be the standard. All measurements shall be taken at the point of emissions of the smoke.~~

~~—(2) Fly ash, dust, fumes, vapors, gases and other forms of air pollution. Emission that can cause damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling.~~

~~—(3) Odors. Emissions of noxious odors that are perceptible beyond the lot line where the emissions are being initiated.~~

~~—(F) Any unguarded or abandoned excavation, pit, well, or hole which is or could be dangerous to life.~~

~~—(G) Any exposed exterior surface on any building, addition, accessory improvement, appendage or other structure which is not kept free of deterioration or blight.~~

~~—(H) Any exterior surface of any building, addition, accessory improvement, appendage, or other structure which is maintained in a state so as to constitute a health or safety hazard.~~

~~—(1) Any exposed exterior surface of any building, addition, accessory improvement, appendage, or other structure which has graffiti.~~

~~—(J) Any foundations, walls, roofs, chimneys, or exterior surfaces which are not maintained in a structurally sound and weatherproof condition.~~

~~—(K) Any foundation elements which do not adequately support the building at all points in accordance with the International Building Code.~~

~~—(L) Any litter, garbage, or debris thrown or deposited on any property within the city.~~

~~—(M) Any litter, handbill, debris, or other objects thrown, deposited, or dropped from an aircraft.~~

~~—(N) Driving or moving a vehicle within the city unless the vehicle is so constructed or loaded so as to prevent any load, contents, litter, garbage, or debris from being blown or deposited upon any street, alley, or other public place.~~

~~—(O) Any filth, litter, debris or trash covered exterior areas, including all buildings and structures thereon and areas adjacent thereto, and under any roof area not enclosed by the walls, doors, and windows of any building; including, but not limited to, cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts, unused or inoperable appliances, worn out or discarded items, or anything whatsoever which is or may become a hazard to public health and safety; unless the same is kept in covered bins or metal receptacles approved by the County Health Officer, this code, or any other ordinance of the city.~~

~~—(P) Any object, building, tree, bush, or vehicle that interferes with, obstructs, tends to obstruct, or renders dangerous the free passage, use, or vision in the customary manner of any sidewalk, street, or highway in the city.~~

~~—(Q) Uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than 12 inches; or any dead trees, bushes, or shrubs; 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 five feet and closer than 8 feet to the ground.~~

~~—(R) Any dangerous or dilapidated building, addition, appendage, or other structure, any abandoned or partially destroyed building or structure, or any building, addition, appendage, or structure commenced and left unfinished in violation of this code and any vacated or abandoned building not securely closed at all times; any wood, metal, or other material used for securing the building must be compatible with the color of the building.~~

~~—(S) Leave or permit to remain exposed outside on any property, or within any unoccupied or abandoned building, dwelling, other structure, or in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, or other container which has an airtight door or lid, snaplock, or other locking device which may not be released from the inside, without first removing such door or lid, snaplock, or other locking device from such ice box, refrigerator or container.~~

~~—(T) Any wall or fence with numerous missing blocks, boards, or other material or maintained in such a condition of deterioration or disrepair so as to constitute a hazard to persons or property.~~

~~—(U) Any recreational vehicles, boat trailers, horse trailers, or similar trailers parked or stored so as to interfere with the clear vision area as described by § 151.04.009 [of the City Development Code], or project into any right-of-way. No such vehicle so parked or stored shall be used for living purposes for more than 14 consecutive days.~~

~~—(V) Any commercial or industrial-type equipment to include: tractors, backhoes, bulldozers, trenchers, cranes, or other similar equipment parked in an area visible to the public for more than 48 hours in any residential district except when the equipment is being used for construction purposes on the site.~~

~~—(W) Any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of any property, or with the lawful use of any school, public place or public street, or with any governmental or public function of the city, or as to constitute a hazard or threat to the public health, safety, and welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such artificial illumination is utilizing the same at any exhibition, performance, amusement, attraction or event authorized or sponsored by the city, or any public, private or parochial school within the city.~~

~~—(X) The escape or flow of water into the public right-of-way in such quantity, in the opinion of the City Engineer, as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition for such traffic, or to cause damage to the public streets or alleys of the city through their failure or neglect to properly operate or maintain any water facility or device, including, but not limited to, sprinklers, hoses, pipes, ditches, standpipes, berms, valves, and gates.~~

~~—(Y) Any noise of such intensity as, as detailed below, as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by the public, or with the lawful use of any school, public place, public street, or with any governmental or public function of the city or as to constitute a hazard or threat to the public health, safety or welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such noise is a participant in or spectator at any exhibition, performance, amusement, attraction, or event authorized or sponsored by the city, or any public, private or parochial school within the city.~~

~~—(1) In all districts in the city, the following noise standards, unless otherwise specifically indicated, shall apply:~~

~~—(a) Maximum sound level. No noise shall be generated which causes the maximum sound level (noise level) at any point on property lines surrounding the premises on which noise is produced, to exceed the background (ambient noise) including traffic noise by 5 dba (decibels)~~

on the A-weighted scale) measured at the same point, or the following limits, whichever is greater:

ADJACENT LAND USE

Land Use Category	Residential	Commercial	Industrial
	a/b	a/b	a/b
Residential	55/50	55/50	55/50
Commercial	55/50	60/55	70/65
Industrial	55/50	60/55	70/65

—“a” represents the hours between 6:00 a.m. and 8:00 p.m.

—“b” represents the hours between 8:00 p.m. and 6:00 a.m.

—(b) The sound level at the boundary line between land use areas shall not exceed the average of the maximum permitted sound level for each such area noted above.

—(2) Positive Corrections. One of the following corrections may be applied to the limits and corrections noted above only between the hours of 6:00 a.m. and 8:00 p.m.:

Frequency of Occurrence	Correction (in Decibels)
Noise occurring not more than fifteen minutes per hour	+ 5
Noise occurring not more than five minutes per hour	+10
Noise occurring not more than one minute per hour	+15
Any period of time within the hour less than one minute	+20

—(3) Ambient Noise Level Limit. In the event that the ambient noise level on the adjacent commercial or residential properties exceeds any of the first four noise level categories above, the intrusive noise level limit for the cumulative period applicable to the category shall be increased to reflect the ambient noise level.

—(4) Exceptions to Noise Standards. The standards of this sub-section are not applicable to noise from:

—(a) Construction and maintenance, or the demolition of structures between 6:00 a.m. and 8:00 p.m.

—(b) Safety signals, warning devices, and emergency pressure relief valves.

—(c) Moving sources such as vehicles and aircraft, except when the moving sources are operated as part of sporting or entertainment events.

—(d) Emergency work involving equipment or vehicles to protect life or property.

—(e) Authorized emergency vehicles when responding to an emergency call or acting in time emergency.

—(f) Nonamplified crowd noises resulting from activities such as those planned by school, governmental or community groups, or organized sports.

—(g) Church chimes.

—(h) City vehicle, equipment, or facilities while being operated for official use.

—(i) Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition, provided that no unit may create excessive, unnecessary, or offensive noise causing annoyance or discomfort to a reasonable person of normal sensitivity within any sleeping or living area inside any dwelling unit.

~~—(j) Any other activity to the extent a regulation has been pre-empted by state or federal law.~~

~~—(k) Noise producing structures, facilities, or activities legally established prior to the effective date of this section that do not conform to the provisions of this section, shall be considered to be legally non-conforming. Such structures, facilities, or activities may continue in their non-conforming state and may make reasonable repairs and alterations.~~

~~—(l) Structural repairs, additions, enlargements, changes of occupancy may be made subject to complying with the provisions of this section and all other provisions of this code.~~

~~—(Z) Making, causing, or permitting to be made any vibration of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by the public, or with the lawful use of any school, public place, or public streets, or with any governmental or public function of the city or as to constitute a hazard or threat to the public health, safety, or welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such vibration is a participant in or spectator at any exhibition, performance, amusement, attraction or event authorized or sponsored by the city, or any public, private or parochial school within the city.~~

~~—(1) No person shall cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this sub-section.~~

~~—(a) Ground vibration as measured at the boundary of a residential zoning district and an industrial zoning district shall not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.~~

~~—(b) Ground vibration as measured at a common property boundary of any two properties within any industrial zoning district shall not exceed 0.1 inches per second (0.00025 meters per second) RMS velocity.~~

~~—(2) Method of measurement: Vibration measurement procedures shall conform to the methods described in this section or to procedures approved by the Arizona Department of Environmental Quality.~~

~~—(a) Instrumentation shall be capable of measuring RMS value of the vibration velocity over the frequency range of 10 to 1,000 Hz.~~

~~—(b) Measurement values shall be recorded for a sufficient period of observation to provide a representative sample.~~

~~—(c) Attachment of the vibration transducer to the ground shall be by magnetic or screw attachment to a steel bar of a minimum of 9 inches (22.9 cm.) in length, driven flush with the ground surface.~~

~~—(3) Exemptions. The rules of this section shall not apply to:~~

~~—(a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;~~

~~—(b) Vibration resulting from the operation of any road vehicle;~~

~~—(c) Vibration resulting from construction activities and equipment, between 6:00 a.m. and 8:00 p.m.;~~

~~—(d) Vibration resulting from roadway maintenance and repair equipment.~~

~~—(e) Authorized emergency vehicles when responding to an emergency call or acting in time emergency;~~

~~—(f) Emergency work involving equipment or vehicles to protect life or property.~~

~~—(AA) Any junked motor vehicle (see Chapter 92 for complete details).~~

~~(76 Code, § 9-2-3) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.11 LITTER CONTROL.~~

- ~~—(A) Persons owning or occupying property or places of business shall keep the sidewalk, alley, or easement, and any landscape area surrounding their premises free of litter, garbage, or debris.~~
- ~~—(B) It shall be illegal to transport garbage and aggregate material, or like material, within the city limits in an open vehicle unless the material is in a closed container or in an enclosed cargo area.~~
- ~~—(C) Vehicles transporting the following materials are not required to be equipped with a cover or tarpaulin:~~
- ~~—(1) Loads composed solely of asphalt.~~
- ~~—(2) Aggregate materials that will not blow out of the cargo area and are loaded so that no portion of the load contacts the sides of the cargo area closer than 6 inches from the top of the sides and no portion of the load crowns or peaks above the top of the sides of the cargo area.~~
- ~~—(D) No vehicle shall be driven or moved on any road within the city limits unless the vehicle is so constructed or loaded so as to prevent any of its load from dropping, shifting, leaking, or otherwise escaping, except that sand may be dropped for the purpose of securing traction; or water or other substances may be sprinkled on a roadway to clean or maintain the roadway.~~
- ~~—(E) No person shall throw or deposit any litter, garbage, or debris on any occupied private property within the city, except that the owner or person controlling private property may maintain authorized private receptacles in a manner that such debris will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.~~
- ~~—(F) No person shall throw or deposit any litter, garbage, or debris on any city property.~~
- ~~—(G) The owner or person in control of any private property shall at all times maintain the premises free of litter, garbage, or debris. This division does not prohibit the storage of litter, garbage, or debris in authorized private collection receptacles, or within any building when not in violation of any health, fire, building, or other regulation, order, ordinance, or statute.~~
- ~~—(H) No person occupying or employed in any business establishment shall deposit any litter, garbage, or debris in any receptacle unless the collection receptacle is provided with a lid of sufficient weight to prevent the escape of any litter, garbage, or debris from the receptacle.~~
- ~~(‘76 Code, § 9-2-4) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

PROPERTY MAINTENANCE

~~§ 91.25 BUILDING EXTERIORS.~~

~~(A) Exterior surfaces.~~

~~(1) All exposed exterior surfaces shall be maintained so as to be free of deterioration or blight.~~

~~(2) All exterior surfaces shall be maintained in a state so as not to constitute a health or safety hazard.~~

~~(3) No graffiti shall be allowed on any exterior building surfaces.~~

~~(B) Structural integrity. Foundations, walls, roofs, chimneys, and all other exterior surfaces shall be maintained in structurally sound and weatherproof condition. The foundation elements shall adequately support the building at all points in accordance with the International Building Code as amended thereto and adopted in this code, (see § 150.01 of this code) and shall be free of defects, deterioration, or blight.~~

~~(76 Code, § 9-2-5) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~Cross-reference:~~

~~Buildings and adoption of Uniform Building Code, see Chapter 150 of this code~~

~~§ 91.26 ACCESSORY IMPROVEMENTS.~~

~~(A) All accessory improvements shall be maintained and kept free of deterioration or blight.~~

~~(B) No graffiti shall be allowed on any accessory improvements.~~

~~(76 Code, § 9-2-6) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.27 LAND.~~

~~(A) All land shall be maintained free from any accumulation of garbage, litter, debris, blight, or deterioration.~~

~~(B) All land shall be kept free of attractive nuisances.~~

~~(C) All land shall be kept free of poison oak, poison ivy, any noxious weeds, tumbleweeds, Russian thistles, desert bloom, uncultivated or overgrown plants, and any dry or dead vegetation or grass greater than 12 inches high.~~

~~(D) All land shall be kept free of conditions which constitute or are likely to constitute a fire hazard, or would adversely affect the health or safety of adjacent property owners or occupants of those properties.~~

~~(E) All land shall be kept free of overgrown vegetation that interferes with or obstructs or renders dangerous the free passage or use of sidewalks, roadways, streets, alleys, public rights-of-way, or easements; or obstructs or blocks the vision of drivers and their ability to observe traffic control devices or signs.~~

~~(F) All land shall be kept free of the conditions that produce noxious or objectionable stench or odors.~~

~~(G) All land shall be kept free from insect and rodent infestation and noxious pests, or conditions which cause the property to harbor insects, rodents, or noxious pests.~~

~~(H) All land shall be maintained so as to prevent the accumulation of stagnant water where the water causes a hazardous or unhealthy condition, is a breeding area for insects, is polluted, deteriorated, blighted, or is eroding foundation walls.~~

~~(76 Code, § 9-2-7) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

ENFORCEMENT; REMEDIES FOR VIOLATIONS

~~§ 91.40 AUTHORITY TO ENFORCE.~~

~~(A) The City Manager or designee or certified police officers shall enforce this chapter and are granted all authority needed and necessary for enforcement.~~

~~(B) Nothing in this section shall preclude the City Manager or designee or certified police officers from seeking voluntary compliance with the provisions of this chapter or from enforcing~~

~~this chapter, proactively or reactively, through warnings, notices to comply, or other such devices designed to achieve compliance in the most efficient and effective manner under the circumstances. Any person who neglects, fails or refuses to correct the violations contained within a Notice to Abate or other similar device may be assessed a reinspection fee for inspections which occur after the compliance date. Reinspection fees, as established by separate council resolution, may be collected as a lien against the real property.~~

