

ORDINANCE NO. 3478

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, RELATING TO NEIGHBORHOOD PRESERVATION AND A HOUSING CODE AMENDING THE DESCRIPTIVE TITLE OF TITLE 8, CHAPTER 6; AMENDING SECTION 8-6-1(A); ADDING DEFINITIONS TO SECTION 8-6-2; AMENDING SECTION 8-6-3(K); ADDING SECTION 8-6-3(U) TO THE MESA CITY CODE; AND ESTABLISHING A DELAYED EFFECTIVE DATE SUBJECT TO THE APPROVAL OF THE VOTERS.

WHEREAS, it is the responsibility of the City Council to promote the health, safety and welfare of the citizens of Mesa, and to protect neighborhoods against hazardous, blighting and deteriorating influences or conditions that contribute to the downgrading of neighborhood property values; and

WHEREAS, the City Council finds the need to establish minimum standards for the maintenance of yards and the exterior surfaces of all residential buildings and structures through the adoption of a property maintenance and neighborhood preservation ordinance (Housing Code); and

WHEREAS, the City Council recognizes that, under Mesa's City Charter, a Housing Code may be adopted only with the approval of a majority of the Mesa voters;

NOW, THEREFORE, SUBJECT TO THE APPROVAL OF THE VOTERS, Be it Ordained by the City Council of the City of Mesa, Maricopa County, Arizona, as Follows:

Section 1: The descriptive title of Title 8, Chapter 6, Mesa City Code, is amended to read:

"Public Nuisances, and Property Maintenance, AND NEIGHBORHOOD PRESERVATION."

Section 2: Section 8-6-1, Mesa City Code, is amended to read:

- (A) The purpose of this Chapter is to define and prohibit public nuisances, DETERIORATION, AND BLIGHT, AND REQUIRE MAINTENANCE AND COMPATIBILITY OF THE EXTERIOR SURFACES SUCH AS ROOFS, FOUNDATIONS, FENCES AND WALLS OF IMPROVED PROPERTY AS VISIBLE FROM THE ADJACENT RIGHTS-OF-WAY.
- (B) This Chapter shall apply to all land within the City of Mesa without regard to the use or occupancy or the date of acquisition, alteration, or improvement of such land.

Section 3: Section 8-6-2, Mesa City Code, is amended to read:

8-6-2: Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandoned or Inoperable Vehicle: Any vehicle that is partially or wholly dismantled, discarded, wrecked, on blocks or similar devices, stripped, or scrapped; or a vehicle with

a deflated tire or tires or from which a wheel or tire has been removed; or any motor vehicle which is inoperable due to mechanical failure or mechanical disassembly or other reasons which may be evidenced by the absence of an unexpired license plate lawfully affixed or assigned thereto.

Authorized Private Receptacle: A litter storage and collection receptacle as required and authorized in this Code.

BLIGHT: UNSIGHTLY CONDITIONS INCLUDING THE ACCUMULATION OF LITTER OR DEBRIS; BUILDINGS OR STRUCTURES EXHIBITING HOLES, BREAKS, ROT, CRUMBLING, CRACKING, PEELING OR RUSTING; LANDSCAPING THAT EXHIBITS UNCONTROLLED GROWTH, LACK OF MAINTENANCE, DAMAGE, OR IS DEAD OR DECAYED; AND ANY SIMILAR CONDITIONS OF DISREPAIR AND DETERIORATION REGARDLESS OF THE CONDITION OF OTHER PROPERTIES IN THE VICINITY OR NEIGHBORHOOD.

Building Enclosed: A building with a perimeter composed of rigid walls and a roof.

Civil Hearing Officer: The Mesa Zoning Administrator within the Community Development Department or such other person as designated by the City Manager.

DETERIORATION OR DISREPAIR: A DECLINE OF THE GENERAL CONDITION OR APPEARANCE OF A BUILDING, STRUCTURE, OR PARTS THEREOF CHARACTERIZED BY HOLES, BREAKS, ROT, CRUMBLING, CRACKING, PEELING, RUSTING OR ANY OTHER EVIDENCE OF PHYSICAL DECAY, NEGLECT, OR LACK OF MAINTENANCE.

Fence, Screen Wall and/or Retaining Wall: Freestanding, self-supporting structures constructed of durable wood, chain link, metal, masonry, or other standard fencing materials. Designed to provide privacy, security, screening, or bank retention between grade separations.

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

Graffiti: An inscription or drawing carved or drawn on a stationary structure so as to be discernible from the public right-of-way and which degrades the beauty and appearance of property.

