

CITY OF SOUTH TUCSON ORDINANCE NO: 08-08

AN ORDINANCE OF THE CITY OF SOUTH TUCSON, ARIZONA, CREATING AND ADOPTING, BY REFERENCE, CITY CODE CHAPTER 7, ARTICLES I, II, III, IV, V, VI, VII AND VIII AND HEREINAFTER REFERRED TO AS THE "NEIGHBORHOOD PRESERVATION ORDINANCE OF THE CITY OF SOUTH TUCSON"

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH TUCSON, ARIZONA, AS FOLLOWS:

Section 1: Adoption by Reference.

That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of South Tucson, being marked and designated as Chapter 7 of the South Tucson City Code, be and is hereby adopted, by reference, as the "Neighborhood Preservation Ordinance of the City of South Tucson" governing promotion and preservation of the health, safety and welfare of the citizens of South Tucson, Arizona, and, through education, assist and referral, to protect residents and neighborhoods against hazardous, blighting and deteriorating influences or conditions that diminish quality of life and contribute to the downgrading of neighborhood property values. This chapter serves these purposes by establishing minimum standards for the condition of the interior of residential buildings; by establishing requirements for maintenance of all residential and nonresidential buildings, structures of whatever kind, and vacant and improved land; and by prohibiting acts and conduct that diminish quality of life. Unless specifically provided otherwise, this chapter shall apply to all buildings, structures and lands within the city without regard to the use or the date of construction, improvement or alteration as described in Section 2 of this Ordinance.

State law reference — Adoption by reference, A.R.S. §§ 9-801 and 9-802

Section 2: Creation and Numbering for Chapter 7.

That the following Articles and Sections are created and numbered:

Article I: General Provisions, §§ 7-1 through 7-9

Article II: Maintenance Standards, §§ 7-10 through 7-19

Article III: Slum Property, §§ 7-20 through 7-29

Article IV: Unlawful Acts, §§ 7-30 through 7-39

Article V: Administration and Enforcement, §§ 7-40 through 7-59

Article VI: Abatement, §§ 7-60 through 7-69

Article VII: Administrative Appeals, §§ 7-70 through 7-79

Article VIII: Liability; Conflicts; Severability; Acknowledgment, §§ 7-80- through 7-99

Section 3: Adoption of Chapter 7, Penalty Clauses.

ARTICLE III- SLUM PROPERTY:

A person who fails to comply with any provision of Article III is subject to a civil infraction and shall be assessed a civil penalty of one thousand dollars (\$1,000.00), plus an additional one hundred dollars (\$100.00) for each month after the date of the original violation until compliance occurs. The court shall not suspend any portion of the civil penalty provided by this subsection.

Except for newly acquired residential rental property, if a residential rental property owner fails to register with the county assessor as prescribed by law, the city may impose a civil penalty in the amount of one hundred fifty dollars (\$150.00) per day for each day of violation after the most recent notice of assessed valuation and the notice required by A.R.S. § 42-15103.

Notwithstanding subsections (E) and (F) of this section, if a person complies within ten (10) days after receiving the complaint that notices the violation or notice from the county assessor, the court shall dismiss the complaint and shall not impose a civil penalty.

State law reference: Penalty, Title 33, Chapter 17, Article 1, A.R.S. § 33-1902(E) (F) and (G)

ARTICLE IV-UNLAWFUL ACTS:

A violation of this subsection shall constitute a class one (1) misdemeanor and shall be punished as provided in section B below. No judge shall suspend the imposition of any of the mandatory minimum penalties required by this section.

A person convicted of violating § 7-30 (B) (1) shall be punished by a term of up to forty-eight (48) hours in jail, a fine of not less than two hundred dollars (\$200.00) and not less than eighty (80) hours community service. In addition to any other punishment, the court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in an amount to be determined by the court. Persons under the age of eighteen (18) will be punished as provide for in Title 8, Arizona Revised Statutes.

A person convicted of violating § 7-30 (B) (2) or (3) shall be punished by a term of up to twenty-

four (24) hours in jail, a fine of not less than one hundred (\$100.00) dollars and not less than forty (40) hours of community service. Persons under the age of eighteen (18) will be punished as provided for in Title 8, Arizona Revised Statutes.

A person convicted of violating § 7-30 (B) (4) shall be punished as provided for in Title 8, Arizona Revised Statutes.

A violation of any provision of § 7-31 constitutes a civil infraction. A person found responsible for a violation of any provision of this § 7-31 shall be fined not less than two hundred dollars (\$200.00). The fine amount for each subsequent violation of any provision of this subsection within a consecutive 365-day period shall increase by increments of one hundred dollars (\$100.00) for each violation. No magistrate, special magistrate or limited special magistrate may suspend the imposition of the minimum fines prescribed herein.