~~—(C) When vegetation extends into a street, alley, or public right-of-way in such a manner that it interferes with the free and safe use of the street, alley, or right of way, the city may immediately trim and cut such vegetation as necessary to remove such interference without notice to the property owner and without following the abatement procedures set forth in this code.~~

~~(76 Code, § 9-2-8) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.41 INSPECTIONS.~~

~~—(A) The City Manager or designee or certified police officer may inspect buildings or land to determine compliance with this chapter.~~

~~—(B) Unscreened exterior areas may be inspected at any time, with or without the involvement of the owner or occupant, in accordance with legal requirements governing administrative inspections of private property.~~

~~—(C) Screened exterior areas shall be inspected only during the normal business hours of the city unless otherwise arranged, and only upon invitation or with the concurrence of the occupant, owner, or agent when the premises are unoccupied, or when ordered by the court when probable cause exists to believe that conditions may be detrimental to the health, safety, economic, or general welfare of the public.~~

~~—(D) Except in cases of alleged imminent hazard, if the occupant is not the owner of the premises to be inspected, the City Manager or designee shall provide notice to the owner or agent as to the date and time of the inspection. The owner or agent may be present for the inspection if the occupant concurs. The inability to either contact the owner or agent, or meet at their convenience, shall not require rescheduling the inspection.~~

~~(76 Code, § 9-2-9) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.42 VIOLATIONS PROHIBITED.~~

~~—(A) It shall be unlawful for any owner, lessor, lessee, manager, agent, or other person having lawful control over a building, structure, or parcel of land to cause, allow, permit, facilitate, or aid or abet any violation of any provision of this chapter or to fail to perform any act or duty required by this chapter.~~

~~—(B) The owner of record, as recorded in the County Recorder's Office, of the property which the violation of this chapter exists shall be presumed to be a person having lawful control over a structure or parcel of land. If more than one person is recorded as the owner of the property, the persons shall be jointly and severally presumed to be persons having lawful control over a structure or parcel of land. This presumption shall not prevent the enforcement of the provisions of this chapter against any person specified in division (A) of this section.~~

~~—(C) Any person, firm, or corporation that places any rubbish, trash, filth, or debris upon any private or public property not owned or under the control of that person, firm, or corporation is guilty of a Class 1 misdemeanor and in addition to any fine or penalty that may be imposed for a violation of any provision of this chapter, is liable for all costs which may be assessed pursuant to this section for removing, abating, or enjoining the rubbish, trash, filth, or debris.~~

~~(76 Code, § 9-2-10) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.43 VIOLATIONS NOT EXCLUSIVE; EACH DAY A SEPARATE VIOLATION.~~

~~—(A) Violations of this chapter are in addition to any other violation enumerated within the city ordinances or this code and in no way limit the penalties, actions, or abatement procedures which may be taken by the city for any violation of this chapter which is also a violation of any other ordinance or code provision of the city or state statutes.~~

~~—(B) Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.~~

~~(‘76 Code, § 9-2-23)~~

~~(Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.44 JURISDICTION OF CITY COURT.~~

~~—(A) Jurisdiction of all proceedings to enforce the criminal provisions of this chapter shall be in City Court.~~

~~—(B) Civil actions to enforce §§ 91.11(B), (C) and (D) shall be adjudicated in City Court.~~

~~—(C) Civil actions to enforce this chapter shall be adjudicated by a city appointed Hearing Officer.~~

~~(‘76 Code, § 9-2-15)~~

~~(Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.45 CIVIL VIOLATIONS; CITATION AND ENFORCEMENT PROCEDURE.~~

~~—(A) *Civil violation – commencement of action.*~~

~~—(1) A civil violation may be commenced by issuance of a citation or by complaint.~~

~~—(2) The citation will be substantially in the same form as the state traffic ticket and complaint and shall direct the defendant to appear before the Hearing Officer within ten days after citation issuance.~~

~~—(3) The citation will further notify the defendant that if he or she fails to appear on or before the date specified in the complaint, a judgment by default will be entered against him or her, and the Hearing Officer may, in his or her discretion, impose a civil sanction not to exceed \$250.~~

~~—(4) Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods.~~

~~—(a) By having the defendant sign the citation with a promise to appear in court within ten days of the issuance of the citation.~~

~~—(b) By hand delivering a copy of the citation to the defendant.~~

~~—(c) By mailing a copy of the citation by certified or registered mail, return receipt requested, to the defendants at their last known address.~~

~~—(d) In the event service cannot be accomplished as set forth in subsection (1), (2), (3) of this division, the city may serve the defendant by any means allowed by the Arizona Rules of Civil Procedure for the superior court.~~

~~(‘76 Code, § 9-2-16)~~

~~—(B) *Civil citation – authority to issue.* The City Manager or designee, or any certified police officer may issue a civil citation pursuant to this chapter.~~

~~(‘76 Code, § 9-2-17)~~

~~—(C) *Appearance by defendant.* The defendant shall, within ten days of the issuance of the citation, appear in person or through his attorney before the Hearing Officer and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegation, the Hearing Officer shall enter judgment against the defendant and impose a civil sanction for the violation. If the defendant denies the allegations contained in the citation, the Hearing Officer shall set the matter for hearing.~~

~~(‘76 Code, § 9-2-18)~~

~~—(D) *Default judgment.* If a defendant served with a complaint fails to appear on or before the time directed to appear or at the time set for hearing by the Hearing Officer, the allegations in~~

the complaint shall be deemed admitted and the Hearing Officer shall enter judgment for the city and impose a civil sanction.

(76 Code, § 9-2-19)

~~— (E) Rules of procedure for civil violations. The Arizona Rules of Court for civil traffic violation cases shall be followed by the Hearing Officer for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter, local rules of procedure established for the hearing, or rules of the supreme court.~~

(76 Code, § 9-2-20)

~~— (F) Collection of fines. Any judgment for civil sanctions taken pursuant to this chapter may be collected as any other civil judgment.~~

(76 Code, § 9-2-21)

~~(Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 2006-005, passed 1-26-06) Penalty. see § 91.99~~

~~§ 91.46 NUISANCE ABATEMENT AND INJUNCTION.~~

~~— In addition to or in lieu of filing a civil citation or criminal complaint, the City Manager or designee may declare any property an abatable public nuisance, and file a notice to abate or obtain injunctive relief against such nuisance. An abatable public nuisance consists of, but is not limited to, any of the violations enumerated in § 91.10, as well as any buildings, grounds, lots, contiguous sidewalks, streets and alleys containing rubbish, trash, weeds or other accumulation of fifth, debris or dilapidated structures which may constitute a hazard to public health and safety.~~

~~— (A) Notice to abate or enjoin.~~

~~— (1) The notice to abate or enjoin shall be delivered in person or sent by certified mail, return receipt requested, from the City Manager or designee to the person, manager, agent or employee, owner, occupant or lessee of the property to be abated, at the last known address or the address to which the tax bill for the property was last mailed.~~

~~— (2) The notice shall contain the legal description of the property, a statement of the violation, a statement that the person, manager, agent or employee, owner or lessee of the property has 30 days to abate or correct the violation, and if the property has not been abated within the 30 days, the cost to the city to abate the violation.~~

~~— (3) The City Manager or designee may record the notice in the office of the County Recorder. If the notice is recorded and compliance with the notice is subsequently satisfied, the City Manager or designee shall record a release of the notice.~~

~~— (4) If the person, manager, agent or employee, owner, occupant or lessee of the property to be abated cannot be located, the notice of abatement shall be posted upon the buildings, lots or grounds to be abated and shall be clearly legible and in a conspicuous place and shall be published at least two times in a newspaper of general circulation throughout the city, such publications to occur at least seven days apart.~~

~~— (5) The effective date of the notice of abatement shall be the date received if delivered in person, or sent by certified mail, or the date the property is posted or the date of first publication if the alternate method of service is used.~~

~~— (B) Abatement by city; expense statement.~~

~~— (1) When any person, owner, occupant, or lessee of any building, grounds, or premises within the city, neglects, fails or refuses to abate the public nuisance for more than 30 days from the effective date of the notice to abate, the City Manager or designee may abate the public nuisance at the expense of the person, owner, occupant, or lessee.~~

~~— (2) The City Manager or designee shall prepare a verified statement and account of all the expenses incurred by the city or occasioned by, or incidental to, the abatement and file a verified statement and account with the city's Finance Manager. The verified statement shall include an administration charge to cover the cost of recording and releasing the liens, and any~~

~~other documents associated with the public nuisance whether or not the public nuisance is abated by the city.~~

~~—(C) Assessment of city abatement costs.~~

~~—(1) After filing the verified statement and account as set forth, the City Manager or designee shall prepare duplicate copies of a notice of lien and record one copy with the office of the County Recorder, and within ten days thereafter serve by certified mail the remaining copy of such notice of lien upon the person, owner or occupant of the building, grounds or premises.~~

~~—(2) If the owner or occupant of the property on which the lien will be placed cannot be located, a copy of the notice of lien shall be posted upon the buildings, lots, or grounds affected thereby, be clearly legible, in a conspicuous place, and shall be the date received if sent by certified mail.~~

~~—(3) From and after the date of recording the notice of lien with the County Recorder, all expenses incurred in connection with or incidental to such abatement and as fixed and determined by such verified statement and account are hereby declared as a lien upon such buildings, grounds and premises, and shall be charged and assessed upon and against such buildings, grounds and premises and shall be collected in the same manner as city improvement district assessments.~~

~~—(4) The recorded lien shall bear interest at the legal rate for judgments in the State of Arizona from the date that the lien is recorded until it is paid in full.~~

~~—(D) Assessments that are imposed under subsection (C) of this section run against the property until paid and are due and payable in equal annual installments as follows:~~

~~—(1) Assessments of less than \$500 shall be paid within one year after the assessment is recorded.~~

~~—(2) Assessments of \$500 or more but less than \$1,000 shall be paid within two years after the assessment is recorded.~~

~~—(3) Assessments of \$1,000 or more but less than \$5,000 shall be paid within three years after the assessment is recorded.~~

~~—(4) Assessments of \$5,000 or more but less than \$10,000 shall be paid within six years after the assessment is recorded.~~

~~—(5) Assessments of \$10,000 or more shall be paid within 10 years after the assessment is recorded.~~

~~—(E) A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for these purposes, and any number of assessments on the same lot or tract of land may be enforced in the same action.~~

~~—(F) In the event the city is required to correct or abate a violation of this chapter, the city shall prepare a verified statement and account of the actual cost to correct or abate the violation and will include an additional 5% for inspections and other incidental costs incurred with the correction or abatement. The verified statement and account shall be an assessment upon the lot and tract of land from which the city corrected or abated the violations and shall be collected at the same time and in the same manner as other city assessments are collected. The assessment shall be recorded in the office of the County Recorder and, from the date of the recording, shall be a lien on the lot or tract of land. The lien shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment or foreclosure and order of sale. The city may institute an action to enforce the lien in the Superior Court of the county at any time after the recording of the assessment, but failure to enforce the lien by the action 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 thereof.~~

~~(76 Code, § 9-2-31) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.47 EMERGENCY ABATEMENT.~~

~~—If a situation presents an imminent hazard to life or public safety, the city may issue a notice to abate directing the owner, occupant, operator, or agent to take appropriate action to correct or abate the emergency upon notice by the enforcement official to the responsible persons. In addition, the city may act to correct or abate the emergency. In the event the city is unable to contact the owner, occupant, agent, or responsible party, it in no way affects the city's right to correct or abate the emergency. The owner, occupant, operator, agent, or responsible party shall be granted a hearing before the Hearing Officer on the matter upon his or her request, as soon as practicable, but the appeal shall, in no case, stay the abatement or correction of the emergency.~~

~~(76 Code, § 9-2-25) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.48 ABATEMENT OF DANGEROUS BUILDINGS.~~

~~—When the city finds that any structure contains an imminent hazard, the city may declare the structure unfit for human occupancy and order it to be vacated pursuant to the Uniform Code for the Abatement of Dangerous Buildings, and amendments thereto, as adopted in § 150.01 of this code.~~

~~(76 Code, § 9-2-26) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.49 INTERFERENCE WITH ABATEMENT OR OTHER ENFORCEMENT PROCEDURE.~~

~~—Any person who interferes, prevents, or attempts to interfere or prevent, an individual employed by the city or other person contracted for by the city, from investigating an alleged violation of this chapter, or from correcting or abating a violation of this chapter is guilty of a Class 1 misdemeanor.~~

~~(76 Code, § 9-2-27) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.50 GIVING FALSE INFORMATION TO ENFORCEMENT PERSONNEL.~~

~~—(A) Any person who knowingly makes a false or fraudulent statement, or knowingly misrepresents a fact, or misleads an individual employed by the city or other person contracted by the city, when that individual is investigating, correcting, or abating a violation of this chapter is guilty of a Class 1 misdemeanor.~~

~~—(1) The City Manager or designee is authorized to commence an action under this chapter by issuing a citation to the occupant of the property where the violation has occurred, or to the owner of record, or to both.~~

~~—(2) The citation will be substantially in the same form as the state traffic ticket and complaint and shall direct the defendant to appear before the Hearing Officer within ten days after issuance of the citation.~~

~~—(3) The citation will further notify the defendant that if he or she fails to appear on or before the date specified in the complaint, a judgment by default will be entered against him or her, and the Hearing Officer may impose a civil sanction not to exceed \$250.~~

~~—(4) Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods:~~

~~—(a) By having the defendant sign the citation with a promise to appear in court within ten days of the issuance of the citation;~~

~~—(b) By hand delivering a copy of the citation to the defendant;~~

~~—(c) By mailing a copy of the citation to the person charged by certified or registered mail, return receipt requested, to the person's last known address;~~

~~—(d) In the event service cannot be accomplished as set forth in subsection (a), (b), or (c) of this division, the city may serve the defendant by any means allowed by the Arizona Rules of Civil Procedure for the superior court.~~

~~—(5) Appearance by defendant. The defendant shall, within ten days of the issuance of the citation, appear in person or through his attorney before the Hearing Officer and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegation, the Hearing Officer shall enter judgment against the defendant and impose a civil sanction for the violation. If the defendant denies the allegations contained in the citation, the Hearing Officer shall set the matter for hearing.~~

~~—(6) Default judgment. If a person served with a complaint fails to appear on or before the time directed to appear or at the time set for hearing by the Hearing Officer, the allegations in the complaint shall be deemed admitted and the Hearing Officer shall enter judgment for the city and impose a civil sanction.~~

~~—(7) Rules of procedure for civil violations. The Arizona Rules of Court for civil traffic violation cases shall be followed by the Hearing Officer for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter, local rules of procedure established for the hearing, or rules of the supreme court.~~

~~—(8) Collection of fines. Any judgment for civil sanctions taken pursuant to this chapter may be collected as any other civil judgment.~~