Grass: Barnyard, grass, bermuda grass, bluegrass, bromegrasses, crab grass, foxtail, johnson grass, ragweed, rye grass, wild oats, or hybrids thereof.

Hazard: A condition that may cause personal physical harm.

Imminent Hazard: A condition that presents an immediate likelihood for causing personal physical harm.

Improved Dustproof Parking Surface or Legal Driveway: Concrete, asphalt, "chip seal", or crushed rock or aggregate that is a minimum of three inches (3") thick. All crushed rock or aggregate must be contained by a permanent border.

Improved Property: Land on which buildings or other structures are located.

INCONGRUOUS MATERIALS, COLORS AND FINISHES: EXTERIOR SURFACES THAT ARE NOT MATCHING, AND ARE INCONSISTENT, INCOMPATIBLE, AND DISCORDANT WITH ADJACENT EXTERIOR SURFACES OF STRUCTURES LOCATED ON THE SAME PROPERTY.

Infestation: The apparent presence of insects, rodents, or other pests.

Junk: Items that in their present state are of little or no apparent economic value that are not confined within an industrial area in compliance with the Mesa Zoning Ordinance, such as an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper, or machinery parts; inoperative machinery or appliances; building material wastes; litter; or discarded or empty containers. Junk shall also include all types of solid waste described in Chapter 3 of Title 8 of the Mesa City Code.

Land: All land in the City of Mesa, whether improved or unimproved.

Notice to Abate: A notice issued to a property owner or occupant concerning a violation of Chapter 18 of Title 8 of the Mesa City Code.

Occupant: The person occupying or having custody of a structure or premises as a lessee or otherwise.

Owner: The person indicated on the records of the Maricopa County Assessor or other official body as the owner of record of the property in question.

Person: A human being, enterprise, corporation, association, partnership, firm or society.

Plant Growth: Vegetation, whether living or dead, such as grass, weeds, vines, bushes, cactus, or trees.

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

Public Place: Any street, sidewalk, boulevard, alley, right-of-way, or other public way and any public park, square, space, ground, or building.

Responsible Party: A person charged with a civil violation of this Chapter.

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

Street or Highway: The entire width between the boundary lines of every way publicly owned or maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Utility Trailer: A vehicle without motive power designed for carrying property and for being drawn by a motor vehicle.

Vehicle: Every device by which any person or property is or may be transported or

drawn upon a street or highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Watercraft: Any craft or vehicle specifically designed for use on water such as a boat, canoe, jet ski, pontoon or similar type vehicle.

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

Section 4: Section 8-6-3, Mesa City Code, is hereby amended by modifying Section 8-6-3(K) and adding Section 8-6-3(U) as follows:

8-6-3: Public Nuisances Prohibited:

The following acts, omissions, conditions, and things in or upon any land or structure in the City constitute public nuisances, the existence of which are hereby prohibited and declared to be unlawful.

- (A) It shall be unlawful for any person to cause or allow any abandoned or inoperable vehicle to be parked or stored, except in complete conformance with the terms of this paragraph. All abandoned or inoperable vehicles or vehicles in residential areas being restored or repaired for longer than ten (10) days shall be stored safely within a lawful, enclosed building or structure or screened by a lawful fence in such a manner as to not be visible from beyond the lot boundaries or shall be stored on the premises of a business enterprise operated in a lawful place and manner in accordance with the provisions of the Mesa City Code where the storage of the vehicle is necessary to the operation of the business enterprise.
- (B) No person shall deposit, store, or maintain any garbage or junk, or an accumulation of materials such as: vehicle parts, appliances, indoor furniture, boxes, crates, packing cases, mattresses, bedding, lumber, scrap iron, tin and other metals, unless stored safely within a lawful, enclosed building or structure, or screened by a lawful fence or within a trash receptacle in such a manner as to not be visible from beyond the lot boundaries, except as authorized for collection under Title 8, Chapter 3 of this Code.
- (C) All persons owning or occupying land or places of business within the City shall keep the sidewalk or public places fronting or bordering their property free of garbage, junk, obstructions, and weeds or grass in excess of nine inches (9"); provided, however, this Section shall not prohibit the temporary storage of such matters in authorized receptacles for collection consistent with Chapter 3 of Title 8 of this Code.
- (D) No owner or occupant of land shall allow or permit trees, shrubs, or plant growth on that land to impede, obstruct, or interfere with the passage of any street, sidewalk, or alley within the City or the visibility of any traffic control device or signal.