A violation of § 7-32 (C) (3) constitutes a civil infraction. The owner, occupant, or tenant of the posted premises shall be responsible for ensuring that the notice is not removed, defaced, or concealed. The person found responsible for the removal, defacement, or concealment of a posted notice shall be fined a minimum, mandatory one hundred dollar (\$100.00) fine, in addition to any other penalties which may be imposed under this section.

The penalty for a party found responsible for an unruly gathering, as provided in § 7-32 (B) (C) (D) (E) and (F), shall be a minimum mandatory fine of one hundred dollars (\$100.00).

The penalty for a party found responsible for the occurrence of a subsequent unruly gathering, as provided in subsection § 7-32 (F), shall be a minimum mandatory fine of five hundred dollars (\$500.00) for a first violation, a minimum mandatory fine of one thousand dollars (\$1,000.00) for a second violation, and minimum mandatory fines of one thousand five hundred dollars (\$1,500.00) for each third or subsequent violation.

A violation of § 7-32 is a civil infraction. In addition to any other penalties prescribed by law, any person found responsible for violating this section shall be fined not less than two hundred dollars (\$200.00). Each handbill illegally posted shall constitute a separate violation, and shall be subject a fine of not less than one hundred dollars (\$100.00). In addition to the minimum fine(s), upon finding any person responsible for violating this section, the court shall order that person to reimburse the city for its costs in the removal of the illegal handbill(s) pursuant to subsection (d), as documented by a statement of costs presented to the court by the city.

ARTICLE V-ADMINISTRATION AND ENFORCEMENT:

Unless a penalty, remedy or sanction is otherwise specified in this chapter, the penalty for a violation of this chapter shall be as follows:

- (1) The remedies herein are cumulative and the city may seek one (1) or more such remedies.
- (2) Any owner or responsible party who commits, causes, permits, facilitates or aids or abets any violation of any provision of this chapter or who fails to perform any act or duty required by this chapter is responsible for a civil infraction and is subject to a civil sanction of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00).
- (3) The fine amount for each subsequent violation of any provision of this chapter, unless otherwise provided in any section of this chapter, within a consecutive 365-day period shall increase by increments of one hundred dollars (\$100.00) for each violation. No magistrate, special magistrate or limited special magistrate may suspend the imposition of the minimum fines prescribed herein.

ARTICLE VI-ABATEMENT:

A. The city may make Article VI costs of an abatement an assessment on the property that is the subject of the violation where all of the following are true:

- (1) The case was initiated by the service of a notice of violation pursuant to section 7-45 of this chapter;
- (2) The owner or responsible party failed to comply with such notice within thirty (30) days; and
- (3) The notice included the estimated cost of such abatement to the city if the owner or responsible party did not comply.

B. Any person who fails to obey an order issued by a magistrate, special magistrate, or special limited magistrate directing abatement of a violation of this chapter is guilty of a misdemeanor. A violation of this section is punishable by up to twenty-four (24) hours in jail, up to a maximum six (6) months in jail; by a minimum mandatory fine of two hundred dollars (\$200.00), up to a maximum two thousand five hundred dollars (\$2,500.00) plus 84% surcharges; and by probation up to three (3) years.

Section 4: All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, the City of South Tucson, Arizona, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase, irrespective of the fact that any sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6: That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of actions acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7: That the various City Officers and Official(s) and/or any other duly appointed deputy are authorized and directed to perform all acts necessary or desirable to give effect and to carry out all the duties authorized under this Ordinance and the City Code.

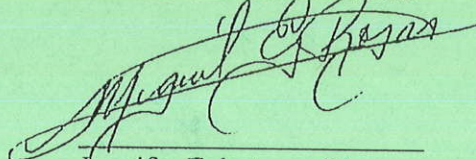
Section 8: That where this Ordinance conflicts or overlaps with any other Ordinance, Code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

Section 9: The City Clerk is ordered and directed to cause this Ordinance to be published.

Section 10: The City Clerk shall attest to the adoption of this Ordinance and cause same to be maintained as a public record as required by law. This Ordinance shall become effective thirty (30) days after the Mayor and Council perform three readings, conduct a public hearing, publication as required by law, passage and adoption thereof

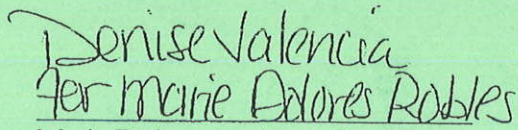
PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this _____ day of December, 2008.

APPROVED/EXECUTED

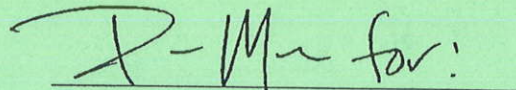


Jennifer Eckstrom, Mayor

ATTEST:


Marie Dolores Robles, City Clerk

APPROVED AS TO FORM:


Hector M. Figueroa, City Attorney

Publish: December 12 and December 15, 2008

Public Hearing: December 15, 2008