~~—(9) Civil fines and penalties imposed. The civil fine/penalty for violating § 91.10 shall be an amount not to exceed \$300. In addition to the amount of the fine there is imposed a default penalty in the amount of \$50 should the defendant fail to appear and answer for a violation of § 91.43 within the time period stated on the citation or fails to appear at the time and place set by the court for a matter arising under this section. Any judgment for civil fines or penalties taken pursuant to this chapter may be collected as any other civil judgment.~~

~~(76 Code, § 9-2-28) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99~~

~~§ 91.51 PROCEDURE FOR SERVICE OF NOTICE.~~

~~—(A) Any notice required to be given for any purposes under this chapter shall be by either having the City Manager or designee deliver the notice to the property owner or owner's agent, or by mailing the notice to the owner or owner's agent by certified mail, return receipt requested.~~

~~—(B) Notice is deemed effective on the date it is hand delivered or deposited in the United States mail.~~

~~—(C) Nothing in this chapter shall preclude the city from giving additional oral or written notice at its discretion. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.~~

~~(76 Code, § 9-2-30) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.52 HABITUAL OFFENDER.~~

~~—A person who commits a violation of this chapter after having previously been found guilty or responsible for committing three or more violations of this chapter within a 24-month period, whether by admission, by payment of the fine, by default, or by judgment after hearing shall be guilty of a criminal misdemeanor. The City Attorney is authorized to file a criminal misdemeanor complaint in the Magistrate Court against habitual offenders who violate this section. In applying the 24-month provision, the dates of the commission of the offense shall be the determining factor, irrespective of the sequence in which the offenses were committed.~~

~~(Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06; Am. Ord. 2007-007, passed 5-10-07)~~

~~APPEALS, VARIANCES~~

~~§ 91.65 APPEALS TO HEARING OFFICER.~~

~~—(A) Any notice to abate or assessment can be appealed to the Hearing Officer.~~

~~—(B) An appeal must be filed within 15 days of the service of the notice to abate or assessment and must be filed with the Clerk's office.~~

~~—(C) Failure of a person entitled to appeal under this chapter to timely file an appeal shall constitute a waiver of the right to a hearing of the complaint before the Hearing Officer, and the person shall be estopped to deny the validity of any notice or assessment which could have been timely appealed.~~

~~—(D) The notice of appeal shall set forth, in writing, the person's reasons for believing they are not in violation of this chapter or that the assessment is excessive.~~

~~—(E) The individual appealing shall accompany the written appeal with an appeal fee, as established by separate council resolution, the sum to be deposited in the general fund of the city. If the individual is successful in his or her appeal, this fee shall be refunded.~~

~~—(F) In case of financial hardship, the fee may be suspended until the decision on appeal is rendered. The Hearing Officer may also waive the fee upon a finding of financial hardship.~~

~~(76 Code, § 9-2-32) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.66 WHAT MAY BE APPEALED.~~

~~—Any person may appeal a notice to abate or assessment to the Hearing Officer:~~

~~—(A) When it is claimed the property or building subject to the notice is not in violation of this chapter.~~

~~—(B) When it is claimed the true intent of this chapter or standards described in this chapter have been incorrectly interpreted.~~

~~—(C) When it is claimed that the statement of costs for correcting or abating the violation is excessive.~~

~~(76 Code, § 9-2-33) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.67 APPEAL PROCEDURE.~~

~~—(A) The Hearing Officer shall set a date for hearing on appeal to be heard within 40 days of the receipt of notice of appeal by the city.~~

~~—(B) Public notice of the hearing shall be in accordance with the procedure established in City Code § 151.31.004A.~~

~~—(C) The Hearing Officer shall take testimony from all parties to the appeal. The parties may, if they choose, be represented by an attorney.~~

~~—(D) The Hearing Officer shall prepare a written summary of the hearing and shall set forth the decision reached. A decision shall be rendered within 15 days of the hearing, and the findings and decision shall be mailed to all parties to the appeal.~~

~~(76 Code, § 9-2-34) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.68 STAY OF ORDER DURING APPEAL.~~

~~—Except for orders to vacate or violations presenting an imminent hazard, the timely filing of an appeal shall stay enforcement of a notice to abate or assessment until the appeal is finally determined by the Hearing Officer.~~

~~(76 Code, § 9-2-37) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.69 REQUEST FOR VARIANCE OR TIME EXTENSION ON NOTICE TO ABATE.~~

~~—(A) Any person may request a waiver or time extension of a notice to abate or assessment. The request shall be made to the Hearing Officer.~~

~~—(B) The same time limits for filing, fees, and written requirement that appear in § 91.65 of this chapter on appeals apply to this section.~~

~~—(C) The procedure shall be the same as set forth in § 91.67 of this chapter.~~

~~—(D) Where the Hearing Officer grants a waiver, he or she shall set forth his or her reasons for granting the waiver and the extent of the waiver.~~

~~—(E) The Hearing Officer may grant a waiver only where it is determined that all of the following apply:~~

~~—(1) Special circumstances or conditions apply to the appeal application such as hardship.~~
~~—(2) Authorizing of the waiver is necessary for the preservation and enjoyment of substantial property rights.~~

~~—(3) Authorizing of the waiver will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.~~

~~—(F) The Hearing Officer may grant one extension of the time limit set forth in § 91.65 of this chapter. The extension shall not exceed 180 days. The extension period granted by the Hearing Officer starts to run on the day the Hearing Officer issues his or her decision pursuant to § 91.67 of this chapter. The Hearing Officer may grant an extension only where it is shown that:~~

~~—(1) It would create a hardship to bring the property into compliance within the 30-day period as stated in § 91.65 of this chapter; and~~

~~—(2) The moving party presents a plan that is approved by the Hearing Officer by which the property will be brought into compliance within 180 days.~~

~~(76 Code, § 9-2-35) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.70 APPEAL FROM HEARING OFFICER DECISION.~~

~~—Any party aggrieved by a decision of the Hearing Officer may appeal the decision to the City Council. Appeals of the decision of the City Council may be taken to the Superior Court in accordance with the Rules of Procedure for special actions.~~

~~(76 Code, § 9-2-36) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.98 OPTION TO PROCEED CRIMINALLY OR CIVILLY.~~

~~—The City Manager or designee may proceed pursuant to this chapter by citation for civil sanctions or by complaint for criminal sanctions.~~

~~(76 Code, § 9-2-11) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06)~~

~~§ 91.99 CIVIL/CRIMINAL PENALTIES; RESTITUTION.~~

~~—(A) Civil penalties. Upon finding a person responsible for a civil violation of this chapter, the Hearing Officer shall impose a civil sanction of not less than \$150 nor more than \$250. No Hearing Officer shall suspend the imposition of the \$150 sanction unless, at the time of sentencing, he or she finds by a preponderance of the evidence that the violation the defendant was found responsible for has now been corrected, and that the defendant is now in compliance with this chapter. In that event, the Hearing Officer may suspend all or part of the fine.~~

~~(76 Code, § 9-2-12)~~

~~—(B) The civil fine/penalty for violating §§ 91.11(B), (C), or (D) shall not exceed \$250.~~

~~—(C) Criminal penalties.~~

~~—(1) A person who is convicted of a violation of this chapter is guilty of a Class 1 misdemeanor and shall be sentenced to a fine of not less than \$500 and probation for not less than one year, nor more than a fine of \$2,500. A judge shall not suspend any or all of the impositions or execution of the sentence required by this section.~~

~~—(2) Notwithstanding subsection (1) of this division, if a judge finds at the time of sentencing, and by a preponderance of the evidence, that the violation the defendant was convicted of has been corrected, and that the defendant is now in compliance with this chapter, the court may:~~

~~—(a) Sentence the defendant to pay a fine of not less than \$100; and~~

~~—(b) Suspend all or part of the probation.~~

~~(76 Code, § 9-2-13)~~

~~—(D) Restitution. In addition to any sanction or penalty provided for in divisions (A) and (B) of this section, the person shall be liable for all costs which may be associated with the city's bringing the property into compliance with this chapter. The Hearing Officer shall impose~~

~~restitution as part of a civil sentence and the court shall impose restitution as part of a criminal sentence.~~

~~(76 Code, § 9-2-14)(Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1050, passed 11-13-97; Am. Ord. 2006-005, passed 1-26-06)~~

{RESERVED}

EXHIBIT "B"

CHAPTER 92: JUNKED MOTOR VEHICLES

§ 92.01 DEFINITIONS.

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

~~—*JUNKED MOTOR VEHICLE.* Any motor vehicle of a type subject to registration under A.R.S. Title 28 but does not have lawfully affixed thereto unexpired number or license plates assigned to the vehicle by any state and is not one of those vehicles exempted under A.R.S. § 28-1410. In addition, the vehicle must exhibit one or more of the following conditions: substantially dismantled, abandoned as defined by A.R.S. § 28-1401, substantially damaged, inoperable, or having the status of a hulk or shell.~~

~~—*MOTOR VEHICLE.* Any self propelled vehicle which can be used for transporting persons or property.~~

~~—*PERSON.* Every natural person, firm, co-partnership, association, or corporation.~~

~~—*PRIVATE PROPERTY.* Any real property not owned by the federal government, state, county, city, or political subdivision of the state.~~

~~—*STORE.* Parking, storing, leaving, locating, keeping, maintaining, depositing, remaining, or physical presence.~~

~~—*STRUCTURE.*~~

~~—(1) Any enclosed garage or other permanent building lawfully constructed of opaque materials without openings, holes or gaps other than doors and windows.~~

~~—(2) Any carport, if an opaque car cover completely covers the body of the vehicle.~~

~~—(3) Any fence, wall, or barrier, not less than five feet in height, constructed of opaque materials without openings, holes, or gaps other than gates or doors, completely enclosing the vehicle, and equipped with self-latching gates or doors.~~

~~(’76 Code, § 10-2-1) (Ord. 858, passed 4-26-90)~~

§ 92.02 STORAGE DECLARED NUISANCE.

~~—To store or to permit the storage of any junked motor vehicle on any private property within the city in violation of this chapter is hereby declared dangerous to the public safety and a public nuisance. It is further declared that such storage interferes with the enjoyment of property; reduces the value of private property; invites plundering; creates fire hazards; extends and aggravates urban blight and deterioration; represents a hazard to the health and safety of minors; attracts rodents and insects; and poses a serious danger to the public health, safety, comfort, convenience, welfare, and happiness.~~

~~(’76 Code, § 10-2-2) (Ord. 858, passed 4-26-90)~~

§ 92.03 PROHIBITED AND PERMITTED STORAGE.

~~—(A) It shall be unlawful:~~

~~—(1) For any person owning or having custody of any junked motor vehicle to store such a vehicle or permit such vehicle to remain on private property within the city, except as permitted by division (B) of this section.~~

~~—(2) For any person owning or occupying any private property within the city to store any junked motor vehicle or to permit such vehicle to remain on the owned or occupied property, except as permitted by division (B) of this section.~~

~~—(B) This division shall not apply to any junked motor vehicle stored on private property within the city if the vehicle is:~~

~~—(1) On the premise of a business enterprise operated in a lawful place and manner and licensed by the city under Title XI of this code, and the storage of the vehicle is necessary to the operation of the business enterprise; or~~

~~—(2) Lawfully enclosed within a structure.
(’76 Code, §§ 10-2-3, 10-2-4) (Ord. 858, passed 4-26-90)
§ 92.04 COMPLAINT; ABATEMENT; EVIDENCE.~~

~~—(A) Whenever the city is notified or finds that any junked motor vehicle is stored or permitted to remain on private property within the city in violation of this chapter, the city may, upon completion of investigation, issue a criminal citation or criminal complaint based upon probable cause to the recorded owner or occupier of the private property, or the last registered owner or custodian of the vehicle.~~

~~—(B) Within 15 days from the issuance of the citation or complaint or at the initial appearance date, whichever dates comes first, the Magistrate shall dismiss the citation or complaint if the defendant provides to the Magistrate competent evidence of abatement as set forth in this section; and, if necessary, the initial appearance date may be continued to permit city verification of the abatement.~~

~~—(C) Abatement shall consist of one or more of the following remedies: lawfully storing the vehicle pursuant to § 92.03(B)(2); lawfully registering the vehicle and affixing thereto unexpired number or license plates assigned to the vehicle by any state or the lawful removal and physical relocation of the vehicle to a location for storage not in conflict with this chapter.~~

~~—(D) Photographic evidence showing that the vehicle did not have unexpired number or license plates affixed thereto on the date the photographic evidence was taken shall constitute prima facie evidence that the vehicle was not then currently registered and licensed. As a defense, evidence may be presented of the current registration for that vehicle.
(’76 Code, § 10-2-5) (Ord. 858, passed 4-26-90)~~

~~§ 92.99 PENALTY.~~

~~—(A) Any person who violates this chapter shall be guilty of a Class 2 misdemeanor and, upon a plea of guilty or conviction, shall be sentenced to not more than four months in jail and/or a fine of not more than \$750 plus surcharges.~~

~~—(B) The Magistrate, upon a finding of guilty, shall order the abatement of an offending vehicle within 30 days of judgement unless additional time is requested by the defendant and granted by the Magistrate. The Magistrate, upon expiration of the abatement time, shall order the city to abate a violation by causing the towing and impoundment of the vehicle. The city shall dispose of the vehicle pursuant to A.R.S. § 28-1408 and shall order the defendant to reimburse the city for its actual costs in removal.~~

~~—(C) Each day such violation continues shall constitute a separate offense as to each junked motor vehicle stored on private property in violation of this chapter. If a person has stored more than one such vehicle in violation of this chapter, each such vehicle shall constitute a separate violation.~~

~~(76 Code, § 10-2-6) (Ord. 858, passed 4-26-90)~~

{RESERVED}

EXHIBIT "C"

CHAPTER 93: NOISE

Section

- 93.01 Prohibition of loud or unusual noise
- 93.02 Exemptions

Cross-reference: Sound amplification systems in vehicles, see Chapter 74

§ 93.01 PROHIBITION OF LOUD OR UNUSUAL NOISE.