- (E) No owner or occupant of land within the City shall allow plant growth which is dead, dormant, or so dry as to be readily flammable or combustible on such land that may constitute a fire hazard or other threat to the public health or safety.
- (F) No person shall deposit in, sweep upon, or permit to drain into any public right-of-way or public place of the City any garbage, junk, obstruction, or similar matter or any hazardous material which is offensive to sight or smell or impedes passage or is detrimental to public health.
- (G) It shall be unlawful to allow any swimming pool or similar body of water to stagnate and thereby become eutrophic, polluted, or offensive to the senses and unsafe for its intended use.
- (H) No owner or occupant of a building or structure within the City shall permit graffiti on the building or structure or fail to eradicate graffiti from the building or structure within fifteen (15) days of a notice to abate under this Chapter.
- (I) It shall be unlawful to erect or maintain any electric fence or to attach to any fence any glass, nails, metal objects or other materials in such a manner that is likely to injure any person who comes in contact with such object, or to erect or maintain any barbed wire or razor wire except that no more than three (3) strands of barbed wire or one (1) coil of razor wire not less than six feet and two inches (6'2") above the ground are permitted at the top of an otherwise lawful fence enclosing a municipal, institutional, or commercial use. Barbed wire fencing is not prohibited on premises larger than one (1) acre used for agricultural or livestock purposes. Barbed wire or razor wire shall not extend beyond the premises permitted to be enclosed.
- (J) It shall be unlawful for any person to display any vehicle or boat for sale on vacant or undeveloped and unsurfaced property, and no owner or occupant of vacant, undeveloped, or unsurfaced property shall allow or permit such displays.
- (K) It shall be unlawful for an owner or occupant to MAINTAIN, repair or replace THE EXPOSED EXTERIOR SURFACES OF A BUILDING OR STRUCTURE INCLUDING EXTERIOR WINDOWS, DOORS, CANOPIES, METAL AWNINGS, ROOFS, EXHAUST DUCTS, CHIMNEYS, PAINTED SURFACES, WINDOW SCREENING, FENCES, SCREEN WALLS, RETAINING WALLS, FOUNDATIONS, COOLING DEVICES, OUTDOOR STAIRS, PORCHES AND RAILINGS AS VISIBLE FROM THE ADJACENT RIGHTS-OF-WAY, USING MATERIALS, COLORS, OR FINISHES THAT ARE INCONGRUOUS WITH THE PREDOMINATE MATERIALS, COLORS, OR FINISHES OF THE EXPOSED EXTERIOR SURFACE WHEN SUCH INCONGRUOUS MATERIALS, COLORS, OR FINISHES CONSTITUTE MORE THAN TWENTY (20) CONTIGUOUS SQUARE FEET, OR MORE THAN TEN PERCENT (10%) OF THE AREA OF ANY EXPOSED INDIVIDUAL PLANE SURFACE UNBROKEN BY CORNERS OR ANGLES.
- (L) It shall be unlawful for any person to park and for an owner or occupant of land to allow or permit any person to park on the owner's or occupant's land any commercial vehicle having a gross vehicle weight rating (GVWR) exceeding thirteen thousand (13,000) pounds or having dual rear wheels exceeding seventeen inches (17") in diameter on any undeveloped and unsurfaced private property in the City except when such parking is necessarily required while

actually carrying out a lawful commercial purpose. In an action involving a violation of this paragraph, a notice or a citation need not be personally served upon the owner or operator of the vehicle but may be served by attaching a copy to the vehicle. The vehicle owner, the vehicle operator, the owner of land, and the occupant of land shall be jointly and severally liable for violation of this paragraph.