It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing or present in the area. The standards which shall be considered in determining whether a violation exists shall include but not be limited to the following:

- ~~(A) The volume of the noise.~~
 - ~~(B) The intensity of the noise.~~
 - ~~(C) Whether the nature of the noise is natural or unnatural.~~
 - ~~(D) Whether the origin of the noise is usual or unusual.~~
 - ~~(E) The volume and intensity of the background noise, if any.~~
 - ~~(F) Proximity of the noise to residential sleeping facilities.~~
 - ~~(G) The nature and zoning of the area within which the noise emanates.~~
 - ~~(H) The density of the inhabitation of the area within which the noise emanates.~~
 - ~~(I) The time of the day or night the noise occurs.~~
 - ~~(J) The duration of the noise.~~
 - ~~(K) Whether the noise is recurrent, intermittent, or constant.~~
 - ~~(L) Whether the noise is produced by a commercial or noncommercial activity.~~
- (a) Noise that causes the maximum sound level at any point on property lines surrounding the premises on which noise is produced to exceed the ambient background noise, including traffic noise, by five decibels on the A-weighted scale measured at the same point, or the following limits, whichever is greater, except as provided under section 93.02 of this Chapter:

ADJACENT LAND USE

<u>Land Use Category</u>	<u>Residential</u> a/b	<u>Commercial</u> a/b	<u>Industrial</u> a/b
<u>Residential</u>	<u>55/50</u>	<u>55/50</u>	<u>55/50</u>
<u>Commercial</u>	<u>55/50</u>	<u>60/55</u>	<u>70/65</u>
<u>Industrial</u>	<u>55/50</u>	<u>60/55</u>	<u>70/65</u>

NOTE: "a" represents the hours between 6:00 a.m. and 8:00 p.m.
 "b" represents the hours between 8:00 p.m. and 6:00 a.m.

- (b) The sound level at the boundary line between land use areas shall not exceed the average of the maximum permitted sound level for each such area noted above.
- (c) One of the following corrections may be applied to the limits and corrections noted under subsection (a) only between the hours of 6:00 a.m. and 8:00 p.m.:

<u>Frequency of Occurrence</u>	<u>Correction (in Decibels)</u>
<u>Noise occurring not more than fifteen minutes per hour</u>	<u>+ 5</u>
<u>Noise occurring not more than five minutes per hour</u>	<u>+10</u>
<u>Noise occurring not more than one minute per hour</u>	<u>+15</u>
<u>Any period of time within the hour less than one minute</u>	<u>+20</u>

- (d) In the event that the ambient noise level on the adjacent commercial or residential properties exceeds any of the first four noise level categories in subsection (c), the intrusive noise level limit for the cumulative period applicable to the category shall be increased to reflect the ambient noise level.

§ 93.02 EXEMPTIONS.

~~—The provisions of this chapter shall not be applicable to the creation or generation of noise in connection with altering, signaling, or warning, or operations in conjunction therewith, normally inherent in or incident to the preservation and protection of life and property or other emergency circumstances nor to the routine or emergency operations of any government unit or agency. The following sounds are exempt from the provisions of this Chapter:~~

- (a) Construction and maintenance, or the demolition of structures between 6:00 a.m. and 8:00 p.m.
- (b) Safety signals, warning devices, and emergency pressure relief valves.
- (c) Moving sources such as vehicles and aircraft, except when the moving sources are operated as part of sporting or entertainment events.
- (d) Emergency work involving equipment or vehicles to protect life or property.
- (e) Authorized emergency vehicles when responding to an emergency call or acting in time emergency.
- (f) Non-amplified crowd noises resulting from activities such as those planned by school, governmental or community groups, or organized sports.
- (g) Church chimes.
- (h) City vehicle, equipment, or facilities while being operated for official use.
- (i) Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition, provided that no unit may create

excessive, unnecessary, or offensive noise causing annoyance or discomfort to a reasonable person of normal sensitivity within any sleeping or living area inside any dwelling unit.

- (j) Any other activity to the extent a regulation has been pre-empted by state or federal law.
- (k) Noise producing structures, facilities, or activities legally established prior to the effective date of this section that do not conform to the provisions of this section, shall be considered to be legally non-conforming. Such structures, facilities, or activities may continue in their non-conforming state and may make reasonable repairs and alterations.
- (l) Structural repairs, additions, enlargements, changes of occupancy may be made subject to complying with the provisions of this section and all other provisions of this code.
- (m) Emergency alarms, such as fire alarms or burglar alarms, prior to a reasonable opportunity for the owner or tenant in possession of the premises served by such alarm to turn off the alarm.

EXHIBIT "D"

CHAPTER 150: BUILDING

BUILDING AND PROPERTY MAINTENANCE CODES

§ 150.01 ADOPTION.

- (a) The 2012~~5~~ editions of the International Building Code, International Existing Building Code, International Residential Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, and the International Swimming Pool and Spa Code, International Energy Conservation Code, ICC Electrical Code, International Property Maintenance Code, and the 1997 Uniform Code for the Abatement of Dangerous Buildings, all as amended, be, and all as amended by Resolution 2015-48 are hereby adopted by this reference and made a part as if fully set forth in this code as being the minimum code of the City.
- (b) The 2012 edition of the International Energy Code for commercial development as amended by Resolution 2015-048, is hereby adopted by this reference and made a part as if fully set forth in this code as being the minimum code of the City.
- (c) Chapter 11 of the 2006 edition of the international Residential Code as amended by Resolution 2015-048 is hereby adopted by this reference and made a part as if fully set forth in this code as being the minimum code of the City.
- (d) The 1997 Uniform Code for the Abatement of Dangerous Buildings is hereby adopted by this reference and made a part as if fully set forth in this code as being the minimum code of the City.
- (e) The 2014 edition of the National Electrical Code as amended by Resolution 2014-070 is hereby adopted by reference and made a part hereof as if fully set forth in this code as being the minimum code of the City.
- (f) ANSI A117.1 (2009), Standard for Accessible and Usable Buildings and Facilities, is hereby adopted by this reference and made a part as if fully set forth in this code as being the minimum code of the City.

§ 150.02 ADOPTION OF RESOLUTION DEFINITIONS.

~~The provisions of Resolution 4561, Resolution 2003-030, Resolution 2003-060, Resolution 2005-003, and Resolution 2013-117 which have heretofore been declared to be a public record pursuant to the provisions of A.R.S. § 9-802, are hereby referred to, adopted, and made a part of this code as if set forth fully herein.~~

For purposes of this chapter, the following terms shall have the definitions provided below, provided, however, where terms are not defined in this code and are defined in the International Building Code, International Fire Code, International Plumbing Code, International Mechanical Code, or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes:

Abandoned property. The word "abandoned" is hereby defined as voluntarily relinquished by the owner for an apparently indefinite period of time. As applied to motor vehicles or other articles of property, the term includes, but is not limited to, any motor vehicle or other article of personal property which is left upon the public or private property without the consent of the public entity, owner, lessee, or occupant thereof for longer than two (2) hours.

Abandoned structure. An "abandoned structure" is hereby defined as any structure that is in a partially dismantled state, and which remains uninhabitable for more than twelve (12) consecutive months and there is no active building permit for work to the structure or which remains uninhabitable for more than thirty (30) months, even if there is an active building permit for work to the structure; and one of the following conditions exists:

- a. The structure's roof or any part thereof is missing, or
- b. Any outside wall of the structure or portion thereof is missing, including any windows that are missing, or the structure is not dried-in.

Abate. Correct, including, but not limited to, repair, rehabilitate, demolish, or remove.

Accessory improvements. Improvements to land other than buildings, including, but not limited to, driveways, parking areas, pools, bridges, monuments, signs, sidewalks, walkways, exterior steps, railings, fences, screening walls, and retaining walls.

Acceptable indoor air quality. Air in which there are no known contaminants at harmful concentrations.

Addition. An extension or increase to floor area or height of a building or structure.

Aggregate Material. Any rock fragments, pebbles, sand, gravel, cobbles, crushed base, asphalt, dirt or similar material.

Alter or alteration. Any change in construction or a change in occupancy. Where the term of alteration is applied to a change of construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another.

Attractive Nuisance. The maintaining of a condition, instrumentality, machine, or other agency that is dangerous to young children because of a child's ability to appreciate peril and which may be reasonably expected to attract them.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bedroom. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

Blight or Blighted. Unsightly, unsafe, or unsanitary conditions including, but not limited to, the accumulation of litter or debris; fences, buildings or other structures that have holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is dead, damaged, or has uncontrolled growth or lack of maintenance; any other similar conditions of neglect, excessive use, decay, degeneration, infestation, disrepair and deterioration that contribute to the depreciation of neighborhood property values or affect the health, safety, economic, aesthetic, or general welfare of citizens.

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

Closed container. A container designed for transporting loose material such as garbage, refuse, or aggregate material with sides, top, and bottom made of solid and durable material such as metal or plastic, which will resist normal wear and tear and without any holes, cracks, or openings through which materials containing therein may escape, regardless of the degree to which the container is filled.

Compliance order. An order notifying the recipient that he or she is subject to civil or criminal prosecution for a violation of this chapter unless the violation is corrected.

Debris. Junk, including, but not limited to, lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, car parts, equipment that is abandoned, broken, or neglected, or the scattered remains of something of little or no apparent economic value.

Designee. A person authorized in writing by the City Manager to carry out specific actions to enforce this chapter.

Deteriorated or Deterioration. A lowering in quality in the condition or appearance of a building, structure, or parts thereof. The fact or process of decay or degeneration, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, vermin infestation, unsafe or unsanitary conditions, or any other evidence of physical decay or neglect.

Dwelling unit. An enclosed space of one or more rooms providing for complete independent living facilities for one family including permanent provisions for living, sleeping, sanitation, and kitchen facilities.

Exterior surface. Building exterior surfaces and attachments to buildings, including, but not limited to, walls, roofs, doors, windows, gutters, down spouts, antennas, fixtures, satellite dishes, porches, garages, patios, and chimneys.

Garbage. Any 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.

Guard. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Graffiti. Any unauthorized inscription, figure, drawings or other defacement that is written, marked, scratched, carved, painted or otherwise affixed to any exterior building surface, unscreened area, accessory improvement, or vehicle in a place which can be seen by the public and that degrades the beauty and appearance of property.

Habitable space. A space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, screen enclosures, sunrooms, storage or utility space and similar areas are not considered habitable space.

Hearing Officer. The administrative appeals officer appointed by the City Council.

Housekeeping unit. A room or group of rooms forming a single habitable space equipped and intended to be used for living, cooking, sleeping and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

Imminent danger. A condition that could cause serious or life-threatening injury or death at any time.

Infestation. The presence or apparent presence of insects, rodents, birds, animals, or other noxious pests of a kind or in a quantity that may have an adverse affect upon a building or structure or upon the health, safety, aesthetics, or general welfare of citizens.

Inoperative vehicle. The word "inoperative" is hereby defined as not in working condition as designed, or incapable of being operated lawfully. For example, without limiting the meaning of the term, a motor vehicle designed to be operated upon the public streets shall be deemed inoperative if a tag with a current registration (also known as a license plate) of a kind required under Arizona law as a condition of operation upon the public streets is not affixed thereto, or if one (1) or more parts which are required for the operation of the vehicle are missing or not attached to the vehicle as designed; provided, however, that the following shall not be considered inoperative:

- a. A motor vehicle not in working condition or incapable of being operated lawfully kept on residentially zoned property or the property of a residential use for not more than thirty (30) days, unless kept in a garage or under a carport;
- b. A motor vehicle not in working condition or incapable of being operated lawfully, kept in a garage or under a carport;
- c. A motor vehicle not in working condition or incapable of being operated lawfully on residentially zoned property or the property of a residential use as long as said vehicle is covered by a cover designed and manufactured to cover said vehicle and said cover is maintained in a clean and reasonable manner; or

- d. A motor vehicle not in working condition or incapable of being operated lawfully kept upon nonresidential property where the owner or tenant is authorized by the city for the service or storage of motor vehicles.
- e. Only one (1) such vehicle, which meets the above exceptions, excluding nonresidential properties licensed for the service or storage of motor vehicles, may be permitted per address or property.

Labeled. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that's maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

Land. All land in the city whether improved or unimproved.

Litter. All putrescible and nonputrescible solid waste consisting of both combustible and noncombustible wastes including, but not limited to, ashes, street cleanings, garbage, rubbish, dead animals, abandoned or junked vehicles or parts thereof, solid market and industrial waste, paper, rags, empty barrels, crates, packing cases, excelsior, packing material, wrappings, cigarettes, cardboard, cans, yard clippings, leaves, metal, mattresses, bedding, crockery, trash, boxes, bottles, glass, cartons, refuse, plaster, plastic, asphalt, tile, rock, bricks, concrete dribble, or other materials tending to create an unsightly condition and having an adverse effect upon the health, safety, economic, aesthetic, or general welfare of adjoining properties or occupants thereof.

Notice to Abate. A notice issued to a property owner concerning violation of this chapter.

Noxious Weed. Any species of plant which is, or is liable to be, detrimental or destructive and difficult to control or eradicate and shall include any species that the Arizona Department of Agriculture, after investigation and hearing, determines to be a noxious weed.

Nuisance. Any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- a. Injures or endangers the comfort, repose, health or safety of others;
- b. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- c. In any way renders other persons insecure in life or the use of property; or
- d. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Occupancy. The purpose for which a building, or part thereof, is used or intended to be used.

Occupant. An occupant is the individual or individuals in actual possession of the premises. Any person, permittee, licensee, or franchisee that places or maintains facilities in the city streets and public ways.

Openable area. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner. The owner of fee title to the property in question.

Person. Any person, firm, partnership, association, social or fraternal organization, corporate, estate, trust, receiver, syndicate, branch of government, or any other group or combination of acting as a unit.

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

Pool. A constructed or excavated exterior area designed to contain a regular supply of water.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Private property. Any real property not owned by the federal government, state, county, city, or political subdivision of the state.

Public way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Refuse. Solid waste, including garbage.

Rooming house. A building arranged or occupied for lodging with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Rooming unit. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Sleeping unit. A room or space in which people sleep which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Slum property. Residential rental property that has deteriorated or is in a state of disrepair and that manifests one (1) or more of the following conditions that are a danger to the health or safety of the public:

- (a) Structurally unsound surfaces, roof, walls, doors, floors, stairs, stairwells, porches or railings.
- (b) Lack of potable water, adequate sanitation facilities, adequate water or waste pipe connections.
- (c) Hazardous electrical system or gas connections.
- (d) Lack of safe, rapid egress.
- (e) Accumulation of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

Store. The parking, leaving, locating, keeping, maintaining, depositing, remaining, or having a physical presence.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Tenant. A person who rents, leases or subleases, through either a written or oral agreement, real property from another for a fixed time.

Toilet room. A room containing a water closet or urinal but not a bathtub or shower.

Vegetation. Plant growth, whether living or dead, characterized by grass, weeds, bushes, cactus, or trees.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracts.

Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from any space.

BUILDING MAINTENANCE

§ 150.03 IN GENERAL.

- (a) Scope. The provisions of this article shall apply to all existing residential and nonresidential structures and constitute minimum requirements and standards for structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the

responsibility of owners, operators and occupants; and for the occupancy of existing structures and premises.

- (b) Intent. This article shall be constructed to secure its expressed intent, which is to ensure public health, safety, and welfare in so far as they are affected by continued occupancy and maintenance of structures. Existing structures that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

§ 150.04 APPLICABILITY.

- (a) General. The provisions of this article shall apply to all matters affecting or relating to structures as set forth in section 150.02 of this Chapter. Where, in a specific case, different sections of this article specify different requirements, the most restrictive shall govern.
- (b) Maintenance. Equipment, systems, devices and safeguards required by this article, or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or abrogation of fire protection and safety systems and devices in existing structures.
- (c) Applicability of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code as established in section 150.01 of this Chapter and applicable sections of the City of Sierra Vista Development Code.
- (d) Historic buildings. The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the building official to be safe.
- (e) Requirements not covered. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, for the public safety, health and general welfare, not specifically covered by the requirements of this article, shall be determined by the building official.

§ 150.05 HANDRAILS AND GUARDRAILS.

- (a) General. Every exterior and interior flight of stairs having more than four (4) risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than thirty (30) inches above the floor or grade below shall have guards. Handrails shall not be less than thirty-four (34) inches high or more than thirty-eight (38) inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than thirty-six (36) inches high for residential and forty-two (42) inches high for commercial for landings, balconies, porches, decks or ramps or other walking surfaces. Balusters shall not be spaced more than four (4) inches apart.

§ 150.06 LIGHT, VENTILATION, AND OCCUPANCY LIMITATIONS.

- (a) Scope. The provisions of this section shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.
- (b) Responsibility. The owner of a structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

(c) Light standards.

- (1) Habitable spaces. Every habitable space shall have at least one (1) window facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such windows shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room. Provided, however, where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight (8) percent of the floor area of the interior room or space, but not less than twenty-five (25) square feet. The exterior glazing area shall be based on the total floor area being served.
- (2) Common halls and stairways. Every common hall and stairway in residential occupancies, other than one- and two-family dwellings, shall be lighted at all times. In other than residential occupancies, means of egress, including exterior means of egress, and stairways shall be illuminated at floors and landings at all times that the building space served by the means of egress is occupied.
- (3) Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures as determined by the building official.

(d) Ventilation standards.

- (1) Habitable spaces. Every habitable space shall have at least one (1) openable window. The total openable area of the window in every room shall be equal to at least forty-five (45) percent of the minimum glazed area required in subsection 150.06(c)(1) of this Chapter. Provided, however, where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight (8) percent of the floor area of the interior room or space, but not less than twenty-five (25) square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.
- (2) Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by subsection 150.06(d)(1) of this Chapter, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.
- (3) Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit. Provided, however, devices such as coffee pots and microwave ovens shall not be considered cooking appliances.
- (4) Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent of the source. Air shall be exhausted to the exterior and not be recirculated to any space.
- (5) Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

(e) Occupancy limitations.

- (1) Minimum room widths. A habitable room, other than a kitchen, shall not be less than seven (7) feet in any plan dimension. Kitchens shall have a clear passageway of not

- less than three (3) feet between counter fronts and appliances or counter fronts and walls.
- (2) Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven (7) feet, except:
- a. In one- and two-family dwellings, beams or girders spaced not less than four (4) feet on center and projecting not more than six (6) inches below the required ceiling height of seven (7) feet are permitted.
 - b. In basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, a ceiling height of not less than six (6) feet, eight (8) inches with not less than six (6) feet, four (4) inches of clear height under beams, girders, ducts and similar obstructions shall be permitted.
 - c. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven (7) feet over not less than one-third of the required minimum floor area, shall be permitted. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five (5) feet or more shall be included.
- (3) Bedroom and living room requirements. Every bedroom and living room shall comply with the following requirements:
- a. Room area. Every bedroom shall contain at least seventy (70) square feet.
 - b. Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable space and shall not serve as the only means of egress from other habitable spaces.
 - c. Water closet accessibility. Every bedroom shall have access to at least one (1) water closet and one (1) lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one (1) water closet and lavatory located in the same story as the bedroom or an adjacent story.
 - d. Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.
 - e. Other requirements. Bedrooms shall comply with the applicable provisions of this chapter including, but not limited to, light, ventilation, room area, ceiling height and room width; plumbing facilities and water-heating facilities; heating facilities and electrical receptacles requirements; smoke detector and emergency escape requirements.
- (4) Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the building official, endangers the life, health, safety or welfare of the occupants.
- (5) Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements.
- a. A unit occupied by not more than two (2) occupants shall have a clear floor area of not less than two hundred twenty (220) square feet. A unit occupied by three (3) occupants shall have a clear floor area of not less than three hundred twenty (320) square feet. These required areas shall be exclusive of the areas required by subsections b. and c. below.
 - b. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches in front. Light and ventilation conforming to this section shall be provided.
 - c. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
 - d. The maximum number of occupants shall be three (3).

(6) Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

§ 150.07 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

- (a) Scope. The provisions of this section shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.
- (b) Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this section.
- (c) Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary and safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.
- (d) Rooming houses. At least one (1) water closet, lavatory and bathtub or shower shall be supplied for each four (4) rooming units.
- (e) Hotels. Where private water closets, lavatories and baths are not provided, one (1) water closet, one (1) lavatory and one (1) bathtub or shower having access from a public hallway shall be provided for each ten (10) occupants.
- (f) Employee's facilities. A minimum of one (1) water closet, one (1) lavatory and one (1) drinking facility shall be available to employees.
- (g) Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

§ 150.08 TOILET ROOMS.

- (a) Privacy. Toilet rooms and bathrooms shall provide privacy. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.
- (b) Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units shall have access by traversing not more than one (1) flight of stairs and shall have access from a common hall or passageway.
- (c) Location of employee toilet facilities. Toilet facilities shall have access from within the employee's working area. The required toilet facilities shall be located no more than one (1) story above or below the employee's working area and the path of travel to such facilities shall not exceed a distance of five hundred (500) feet. Employee facilities shall either be separate facilities or combined employee and public facilities. Provided, however, facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of five hundred (500) feet from the employee's regular working area to the facilities.
- (d) Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

§ 150.09 PLUMBING SYSTEMS AND FIXTURES.

- (a) General. All plumbing fixtures shall be properly installed and maintained in working order and shall be kept free from obstructions, leaks, defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
- (b) Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.
- (c) Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-siphonage, improper installation, deterioration or damage or for similar reasons, the building official shall require the defects to be corrected to eliminate the hazard.

§ 150.10 WATER SYSTEM.

- (a) General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.
- (b) Contamination. The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.
- (c) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
- (d) Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of hot and cold water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than one hundred ten (110) degrees. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

§ 150.11 SANITARY DRAINAGE SYSTEM.

- (a) General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewer disposal system.
- (b) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

§ 150.12 STORM DRAINAGE.

- (a) General. Drainage of roofs and paved areas, yards and courts and other open areas on the premises shall not be discharged in a manner that adversely impacts neighboring property.

§ 150.13 MECHANICAL AND ELECTRICAL REQUIREMENTS.

- (a) Scope. The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided by existing buildings.
- (b) Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter. The owner and/or operator shall not for any reason remove any mechanical and electrical facilities and equipment which has been supplied by the owner and/or operator except for replacement or repair.
- (c) Heating facilities.
 - (1) Facilities required. Heating facilities shall be provided in structures as required by this section.
 - (2) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of sixty-eight (68) degrees in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.
 - (3) Heat supply. Every owner and operator of any building who rents, leases, or lets one (1) or more dwelling units or sleeping units, shall supply heat to the occupants and maintain a temperature of not less than sixty-eight (68) degrees in all habitable rooms, bathrooms and toilet rooms during the period from November 1 to April 1.
 - (4) Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat and maintain a temperature of not less than sixty-eight (68) degrees during the period from November 1 to April 1.
 - (5) Processing, storage and operation areas that require cooling or special temperature conditions are exempt from the provisions of this subsection.
- (d) Mechanical equipment.
 - (1) Mechanical appliances. All mechanical equipment furnished by the owner or operator including, but not limited to, fireplaces, dishwashers, garbage disposals, cooking appliances, air conditioning and heating systems and water heating appliances shall be properly installed and maintained in a safe working condition and shall be capable of performing the intended function. Adequate maintenance shall be provided on all mechanical equipment, including ductwork which is supplied by the owner and/or operator.
 - (2) Removal of combustion products. All fuel burning equipment and appliances shall be connected to an approved chimney or vent. Provided, however, that fuel burning equipment and appliances which are labeled for unvented operation, shall not be required to be connected to an approved chimney or vent.
 - (3) Clearances. All required clearances to combustible materials shall comply with the applicable Florida codes.
 - (4) Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.
 - (5) Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
 - (6) Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outside or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved by the building official.
 - (7) General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

(e) Electrical facilities.

- (1) Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and subsection 150.13(f) of this Chapter.
- (2) Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the building code established under section 150.01 of this Chapter. Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service having a rating of not less than sixty (60) amperes.
- (3) Electrical system hazards. When it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the building official shall require the defects to be corrected to eliminate the hazard.

(f) Electrical equipment.

- (1) Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
- (2) Receptacles. Every habitable space in a dwelling shall contain at least two (2) separate and remote receptacle outlets. Every laundry area shall contain at least one (1) grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one (1) receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- (3) Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one (1) electric luminaire.

(g) Elevators, escalators and dumbwaiters.

- (1) General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter or the certificate shall be available for public inspection in the office of the building operator.
- (2) Elevators. In buildings equipped with passenger elevators, at least one (1) elevator shall be maintained in operation at all times when the building is occupied. Provided, however, buildings equipped with only one (1) elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

§ 150.14 FIRE SAFETY REQUIREMENTS.

- (a) Scope. The International Fire Code as adopted under section 152.01 of this Chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided by existing buildings.
- (b) Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this section.
- (c) Means of egress.
 - (1) General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code as adopted under section 152.01 of this Chapter.
 - (2) Aisles. The required width of aisles in accordance with the International Fire Code as adopted under section 152.01 of this Chapter shall be unobstructed.

- (3) Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys.
- (4) Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction and the following requirements:
 - a. Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools.
 - b. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.
- (d) Fire-resistance ratings.
 - (1) Fire-resistance-rated assemblies. The required fire-resistance rating of fire resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.
 - (2) Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in an operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.
- (e) Fire protection systems.
 - (1) General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in a operable condition at all times in accordance with the International Fire Code as adopted under section 152.01 of this Chapter.
 - (2) Smoke alarms. Single or multi-station smoke alarms shall be installed and maintained in all residential and institutional occupancies at all of the following locations:
 - a. At the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
 - b. In each room used for sleeping purposes.
 - c. In each story within a dwelling unit but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one (1) full story below the upper level.
 - d. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code as adopted under section 152.01 of this Chapter.
 - (3) Power source. In residential and institutional occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than is required for over-current protection. Provided, however, smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.
 - (4) Interconnection. Where more than one (1) smoke alarm is required to be installed within an individual dwelling unit in residential occupancies or institutional occupancies,

the smoke alarms shall be interconnected in such a manner that the activation of one (1) alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Provided, however, that:

- a. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
- b. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

ELECTRICAL CODE

§ 150.15 ADOPTION.

~~The certain documents known as the 2014 edition of the National Electrical Code, as amended by Resolution 2014-070, and portions of the 2012 International Residential Code as amended, be, and hereby are, adopted by reference and made a part hereof as if fully set forth in this code.~~

§ 150.15 EXTERIOR STRUCTURE MAINTENANCE.

- (a) General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- (b) Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted when said condition is evident on fifty (50) percent or more of an exterior surface visible from a public right-of-way. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust and corrosion and all surfaces with rust and corrosion shall be stabilized and coated to inhibit future rust and corrosion.
- (c) Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible from the street or road fronting the property. These numbers shall contrast with their background. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half-inch. Multi-unit residential structures or non-residential structures containing multiple units which do not individually face the street, shall be permitted to have only one (1) number for the structure.
- (d) Structural members. All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.
- (e) Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- (f) Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials and maintained weatherproof and properly surface coated where required to prevent deterioration.

- (g) Roof's drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that adversely impacts adjacent property.
- (h) Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall faces and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (i) Overhang extensions. All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust.
- (j) Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (k) Stairways, decks, porches and balconies. Every exterior stairway, porch, deck and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- (l) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (m) Window, skylights and door frames. Every window, skylight, and door frame shall be kept in sound condition, good repair and weather tight.
- (n) Glazing. All glazing materials shall be maintained free from cracks and holes.
- (o) Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
- (p) Insect screens. Dwelling units that are rented or leased shall have screens on all exterior openable windows and doors used or required for ventilation. Said screens shall be stretched and fitted and maintained without open rips or tears.
- (q) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwellings units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with subsection 150.14 (c)(3) of this Chapter.
- (r) Building security. Doors and windows for dwelling units, room units or housing units shall be provided with devices designed to provide security for the occupants and property within.
- (s) Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than one (1) inch. Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.
- (t) Windows. Operable windows located in whole or in part within six (6) feet above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a locking device.

§ 150.16 INTERIOR STRUCTURE MAINTENANCE.

- (a) General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two (2) or more dwelling units or two (2) or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- (b) Structural members. All structural members shall be maintained structurally sound and be capable of supporting the imposed loads.
- (c) Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.
- (d) Stairs and walking surfaces. Every stair, ramp, landing, balcony, deck, porch or other walking surface shall be maintained in sound condition and good repair.
- (e) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (f) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.
- (g) Extermination. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by a licensed contractor in a manner that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation. Responsibility for complying with this provision shall be assigned as follows:
 - (1) Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
 - (2) Single occupant. The occupant of a one-family dwelling or of a single-tenant, non-residential structure shall be responsible for extermination on the premises.
 - (3) Multiple occupancy. The owner of a structure containing two (2) or more dwelling units, a multiple occupancy, a rooming house or a non-residential structure shall be responsible for the extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.
 - (4) Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Provided, however, that where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

§ 150.17 VACANT STRUCTURES.

- (a) All vacant structures shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health, welfare or safety. No vacant structure may be boarded up for a period of time exceeding thirty (30) days unless the building official grants a waiver for extenuating circumstances beyond the property owner's control. The following are minimum vacant property standards to be adhered to when temporary board and seal is used. Compliance with these standards does not constitute repair of an unsafe or abandoned structure.
 - (1) Exterior grade sheathing plywood of three-eighths of an inch thickness or greater shall be used to fully cover all windows, doors and other openings which may allow access to the interior of the building.

- (2) Plywood covers shall be nailed, screwed or bolted firmly over each opening.
- (3) Plywood covers or other protective material must be painted to match the building colors.

UNSAFE STRUCTURES AND EQUIPMENT

§ 150.18 UNSAFE STRUCTURES AND EQUIPMENT ABATEMENT.