- (M) No person shall attach any sign to any public utility structure, traffic control device, streetlight standard, or similar structure in the public right-of-way excepting those signs erected by a public utility or government agency.
- (N) All vacant or abandoned buildings shall be secured against unauthorized entry at all times.
- (O) No owner or occupant of a parcel of land within the City shall allow thereon weeds or grass which occupy more than fifty (50) contiguous square feet on a developed parcel to attain a predominant height in excess of nine inches (9"), or more than ten percent (10%) of the area of an undeveloped parcel to attain a predominant height in excess of twelve inches (12"). This provision shall not apply to single residence rear yards not visible from the adjacent right-of-way or to crops supporting bona fide livestock grazing where lawful.
- (P) It shall be unlawful for any person to allow a construction or development site soil surface to become so dry that visible emission of airborne dust from unconsolidated soil more than one-half inch ($\frac{1}{2}$ ") deep is raised by the operation of vehicles or machinery thereon and that is carried in airborne suspension beyond the site property line.
- (Q) It shall be unlawful for any person to allow any machinery or commercial vehicles to exit from a construction or development site or from a special event site and thereby cause to be deposited upon a street any accumulation of soil exceeding a depth of one-quarter inch ($\frac{1}{4}$ ") and covering a cumulative surface area of more than fifty (50) square feet.
- (R) No person shall offer to sell, or plant any male mulberry tree (*morus alba*) or olive tree (*olea europea*) in the City unless it is one of the nonpollinating varieties of such trees. The City shall maintain a current list of nonpollinating varieties, which shall be available for public review and shall be based on industry standard for nonpollinating varieties, applicable horticultural and scientific research and data, review and evaluation by qualified experts, and other appropriate information.
- (S) It shall be unlawful for any person to maintain or display any sign regulated under Section 4, Title 4 of this Code that is damaged or deteriorated to a condition constituting a visual blight. Visual blight shall include conditions detectable from beyond the lot boundaries such as chipping, peeling, fading or rusting surfaces; the presence of cracks, holes, buckles, warps, or splinters in any sign component; and defective bulbs, fluorescent tubes, or neon or other inert gas light segments.
- (T) It shall be unlawful to park or store any vehicle, watercraft, camper shell, truck camper or utility trailer within the front or side yard of a single-residence use unless such parking or storage is on an improved, dustproof parking surface. Parking within the front yard of a single-residence use shall be on or contiguous

to a legal driveway provided such parking does not exceed a maximum of fifty percent (50%) of the front yard area. All vehicles, watercraft, or utility trailers parked in a front yard setback must have current license plates displayed.

- (U) ALL PERSONS OWNING OR OCCUPYING IMPROVED PROPERTY WITHIN THE CITY SHALL MAINTAIN THE YARDS AND EXPOSED EXTERIOR SURFACES SUCH AS EXTERIOR WINDOWS, DOORS, CANOPIES, METAL AWNINGS, ROOFS, EXHAUST DUCTS, CHIMNEYS, PAINTED SURFACES, WINDOW SCREENING, FENCES, SCREEN WALLS, RETAINING WALLS, FOUNDATIONS, COOLING DEVICES, OUTDOOR STAIRS, PORCHES AND RAILINGS, AS VISIBLE FROM THE ADJACENT RIGHTS-OF-WAY, IN A STRUCTURALLY SOUND CONDITION THAT DOES NOT CONSTITUTE A HAZARD AND IS IMPERVIOUS TO MOISTURE AND WEATHER ELEMENTS. YARDS AND EXPOSED EXTERIOR SURFACES AS VISIBLE FROM ADJACENT RIGHTS-OF-WAY SHALL ALSO BE MAINTAINED SO AS TO NOT EXHIBIT DETERIORATION, DISREPAIR, OR BLIGHT CONSTITUTING MORE THAN TWENTY (20) CONTIGUOUS SQUARE FEET, OR MORE THAN TEN PERCENT (10%) OF THE AREA OF ANY EXPOSED INDIVIDUAL PLANE SURFACE UNBROKEN BY CORNERS OR ANGLES.

The provisions of this Section may be applied cumulatively or separately for purposes of enforcement.

Section 5: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance as hereby adopted is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct and independent provisions, and such holding shall not affect the validity of the remaining portions thereof.

Section 6: Penalty

CIVIL PENALTIES:

Upon a finding that a person is responsible for a civil violation of this Chapter, the Civil Hearing Officer shall impose a civil sanction of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation.

EACH DAY SEPARATE VIOLATION:

Each day in which a violation of this Chapter continues, or the failure to perform any act or duty required by this Chapter or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- A. A person, firm, or corporation committing a violation of this Chapter after previously having been found responsible for committing three (3) or more civil violations of this Chapter within a twenty-four (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 complaint in the Mesa city Court against habitual offenders who violate this Section. For purposes of


calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.

- B. Upon conviction of a violation of this Section, the Court may impose a sentence of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. Upon conviction, firms or corporations shall be punished by a fine not to exceed twenty thousand dollars (\$20,000.00). The Court shall order a person, firm or corporation who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.

Section 7: Effective Date: In accordance with Section 408(B) of the Mesa City Charter, this Ordinance shall not go into effect unless approved by a majority of the voters voting thereon at The next City election.

PASSED AND ADOPTED BY THE CITY COUNCIL FOR THE CITY OF MESA,
MARICOPA COUNTY, ARIZONA, this 1st day of June, 1998.

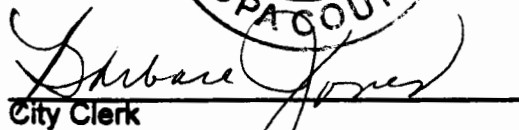
APPROVED:



Mayor



ATTEST:



City Clerk

JSG:cg

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