- (a) General. All structures or equipment that are or hereafter become dilapidated, unsanitary, unsafe or uninhabitable shall be made safe, sanitary and/or inhabitable by corrective action, including, but not limited to, demolition, removal, or repair in accordance with this chapter or other applicable law, code, ordinance or regulations.
- (b) Unsafe structures. An unsafe structure is one that is found to be dangerous to life, health, or property 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 possible.
- (c) Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, or property.
- (d) Structures unfit for human occupancy. A structure is unfit for human occupancy whenever the building official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (e) Closing of vacant structures. If a structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the building official is authorized to post a placard or condemnation on the premises and to order the structure closed up as to not be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the building official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the costs thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any available legal resource.
- (f) Notice. Whenever the building official has condemned a structure or equipment under the provisions of this section, notice shall be provided in accordance with subsection 150.20(b) of this Chapter.
- (g) Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the building official shall post on the premises or on defective equipment a placard bearing the word "CONDEMNED" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.
- (h) Placard removal. The building official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- (i) Prohibited occupancy. Any occupied structure condemned and placarded by the building official shall be vacated as ordered by the building official. Any person who shall occupy a

placarded premise or who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by the City Code.

§ 150.19 EMERGENCY MEASURES.

- (a) Imminent danger. When, in the opinion of the building official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupancy of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The building official shall cause to be posted at each entrance to such structure a notice to read as follows: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the same structure.
- (b) Temporary safeguards. Whenever in the opinion of the building official there is imminent danger due to an unsafe condition, the building official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe and shall cause such other action to be taken as the building official deems necessary to meet such emergency.
- (c) Closing streets. When necessary for public safety, the building official shall temporarily close structures and close, or order the authority having jurisdiction to close sidewalks, streets, public ways and places adjacent to unsafe structures and prohibit the same from being utilized.
- (d) Emergency repairs. For the purpose of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (e) Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the City of Sierra Vista Magistrate be afforded a hearing pursuant to the provisions of Chapter 43 of this Code.

§ 150.20 DEMOLITION.

- (a) General. The building official shall order the owner of any premises upon which is located any structure, which in the building official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.
- (b) Notices and orders of unsafe building. The building official shall prepare and issue a notice of unsafe building directed to the owner(s) and any mortgage holder. The notice shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. The failure of any person to receive notice, other than the owner, shall not invalidate any proceedings under this section. The notice shall contain, but not be limited to, the following information:

- (1) The street address and legal description of the building, structure, or premises.
 - (2) A statement indicating the building or structure has been declared unsafe by the building official, and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this Code.
 - (3) A statement advising that if the required action as determined by the building official is not commenced or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed and the building official may cause the work to be done and all costs incurred charged against the property or owner of record.
 - (4) A statement advising that any person or mortgage holder having any legal interest in the property may appeal the notice by the building official to the hearing officer; and that such appeal shall be in writing and shall be filed with the city clerk within thirty (30) days from the date of the notice and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.
 - a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (60) days and continued to completion within such time as the building official determines.
 - b. If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.
 - c. If the building or structure is to be demolished, the notice shall require that the premises be vacated within sixty (60) days, that all required permits be secured and that the demolition be completed within such time as determined reasonable by the building official.
- (c) Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the building official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the costs of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

PUBLIC NUISANCES

§ 150.21 FINDINGS OF FACT.

The city council finds and determines that it is necessary to establish the minimum standards contained herein for the maintenance, upkeep, and appearance of improved or unimproved real property; and to provide a just, equitable and practicable method to preclude:

- (1) Diminished property values;
- (2) Detraction from the appropriate aesthetics of the city; and
- (3) Creation of nuisance and other undesirable and unhealthy conditions.

§ 150.22 NUISANCES PROHIBITED.

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance as defined in section 150.02 of this Chapter.

§ 150.23 NUISANCES.

Except as otherwise permitted by law, each of the following conditions is declared to be a nuisance:

- (1) Abandoned Property.
- (2) Abandoned Structure.

- (3) Animal manure that is neither used for fertilizing lawns or gardens nor securely protected from insects and the elements.
- (4) Any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of any property, or with the lawful use of any school, public place or public street, or with any governmental or public function of the city, or as to constitute a hazard or threat to the public health, safety, and welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such artificial illumination is utilizing the same at any exhibition, performance, amusement, attraction or event authorized or sponsored by the city, or any public, private or parochial school within the city. Outdoor lighting shall comply with Article 151.11 of the City of Sierra Vista Development Code.
- (5) The escape or flow of water into the public right-of-way in such quantity, in the opinion of the City Engineer, as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition for such traffic, or to cause damage to the public streets or alleys of the city through their failure or neglect to properly operate or maintain any water facility or device, including, but not limited to, sprinklers, hoses, pipes, ditches, standpipes, berms, valves, and gates.
- (6) Any commercial or industrial type equipment to include: tractors, backhoes, bulldozers, trenchers, cranes, or other similar equipment parked in an area visible to the public for more than 48 hours in any residential district except when the equipment is being used for construction purposes on the site.
- (7) Putrid, unsound or unwholesome bones, meat, hides, skins, or other animal parts; dead animals, fish or fowl; butcher's trimmings and offal; waste vegetation; liquid waste; animal matter, garbage, human or animal excreta, sewage and other similar offensive substances.
- (8) A dumping ground or other land or building for depositing litter or debris, or wrecking, disassembling, rebuilding, repair, storage or accumulation of three (3) or more vehicles, or of machinery, or parts of vehicles or machinery.
- (9) Noxious exhalations and other airborne irritations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors, or other annoyances.
- (10) Burning litter, debris, sawdust or other material resulting in smoke, gases, ashes, soot, cinders, sawdust or other material being transported to or deposited on land or buildings. Disposing of litter, debris, sawdust or other material in a manner that results in its unauthorized deposit on land or buildings.
- (11) An unsecured or abandoned excavation, pit, well, other hole or pool.
- (12) A privy, vault, cesspool, sump, pit, pool, accumulated water or similar condition that is foul, malodorous, or subject to infestation, pollution or stagnation.
- (13) Plant growth or any other condition, sign, structure, or vehicle that obstructs or interferes with or renders dangerous the use or passage of any public place.
- (14) Plant growth or any other condition, sign, structure, or vehicle that obstructs or interferes with sight distance or the visibility of any traffic control device or sign.
- (15) Plant growth or any other condition that constitutes a fire hazard or encourages infestation or noxious pests.
- (16) Infestation.
- (17) Inoperative Vehicle.
- (18) Slum property.
- (19) A building or land regularly used in the commission of a crime.
- (20) Blight.
- (21) Attractive nuisances.
- (22) Graffiti.

PROPERTY MAINTENANCE

§ 150.24 LITTER CONTROL.

- (a) No person shall throw, deposit or dump any litter or debris on any land.
- (b) A person may store litter and debris in a secure receptacle with a tight lid for collection if the receptacle is maintained so that litter and debris are prevented from being blown or deposited on any public place or adjacent land.
- (c) Only as permitted by law, a person may store litter and debris within any building.

§ 150.25 CARE OF PREMISES.

All exterior property shall be maintained in accordance with the following minimum standards so as not to create a nuisance:

- (1) Sanitation. All exterior property and premises shall be maintained in a safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a safe and sanitary condition. It shall be unlawful for any person to permit any rubbish, trash, refuse, junk and other abandoned materials or any condition which provides harborage for rats, mice, snakes and other vermin to remain in a front yard or open area owned, occupied or in the possession of such person for a period of more than five (5) days. Garbage and refuse shall be disposed of in accordance with the provisions of chapter 10 of this Code.
- (2) Grading and drainage. All premises with the exception of approved retention areas and reservoirs shall be graded and maintained to prevent erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
- (3) Walkways and driveways. All walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- (4) Maintenance of public rights-of-way. All tenants or occupants of any real property abutting any local street or alley in the city, or if no tenant or occupant, then the owner thereof, shall be required to keep that part of the street between such property lines and the curb, including the gutter of the street on which such property abuts, or up to the median point of an alley, improved or unimproved, in a safe and sanitary condition at all times. Said area shall be kept free from trash of all kinds except household waste that is being properly disposed. Grass, weeds, or other groundcover shall not exceed twelve (12) inches. Sidewalks shall be kept free from sand, leaves, algae growth, vegetation and slippery conditions.
- (5) Yard maintenance. Improved lots or parcels shall be maintained free from weeds or untended plant growth in excess of twelve (12) inches in height. Vacant lots or parcels that are adjacent to an improved property shall be maintained free from weeds or untended plant growth in excess of twelve (12) inches in height a distance of seventy-five (75) feet from the property line adjoining the improved property and twenty-five (25) feet from the property line adjoining a public or private street. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees and shrubs, provided however, this term shall not include cultivated flowers and individual or community gardens.
- (6) Rodent harborage. All exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved

- processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- (7) Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
 - (8) Accessory structures. All accessory structures, including, but not limited to, detached garages, fences and walls shall be maintained structurally sound and in good repair.
 - (9) Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.
 - (10) Swimming pools. Private swimming pools containing water more than twenty-four (24) inches in depth shall meet the following standards:
 - a. It shall be unlawful for any person, owner, lessee, tenant, occupant, or business entity (hereinafter collectively "person") to have, keep, maintain, cause or permit a swimming pool where the water quality deteriorates to such a poor level as to prevent clear visibility from the water's surface to the pool bottom or as to create a breeding ground for mosquitoes or other insects or the water is stagnant allowing algae to grow.
 - b. Private swimming pools, hot tubs and spas, containing water more than 24-inches in depth shall be completely surrounded by a fence or barrier at least 60-inches 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 less than 54-inches 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 from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Provided, however, spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

ADDITIONAL VIOLATIONS

§ 150.26 ADDITIONAL VIOLATIONS.

- (a) No person shall create, maintain or permit a public nuisance as defined in section 150.02 and enumerated in 150.23 of this Chapter.
- (b) No person shall create, maintain, permit or assist any violation of this chapter, or fail to perform any act or duty required by this chapter.
- (c) No person shall interfere or attempt to interfere with a city agent investigating or abating a violation of this chapter.
- (d) No person shall knowingly make a false statement or knowingly mislead a city agent investigating or abating a violation of this chapter.

§ 150.27 EACH DAY A SEPARATE VIOLATION.

Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense upon being cited.

ENFORCEMENT

§ 150.28 AUTHORITY TO ENFORCE.

- (a) The city manager or designee, city attorney, building official, code enforcement officers and Sierra Vista police officers shall enforce this chapter.
- (b) The city manager or designee shall designate slum property.
- (c) When vegetation extends into a street, alley, or public right-of-way in such a manner that it interferes with the free and safe use of the street, alley, or right-of-way, the city may immediately trim and cut such vegetation as necessary to remove such interference without notice to the property owner and without following the abatement procedures set forth in this code.

§ 150.29 PRESUMPTIONS.

- (a) The owner of land, as recorded in the Cochise County Recorder's Office, is presumed to have control over the land and buildings and accessory improvements on the land. If more than one (1) person is recorded as the owner of land, all persons on record are presumed to have joint and several control over the land and buildings and accessory improvements on the land. The occupant residing or operating a business on land or in a building is presumed to have control over the building and land on which it is located. These presumptions shall not prevent the enforcement of this chapter against persons other than record owners.
- (b) Under the state statutes regarding criminal nuisance, the owner, leaseholder or person with legal privilege to control land, shall be deemed to have notice of the criminal nuisance as set forth in the state statutes.
- (c) A sign or structure is presumed to be owned by or under the control of:
 - (1) The person whose name, address, e-mail address or phone number appears on it, and/or
 - (2) The person whose business, product or service appears on it,
 - (3) The person whose business benefits by it,
 - (4) The person who owns or controls the land upon which the sign or structure is placed, and/or
 - (5) The person who installed or placed it.
- (d) All presumptions are rebuttable.

§ 150.30 ENFORCEMENT OPTIONS.

- (a) The city, its officers and employees may enforce this chapter by one (1) or more lawful means, including but not limited to, voluntary compliance, administrative and civil consent orders, civil enforcement, including injunctive action, criminal enforcement, abatement by administrative procedure, emergency abatement, abatement regarding criminal activity, and designation of slum property. The city may also require restitution. In addition, the city may immediately remove any structure or sign from any street or public place. One (1) type of enforcement neither limits nor precludes the city from pursuing any other type of enforcement.
- (b) A violation of this chapter is in addition to any other violation of the City Code. Enforcement of a violation of this chapter in no way limits enforcement of any other violation of the City Code or of state statutes.

§ 150.31 MISDEMEANOR VIOLATIONS.

Notwithstanding the provisions of section 150.30, a violation of this chapter may only be deemed a class one misdemeanor if the violation is:

- (a) A public nuisance as defined in section 150.02 and enumerated in 150.23 of this Chapter, or
- (b) The second or subsequent violation of any other section within two (2) years of the first violation.

§ 150.32 INSEPCIONS.

- (a) The city manager or designee, building official, code enforcement officer or Sierra Vista police officers may inspect buildings or land to determine compliance with this chapter.
- (b) Building exteriors and unscreened land shall be conducted in conformance with A.R.S. § 9-833.
- (c) Except in a situation presenting an imminent hazard to life, health or public safety, building interiors and screened land shall be inspected during the normal business hours of the city, unless otherwise arranged, upon:
 - (1) The owner's or occupant's consent, or
 - (2) Any administrative or court order.

§ 150.33 VOLUNTARY COMPLIANCE.

The city manager or designee, building official, code enforcement officer or Sierra Vista police officers may seek voluntary compliance with this chapter through warnings, notices, compliance orders, or other means to achieve efficient and effective compliance.

§ 150.34 ADMINISTRATIVE CONSENT ORDERS.

The city may enter into a written administrative consent order, signed by the city manager or a code enforcement officer, with a person accused of violating this chapter. The administrative consent order may be enforced as a contract is enforced or by any other lawful means.

§ 150.35 CIVIL COMPLAINTS.

- (a) The city manager or designee, building official, code enforcement officers, the city attorney and Sierra Vista police officers may bring civil complaints under this chapter.
- (b) The complaint shall include a written description and statutory designation of the violation(s).
- (c) The city shall attempt to hand deliver the civil citation to the person accused of violating this Code. If the city is unable to hand deliver the civil citation, the city may serve it by certified or registered mail, return receipt requested, or by any means allowed by the Arizona Rules of Civil Procedure. If the city sends a citation via certified or registered mail, an additional copy must also be sent by regular mail.
- (d) The citation is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States Mail.

§ 150.36 CIVIL COMPLAINTS – COURT APPEARANCE OR FAILURE TO APPEAR.

- (a) On or before the date specified in the complaint, the defendant shall appear in municipal court in person or through an attorney. The defendant shall admit or deny the allegations in the complaint. If the defendant admits the allegations, the court shall enter judgment against the defendant and impose the civil penalties set forth in section 150.41 of this Chapter, and require restitution. If the defendant denies the allegations, the court shall set the matter for hearing.
- (b) If a defendant served with a complaint fails to appear on or before the date specified in the complaint, or fails to appear at the hearing set by the court, the allegations in the complaint are deemed admitted. The court shall enter judgment against the defendant and impose the civil penalties set forth in section 150.41 below, and require restitution.

§ 150.37 AUTHORITY TO ISSUE CRIMINAL COMPLAINTS.

A Sierra Vista police officer or the city attorney may bring criminal complaints under this chapter.

§ 150.38 JURISDICTION AND PROCEDURE OF MUNICIPAL COURT.

- (a) The municipal court has jurisdiction over all civil complaints, city petitions for abatements including emergency abatements and all criminal citations to enforce this chapter. A judge or court hearing officer may adjudicate civil complaints and city petitions for abatement.
- (b) The municipal court shall follow the Arizona Rules of Court for Civil Traffic Violation Cases for civil complaints to enforce this chapter, except as modified or where inconsistent with this chapter, local rules of the municipal court, or rules of the Arizona Supreme Court.
- (c) The municipal court shall follow the Arizona Rules of Criminal Procedure for criminal actions to enforce this chapter.
- (d) The municipal court may order abatements to enforce this chapter either upon petition from the city attorney or incidental to a hearing on a civil or criminal violation of this chapter when requested by the city.

§ 150.39 PROCEDURE FOR ABATEMENT PETITIONS FILED IN MUNICIPAL COURT.

- (a) After notice to the owner and any responsible party, the judge or hearing officer shall conduct a hearing. Both the city and defendant(s) shall have an opportunity to be heard and present evidence. The rules of evidence shall not apply to these hearings but the judge or hearing officer may make rulings on the conduct of these hearings to ensure that they proceed in an orderly and efficient manner. The judge or hearing officer shall determine whether a violation of this chapter exists and order an abatement of the violation as appropriate in accordance with subsection (b). The court's determination shall be based on a preponderance of the evidence. If a defendant fails to appear for a hearing, the court shall hold the hearing in the defendant's absence. If the city fails to appear for a hearing, the court shall dismiss the petition without prejudice.
- (b) Upon finding that abatement is appropriate, the court may order demolition, board-up, cleanup, inspection or any other action the court deems reasonably necessary to abate the violation.
- (c) Demolition of a structure shall only be ordered following issuance of notice as required by subsection (a) to the owner and any responsible parties with an interest in the property that is recorded in the office of the county recorder and in accordance with The

Uniform Code for the Abatement of Dangerous Buildings as adopted under section 150.01(c) of this Chapter. Notice to the interested parties may be recorded against the property.

- (d) The reasonable costs of any abatement permitted by the court's order shall be the responsibility of the owner and may be assessed and recorded as provided in sections 150.48 and 150.49 of this Chapter.
- (e) The notice required in subsection (a) shall generally comply with Rule 4 of the Arizona Rules of Civil Procedure, except that upon petition by the city attorney the court may, upon a finding of good cause, deem the notice requirement satisfied by notice being posted in a conspicuous location on the subject property.
- (f) The provisions of sections 150.26 and 150.27 of this Chapter do not apply to abatements brought under this section.

§ 150.40 PROCEDURE FOR EMERGENCY ABATEMENT PETITIONS FILED IN MUNICIPAL COURT.

- (a) If a violation of this chapter presents an imminent hazard to life, health or public safety, the court may immediately consider and grant emergency abatement orders brought on behalf of the city by the city attorney.
- (b) Notice of the abatement petition and order shall be posted on the property in accordance with section 150.50(b)(3) of this Chapter.
- (c) The provisions of sections 150.26 and 150.27 of this Chapter and section 150.50(e) of this Chapter do not apply to abatements brought under this section.

§ 150.41 CIVIL PENALTIES.

- (a) If the violation concerns land used for residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be two hundred fifty dollars (\$250.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be five hundred dollars (\$500.00) per violation. The fine for a defendant's third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be seven hundred fifty dollars (\$750.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes.
- (b) If the violation concerns land used for non-residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be seven hundred fifty dollars (\$750.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be one thousand five hundred dollars (\$1,500.00) per violation. The fine for a defendant's third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be two thousand dollars (\$2,000.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes.
- (c) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes:
 - (1) For a first violation, the court shall impose a minimum fine of at least one hundred dollars (\$100.00) per violation for land used for residential purposes and at least two hundred fifty dollars (\$250.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years after the date of the first violation, the court shall impose a minimum fine of at least

two hundred dollars (\$200.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.

§ 150.42 CRIMINAL PENALTIES.

- (a) A criminal violation of this chapter is a class one misdemeanor. For a first conviction under this chapter, for land used for residential purposes, the court shall impose a criminal fine of at least five hundred dollars (\$500.00) per violation. For a first conviction under this chapter, for land used for non-residential purposes, the court shall impose a criminal fine of at least one thousand dollars (\$1,000.00) per violation. In addition, the court shall impose all other fees and surcharges applicable under state statutes.
- (b) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes:
 - (1) For a first violation, the court shall impose a minimum fine of at least two hundred fifty dollars (\$250.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years of the date of the first violation, the court shall impose a minimum fine of at least five hundred dollars (\$500.00) per violation for land used for residential purposes and at least one thousand dollars (\$1,000.00) per violation for land used for non-residential purposes.

§ 150.43 RESTITUTION.

In addition to the penalties of sections 150.41 and 150.42 of this Code, the court shall impose restitution as part of its sentence, to compensate the city for its costs to enforce this chapter and bring a building or land into compliance with this chapter. Restitution shall include all costs of abatement, including inspection fees and prosecution of the case.

§ 150.44 NOTICE TO ABATE.

- (a) If, after an inspection, the city finds one (1) or more violations of this chapter, the city may require correction of the violation(s). If the city requires correction, the city may issue a notice to abate to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee.
- (b) The notice to abate shall be in writing and shall set forth:
 - (1) The identification of the land where the violation is located, by legal description, including the street address, if known, or by book, map and parcel number, if the street address is unknown.
 - (2) A statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s).
 - (3) The date by which the owner, the owner's authorized agent, the owner's statutory agent, the occupant or lessee shall correct the violation, which date shall not be less than thirty (30) days from service of the notice.
 - (4) The name and phone number of the inspector who sent the notice.
 - (5) The estimated cost of abatement to the city.

- (6) If the violation(s) is not corrected by the date specified for abatement, the city may abate the violation(s), assess the owner, occupant and/or the lessee the cost of abatement, and record a lien on the land for the assessment.
- (7) The appeal procedures, if any.

§ 150.45 SERVICE OF NOTICE TO ABATE.

A notice to abate shall be served by any of the following methods:

- (1) By hand delivering a copy of the notice to abate to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee.
- (2) By mailing a copy of the notice to abate, by certified mail, to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee at the last known address and at the address to which the tax bill for the land was last mailed.
- (3) The notice to abate is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

§ 150.46 EFFECT OF NOTICE TO ABATE.

- (a) A notice to abate is effective upon any person served in conformance with section 150.45 or section 150.50 and any person with actual notice.
- (b) A notice to abate runs with the land.
- (c) The city may record a notice to abate in the Cochise County Recorder's Office.

§ 150.47 CITY MAY ABATE.

Subject to A.R.S. 9-49, if the owner, occupant or lessee subject to the notice to abate fails to correct the violation(s), the city may:

- (1) Abate the violation(s).
- (2) Assess the owner, occupant and/or the lessee the cost of abatement, and
- (3) Record a lien on the land for the assessment.

§ 150.48 CITY ASSESSMENT FOR ABATEMENT.

- (a) Following abatement, the city shall prepare a statement of the cost of abating the violation of this chapter, plus five (5) percent incidental cost of abating the violation.
- (b) The statement shall be mailed to the owner, the owner's statutory agent, the occupant and lessee at the address used to serve the notice to abate.
- (c) The statement shall set forth:
 - (1) The statement of cost is an assessment upon the land from which the city abated the violation.
 - (2) The payment of the statement of cost shall be made by the date specified in the statement of cost.
 - (3) If payment is not made by the date specified in the statement of cost, the city shall place a lien on the land in the amount of the statement.
 - (4) The appeal procedures, if any.

§ 150.49 ASSESSMENT LIEN.

- (a) The city's statement of cost under section 150.48 of this Chapter shall be:

- (1) An assessment on the land from which the city abated the violation(s), and
- (2) Collected at the same time and in the same manner as other city assessments are collected.
- (c) The city shall record the assessment in the Cochise County Recorder's Office. From the date of its recording, the assessment shall be a lien on the land.
- (d) The lien shall be inferior only to general tax liens.
- (e) After recording the lien, the city may institute an action to enforce the lien in the superior court for Cochise County. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and the regularity of all proceedings before the recordation. Upon judgment of foreclosure and order of sale, the city shall sell the land to satisfy the lien.
- (f) A prior assessment under this section is not a bar to a later assessment. Any number of liens on the same land may be enforced in the same action.
- (g) Failure to enforce the lien shall not affect its validity.
- (h) Assessments that are imposed under this section run against the property until paid and are due and payable in equal annual installments as follows:
 - (1) Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
 - (2) Assessments of five hundred dollars or more, but less than one thousand dollars, shall be paid within two years after the assessment is recorded.
 - (3) Assessments of one thousand dollars or more, but less than five thousand dollars, shall be paid within three years after the assessment is recorded.
 - (4) Assessments of five thousand dollars or more, but less than ten thousand dollars, shall be paid within six years after the assessment is recorded.
 - (5) Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

§ 150.50 – EMERGENCY ABATEMENT.

- (a) If a violation of this chapter presents an imminent hazard to life, health or public safety, the city may notify the owner, the owner's authorized agent, the owner's statutory agent, occupant or person responsible for the violation to correct the violation immediately or the city may abate the violation.
- (b) A notice for emergency abatement may be written, oral or electronic. A written notice shall be served by any of the following methods:
 - (1) By hand delivering a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee and/or person responsible for the violation, or
 - (2) By mailing a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee and/or person responsible for the violation at the last known address, or
 - (3) By prominently posting a copy of the notice on the building, accessory improvement, land or vehicle in violation.
- (c) Written notice is deemed served on the date it is hand delivered, or if mailed, on the date it is deposited in the United States mail, or the date it is posted.
- (d) Whether or not notice is served, the city may abate the violation.
- (e) Upon request, the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee or person responsible for a violation that presents an imminent hazard to life, health or public safety, shall be granted a hearing before an administrative hearing officer appointed pursuant to article VI of this chapter, but the appeal shall not stay the city's abatement of the violation.

- (f) The effect of a notice for emergency abatement under this section shall be as set forth for a notice of abate in section 150.46 of this Chapter above.
- (g) The city may assess the owner, occupant or person responsible for a violation for the cost of any emergency abatement by any means authorized by law.

§ 150.51 – NOTICE TO ABATE; ABATEMENT REGARDING CRIMINAL ACTIVITY.

- (a) If the city finds that a building or land is used in the commission of a crime on three or more occasions within a six month period, the city shall issue a notice to abate to the owner, the owner's managing agent, the occupant and any other person responsible for the use of the building or land for criminal activity. Provided, however, criminal activity shall not be construed to include:
 - (1) Cases where the property owner, agent, tenant, or invitee of the property owner, agent or tenant is the victim of a crime or;
 - (2) Cases that do not arise from the conduct of the property owner, agent, tenant, or invitee of the property owner, agent or tenant.
- (b) The notice to abate shall be in substantial conformance with the state statutes. The notice to abate may contain the date by which the owner, the owner's managing agent, the occupant, and other person responsible for the use of the building or land for criminal activity, shall correct the violation, which date shall not be less than ten (10) days from the service of the notice.
- (c) The service of the notice to abate shall be in conformance with the state statutes.
- (d) The notice to abate is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

§ 150.52 – CITY MAY ABATE OR BRING ACTION; ABATEMENT REGARDING CRIMINAL ACTIVITY.

- (a) If the owner, the owner's managing agent or any other person responsible for the use of the building or land for criminal activity fails to correct the chronic nuisance, the city may:
 - (1) Abate the use of the building or land for criminal activity.
 - (2) Bring an action in superior court to abate the use of the building or land for criminal activity.
- (b) If the court enters a temporary restraining order, the city shall serve upon the defendant(s), any applicable statutory agent, and any legal occupant the city believes may claim an interest in the building or land:
 - (1) Notice of the entry of the temporary restraining order,
 - (2) Copies of the temporary restraining order and the complaint, and
 - (3) Notice of the possibility for a hearing, which shall be in substantial conformance with the state statutes.
- (c) The service of the documents set forth in subsection 150.51(b) of this Chapter shall be in conformance with state statutes.

§ 150.53 – CITY RECORDATION OF ACTION.

- (a) If the city brings an action to abate the use of a building or land for criminal activity, the city shall file a notice of the action in the Cochise County Recorder's Office.
- (b) The notice shall be in conformance with state statutes.

§ 150.54 – ASSESSMENT FOR ABATEMENT REGARDING CRIMINAL ACTIVITY.

- (a) The court may assess the owner for the cost of abating the nuisance.
- (b) The city shall record the assessment in the Cochise County Recorder's Office. From the date of its recording, the assessment shall be a lien on the land.
- (c) The lien shall be inferior only to general tax liens, child support liens, restitution liens and prior recorded mortgages.
- (d) The city may enforce the lien as set forth in subsections (d), (e) and (f) of section 150.49 of this Chapter.

§ 150.55 – NOTICE OF DESIGNATION OF SLUM PROPERTY.

- (a) If, after an inspection, the city finds that residential rental property meets the definition of slum property in this chapter, the city manager or designee may designate the property a slum property. The city shall notify the owner or the owner's statutory agent of the designation.
- (b) The notice of designation of slum property shall be in writing and shall set forth:
 - (1) The identification of the land where the violation is located, by the street address, if known, or by book, map and parcel number, if the street address is unknown.
 - (2) A statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s).
 - (3) Except for an imminent hazard to life, health or public safety, requiring emergency abatement, the owner has thirty (30) days from service of the notice of designation of slum property to correct the violation.
 - (4) The name and phone number of the inspector who sent the notice.
 - (5) The residential rental property is subject to state statutes, including appointment of a temporary receiver, annual inspections and payment of inspection costs and penalties.
 - (6) The appeal procedures.
- (c) The failure to timely appeal the designation of slum property as slum property shall be deemed an admission that the property is slum property.
- (d) If the violation(s) in the notice of designation of slum property is corrected within thirty (30) days from service of the notice, the city shall withdraw the designation of slum property. If the violation(s) in the notice of designation of slum property is not corrected within the thirty (30) days, the city may then record a notice of designation of slum property in the Cochise County Recorder's Office.

§ 150.56 – SERVICE OF NOTICE TO DESIGNATE SLUM PROPERTY.

- (a) The notice to designate slum property shall be served by any of the following methods:
 - (1) By hand delivering a copy of the notice to designate slum property to the owner.
 - (2) By mailing a copy of the notice to designate slum property to the owner at the last known address or at the address to which the tax bill for the land was last mailed.
 - (3) By mailing a copy of the notice to designate slum property to the agent registered with the Cochise County Assessor's Office.
- (b) The notice to designate slum property is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

§ 150.57 – DECLARATION OF STRUCTURE UNFIT FOR HUMAN HABITATION.

If a structure presents an imminent hazard to life, health or public safety, the city may declare the structure unfit for human habitation, order it to be vacated, and secure and post the property.

APPEALS

§ 150.58 – ADMINISTRATIVE HEARING OFFICER – AUTHORITY AND FILING.

- (a) The administrative hearing officer shall hear and decide:
 - (1) Appeals to an interpretation of this chapter by the city manager or designee and posted on the city's web site.
 - (2) Appeals to a notice of an administrative abatement, a notice to designate slum property, a notice to vacate or an assessment.
- (b) A request for a time extension or an appeal shall be in writing and shall be filed with the city clerk within ten (10) days of the date of, as applicable:
 - (1) The interpretation's posting on the city's web site, or
 - (2) The notice to abate, the notice to designate slum property, the notice to vacate or the assessment.
- (c) If a person fails to request a time extension or appeal within ten (10) days, the failure constitutes:
 - (1) A waiver of the right to a hearing, and
 - (2) An admission of the validity of the notice or assessment.
- (d) The request for a time extension shall specify what time extension is necessary and reasonable.
- (e) The appeal shall specify why:
 - (1) The land or building subject to the notice is not in violation of this chapter;
 - (2) The interpretation is incorrect; or
 - (3) The assessment is excessive.
- (f) A fee of twenty-five dollars (\$25.00) shall accompany the request or appeal. In case of financial hardship, the fee may be suspended until the administrative hearing officer renders the decision. The administrative hearing officer may waive the fee upon a finding of financial hardship.
- (g) The city manager shall appoint one (1) or more administrative hearing officers to carry out the provisions of this article.

§ 150.59 – ADMINISTRATIVE HEARING OFFICER – HEARING PROCEDURE.

- (a) The administrative hearing officer shall set a date for hearing on the request or appeal within fifteen (15) days of the city clerk's receipt of the request or appeal.
- (b) The hearing shall be informal and without a jury, except that testimony shall be given under oath or affirmation. The technical rules of evidence do not apply, except for the statutory provisions relating to privileged communications. The administrative hearing officer may make orders to fairly and efficiently determine the truth and decide the case. The burden of proof at the hearing shall be on the city by a preponderance of the evidence.
- (c) The administrative hearing officer shall:
 - (a) Render a decision within fifteen (15) days of the hearing.
 - (b) Prepare findings and a decision.

- (c) Mail the findings and decision to all the parties to the request or appeal, by certified mail unless at the conclusion of the hearing a decision is rendered and communicated to the parties.
- (d) Rule 7 of the Arizona Rules of Procedure in civil traffic violation cases shall govern requests for recusal of the hearing officer.
- (e) Rules 12 and 13 of the Arizona Rules of Procedure in civil traffic violation cases shall govern representation by counsel in these proceedings.

§ 150.60 – ADMINISTRATIVE HEARING OFFICER – TIME EXTENSIONS.

- (a) The administrative hearing officer may grant one (1) extension of the time set forth in an administrative notice to abate under this chapter. The extension shall not exceed ninety (90) days after the date of the hearing.
- (b) The administrative hearing officer shall grant an extension only where it finds:
 - (1) A hardship in bringing the land into compliance within the time set forth in the notice to abate or designation as slum property; and
 - (2) A reasonable plan by which the land will be brought into compliance within the time extension.
- (c) The extension granted by the administrative hearing officer shall run from the date the administrative hearing officer mails the findings and decision as set forth in section 150-59 of this Chapter.

§ 150.61 – APPEAL FROM DECISION OF THE ADMINISTRATIVE HEARING OFFICER.

A party aggrieved by the administrative hearing officer's decision may appeal to superior court. An appeal shall be taken within thirty (30) days of the date of the administrative hearing officer's decision or shall be waived.

PUBLIC WORKS CONSTRUCTION

§ 150.2062 ADOPTION OF UNIFORM STANDARD SPECIFICATIONS.

The Director of Public Works and/or the City Engineer, be and he is hereby directed to use those certain specifications designated as the Uniform Standard Specifications for Public Works Construction, 1992 Edition, as amended, and the succeeding and superseding editions Maricopa Association of Governments (MAG) Specifications and Details for Public Works Construction and supplements thereof as may hereafter be adopted, as the official documents regulating practices, procedures, materials and workmanship for any public works construction, public or private, which require the review, endorsement, inspection or acceptance by the Director of Public Works and/or the City Engineer.

DEDICATION AND IMPROVEMENT

§ 150.2563 DEFINITIONS.

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

ALLEY. A public service drive affording a secondary means of vehicular access to property otherwise abutting on a street.

PRIVATE CONTRACT. A contract between two or more parties for the installation, construction, revision, operation or creation of an encroachment, to which the city is not a party.

RIGHT-OF-WAY. Land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, pedestrian walkway, or bicycle way purposes.

STREET. A public or private thoroughfare, or a permanent, unobstructed public or private easement of access, affording a principal means of vehicular access to abutting property.

WATERCOURSE. A channel for the carrying of storm water, including both natural and artificial watercourses.

EXHIBIT "E"

§ 152.01 ADOPTION.

The certain document known as the 2006~~15~~ edition International Fire Code, as amended by Resolution ~~2006-099~~ 2015-48, be, and hereby are, adopted by reference and made a part hereof as if fully set forth in this code as being the minimum code of the City.

EXHIBIT "F"

CHAPTER 155: FORECLOSURE REGISTRY/REAL PROPERTY REGISTRATION SYSTEM

155.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to establish a program to reduce the amount of deteriorating real property located within the city, in particular, real property suffering from blight or creating nuisances caused by the lack of adequate maintenance. The program includes a property registration requirement designed to assist in accomplishing the intent and purpose of this chapter.

155.02 DEFINITIONS.

(a) In this chapter, unless the context requires otherwise, the definitions listed in this section shall apply:

- (1) "Default" with respect to a mortgage, means that the obligor under the mortgage has breached or is in default of a repayment or other obligation in connection with that mortgage and has been notified by the mortgagee.
- (2) "Foreclosure" means the process by which real property placed as security for the repayment of a loan is to be sold to satisfy the debt concerning which the borrower has defaulted and includes proceedings under deeds of trust.
- (3) "Mortgage" means a first mortgage or other first-priority security interest in real property that is placed as security for the repayment of a loan, and includes a first deed of trust.
- (4) "Mortgagee" means any person or firm who holds a first-priority mortgage or other first-priority security interest in real property to secure a loan, whether as the mortgagee of a mortgage or the beneficiary of a deed of trust.
- (5) "Notice of default event," with respect to a mortgage, means that a default regarding that mortgage has occurred and either:
 - a. A notice of breach or notice of default and election to sell has been provided to the obligor and has been recorded in the Cochise County Recorder's Office; or
 - b. An action for judicial foreclosure has been commenced regarding that mortgage by the filing of a complaint or petition for foreclosure in a court of competent jurisdiction.
- (6) "Responsible party" means an owner, lessee, mortgagee, property manager, cotenant or occupant of all specified properties, including buildings, grounds, lots or premises.
- (7) "Specified property" means any parcel of real property with a structure that is vacant within the city that is subject to a mortgage and concerning which a notice of default event has occurred. For purposes of the inspection requirement set forth in Section 155.03 of this Chapter and for that purpose only, the term also includes a parcel of real property that appears to be vacant. Once a parcel is determined not to be vacant or is no longer vacant, it is not considered "specified property" until it qualifies again under this definition.
- (8) "Vacant," with respect to real property and "vacant real property" mean real property and improvements that are not presently occupied by persons lawfully entitled thereto. The term does not include real property that is unoccupied by reason of the temporary absence of lawful occupants who intend to return and resume occupancy.

SECTION 155.03 INSPECTION, REGISTRATION AND DESIGNATION.

- (a) Except as otherwise provided in section 155.07 of this Chapter, any mortgagee who holds a mortgage on specified property upon which a notice of default event has taken place shall inspect that property or cause it to be inspected in accordance with this Section. If the inspection reveals that the property is not being occupied by the mortgagor or by persons with the mortgagor's consent, the mortgagee shall register the property on forms to be provided by the city. In connection with that registration, the mortgagee shall also designate in writing a property manager to inspect, maintain and secure the property. A separate inspection, registration and designation is required for each specified property.
- (b) Mortgagees have a duty to maintain the registration current, update it as necessary and re-register annually so long as the property remains a specified property.
- (c) Registration pursuant to subsection (a) of this Section shall contain, at a minimum, the following information:
 - (1) The name and mailing address of the mortgagee and the physical address of the mortgagee if the mailing address is a post office box.
 - (2) A contact name and phone number for purposes of contacting the mortgagee.
 - (3) The name, address and phone number of the property manager.
 - (4) The current disposition and occupancy status of the property.
- (d) Any property manager designated pursuant to this section must be located within Arizona and must be:
 - (1) A duly-licensed property management company or property preservation company;
 - (2) A department or section of a mortgagee that is devoted to property management or preservation; or
 - (3) A service provider specifically employed by a mortgagee to provide property management or preservation within the city.
- (e) The obligations listed in subsection (a) of this Section must be fulfilled within the time frames set forth below:
 - (1) The property inspection must occur no later than fifteen calendar days following the notice of default event regarding the property.
 - (2) The property registration and designation of a property manager must occur no later than ten calendar days after the inspection.
- (f) With respect to each specified property, the mortgagee and its designated property manager shall be responsible for inspecting and maintaining the property on a monthly basis until the parcel no longer qualifies under the definition of specified property.

155.04 REGISTRATION FEE.

The city council by resolution shall adopt and/or amend fees to implement the provisions of this chapter. The city shall have the authority to collect any additional fees owed to the city at the time the property is registered. Registration fees are not pro-rated nor refundable.

SECTION 155.05 AUTHORITY TO IMPLEMENT.

By means of contract, the city may assign and delegate to another person or entity the authority and responsibility to effect, collect and maintain registrations and registration fees authorized under this chapter.

SECTION 155.06 MAINTENANCE.

- (a) Specified property shall be maintained in accordance with applicable codes and ordinances, including without limitation regulations pertaining to dangerous buildings, litter, and nuisance abatement. Insofar as there is existing or previously existing landscaping, all visible landscaping in front and side yards shall be maintained to city standards at the time registration was required. If no landscaping previously existed at the property in front and visible side yards, installation is not required under this section.
- (b) Pools and spas located on specified property shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry.
- (c) Specified property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Doors, windows, gates and other openings that make the property accessible must be closed and locked so that a key, keycard, tool or special knowledge is necessary to gain access. Broken windows must be reglazed or boarded in accordance with applicable city standards.
- (d) Specified property shall be posted with the name and contact phone number of the mortgagee or property manager. The posting shall be no less than eight and one-half inches by eleven inches and shall contain, along with the name and contact number, the words "THIS PROPERTY IS MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL" or substantially similar wording. The posting shall be placed in a window adjacent to the entry door or attached to the exterior of the entry door. Exterior postings must be made of weather-resistant materials.
- (e) Except as otherwise provided herein, compliance with this chapter with respect to any specified property shall be the joint responsibility of the mortgagee and the property manager, as well as the property owner.

SECTION 155.07 WAIVED INSPECTION AND MAINTENANCE.

- (a) A mortgagee's obligation under this chapter regarding inspection and maintenance of a specified property may be waived by the city if the mortgagee demonstrates to the satisfaction of the city that the circumstances set forth below exist:
 - (1) The mortgage documents either expressly prohibit the mortgagee and its agents from entering the property for purposes required herein or do not authorize entry in order to protect the mortgagee's interests in the property; and
 - (2) There is a reasonable possibility, based on articulable evidence, that:
 - a. The obligor under the mortgage or an authorized occupant of the premises will report the entry as a trespass; or
 - b. The obligor under the mortgage will assert against the mortgagee, whether in a foreclosure proceeding or otherwise, a claim that the entry is a breach of the mortgage documents or constitutes an illegal or unauthorized entry on the property.

SECTION 155.08 VIOLATIONS – ENFORCEMENT.

- (a) It is unlawful for a responsible party under this chapter to violate any provision of this chapter and any violation will be punished as a misdemeanor as provided under Chapter 10, Section 10.99 of this Code.
- (b) The provisions of this chapter will be enforced by the code enforcement division of the city or any other officer or employee designated by the city manager.
- (c) The code enforcement division and any other officer or employee designated by the city manager, who observes a violation of any of the provisions of this chapter shall take one or more of the actions described below in order to resolve the violation:
 - (1) Initiate a report to the city officer or employee or issue a notice and order to comply to the responsible parties.
 - (2) Prepare a request for a long form criminal complaint. The request will be forwarded to the city attorney for approval. The city attorney will file the complaint with the City of Sierra Vista Municipal Court against the mortgagee or any other party as deemed appropriate by the city attorney. The city attorney may reduce criminal violations to petty offenses or defer prosecution in the interest of justice.
 - (3) A notice and order to comply is not required if the responsible party is the same and the party has been charged criminally within the previous twenty-four months for the same or similar code violation.
 - (4) Police officers may cite any violation of this chapter as a criminal offense without notice by using the Arizona traffic ticket complaint form for enforcement.
- (d) In addition to any enforcement remedy otherwise available, the code enforcement division and any other officer or employee designated by the city manager has authority to require a responsible party to implement additional maintenance and/or security measures as may be reasonably required to prevent further decline of the property.

SECTION 155.09 LIMITATIONS AND EFFECT OF CHAPTER.

- (a) Nothing in this Chapter:
 - (1) Requires a mortgagee or its agent or employee to violate any criminal law, ordinance any court order, or to violate an automatic stay in a bankruptcy proceeding.
 - (2) Creates a duty or obligation that is owed to, or runs in favor of, any person other than the city and those officers, employees or agents acting on the city's behalf.
 - (3) Creates or implies a cause of action in favor of, or available to, any person other than the city.
- (b) No act by a mortgagee or its officers, employees, agents or contractors in compliance with this chapter, and no omission of an act required by this chapter on the part of a mortgagee or its officers, employees, agents or contractors, shall be deemed or interpreted to:
 - (1) Make the mortgagee, for any purpose, a "mortgagee in possession" of property subject to a mortgage.
 - (2) Create a duty or obligation that is owed to, or runs in favor of, any person other than the city and those officers, employees or agents who are acting in the city's behalf.
 - (3) Create or imply a cause of action in favor of, or available to, any person other than the city.
 - (4) Create, imply or suggest liability in tort on the part of a mortgagee or its officers, employees, agents or contractors, unless the act or omission would be actionable

and result in liability independent of, and notwithstanding the provisions of, this chapter.