

**CITY OF SOUTH TUCSON ORDINANCE NO: 09-03**

**AN ORDINANCE OF THE CITY OF SOUTH TUCSON, ARIZONA, AMENDING 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 amended and 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:** Amending 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  
**§7-07 is amended and replaced as §7-16**

Article III: Slum Property, §§ 7-20 through 7-29  
**§7-21 (A) through (G) is amended and replaced as §7-21 (A) through (H)**

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 II – MAINTENANCE STANDARDS**

It shall be a civil infraction for any person to violate the provisions of this Article. A violation of this Article is punishable in accordance with Section 7-48 of this Chapter.

## **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

punishable as provided 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:**

Pursuant to § 7-48, 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. Article II, Section 7-07 is amended and re-numbered as Section 7-16. Article III, Section 7-21 (A) through (G) is amended and re-lettered as Section 7-21 (A) through (H). All references to Code 2008, Ord. No. 08-06 have been amended by inserting Code 2008, Ord. No. 08-08.

**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.

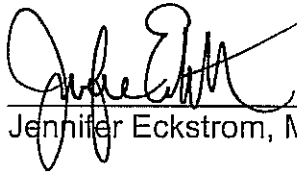
**Section 8:** That where this Ordinance conflicts or overlaps with any other Ordinance, Code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

**Section 9:** The City Clerk is ordered and directed to cause this Ordinance to be published and posted as required by the South Tucson City Code and by state law.

**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 28<sup>th</sup> day of September 2009.

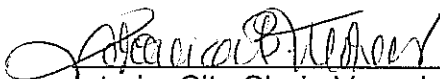
APPROVED/EXECUTED



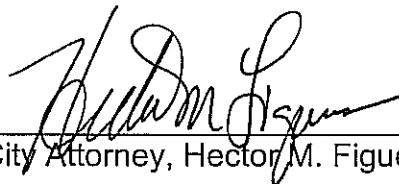
Jennifer Eckstrom, Mayor

ATTEST:

APPROVED AS TO FORM:



Interim City Clerk, Veronica B. Moreno



City Attorney, Hector M. Figueroa

Publish: September 4 and September 8, 2009

Public Hearing: September 14, 2009

**SOUTH TUCSON CITY CODE**

**CHAPTER 7: NEIGHBORHOOD PRESERVATION**

**Article I: General Provisions, Sections 7-1--7-9**

**Article II: Maintenance Standards, Sections 7-10 --7-19**

**Article III: Slum Property, Sections 7-20--7-29**

**Article IV: Unlawful Acts, Sections 7-30--7-39**

**Article V: Administration and Enforcement, Sections 7-40--7-59**

**Article VI: Abatement, Sections 7-60--7-69**

**Article VII: Administrative Appeals, Sections 7-70--7-79**

**Article VIII: Liability; Conflicts; Severability; Acknowledgment, Sections 7-80--7-99**

**Article I. General Provisions**

- Sec. 7-1: Title.
- Sec. 7-2: Purpose And Scope; Application Of Other Codes.
- Sec. 7-3: Definitions.
- Sec. 7-4: Permits Required.
- Sec. 7-5: Reserved.
- Sec. 7-6: Reserved.
- Sec. 7-7: Reserved.
- Sec. 7-8: Reserved.
- Sec. 7-9: Reserved.

**Article II. Maintenance Standards**

- Sec. 7-10: Scope.
- Sec. 7-11: Building Interior.
- Sec. 7-12: Building And Structure Exteriors.
- Sec. 7-13: Exterior Premises And Vacant Land.
- Sec. 7-14: Dilapidated And Vacant Buildings And Structures: Buildings And Structures Constituting A Nuisance.

- Sec. 7-15: Junked Motor Vehicles.
- Sec. 7-16: Disposal /Accumulation Of Body Waste Of Domestic Animals And Pets.
- Sec. 7-17: Reserved.
- Sec. 7-18: Reserved.
- Sec. 7-19: Reserved.

### **Article III. Slum Property**

- Sec. 7-20: Slum Property: Definitions.
- Sec. 7-21: Registration Of Residential Rental Property.
- Sec. 7-22: Inspection Of Residential Rental Property.
- Sec. 7-23: Abatement Of Slum Property.
- Sec. 7-24: Designation Of Slum Property; Recordation.
- Sec. 7-25: Notice Of Designation.
- Sec. 7-26: Appointment Of Temporary Receiver And Recovery Of Costs.
- Sec. 7-27: Recovery Of Inspection Costs.
- Sec. 7-28: Appeal From Designation As Slum Property.
- Sec. 7-29: Licensed Property Management Company: Crime Free Multihousing Program: Required Training.

### **Article IV. Unlawful Acts**

- Sec. 7-30: Graffiti Prevention, Prohibition And Removal.
- Sec. 7-31: Excessive Noise.
- Sec. 7-32: Unruly Gatherings.
- Sec. 7-33: Placing Rubbish, Trash, Filth Or Debris Upon The Property Of Another Or Public Property; Classification; Penalty.
- Sec. 7-34: Public Nuisance.
- Sec. 7-35: Obstructing Streets, Alleys Or Sidewalks Prohibited.
- Sec. 7-36: Posting Of Handbills Prohibited.
- Sec. 7-37: Reserved.
- Sec. 7-38: Reserved.
- Sec. 7-39: Reserved.

### **Article V. Administration And Enforcement**

- Sec. 7-40: Authority To Enforce.
- Sec. 7-41: Rules And Regulations.



- Sec. 7-42: Authority And Inspections.
- Sec. 7-43: Enforcement Independent Of Other Provisions.
- Sec. 7-44: Cooperation Of Other Departments.
- Sec. 7-45: Notice Of Violation.
- Sec. 7-46: Transfer Of Property After Notice.
- Sec. 7-47: Recording A Violation.
- Sec. 7-48: Violations And Penalties.
- Sec. 7-49: Jurisdiction Of Court.
- Sec. 7-50: Commencement Of Civil Infraction Proceedings.
- Sec. 7-51: Appeal Of Court Decision.
- Sec. 7-52: Reserved.
- Sec. 7-53: Reserved.
- Sec. 7-54: Reserved.
- Sec. 7-55: Reserved.
- Sec. 7-56: Reserved.
- Sec. 7-57: Reserved.
- Sec. 7-58: Reserved.
- Sec. 7-59: Reserved.

#### **Article VI. Abatement**

- Sec. 7-60: Court Ordered Abatement.
- Sec. 7-61: Abatement By The City.
- Sec. 7-62: Temporary Abatement.
- Sec. 7-63: Emergency Abatement.
- Sec. 7-64: Structures Posted As Hazardous.
- Sec. 7-65: Abatement By Demolition.
- Sec. 7-66: Failure To Obey Abatement Order.
- Sec. 7-67: Reserved.
- Sec. 7-68: Reserved.
- Sec. 7-69: Reserved.

#### **Article VII. Administrative Appeals**

- Sec. 7-70: Availability Of Administrative Appeal.
- Sec. 7-71: Administrative Conference.
- Sec. 7-72: Modifications.
- Sec. 7-73: Appeals To The Board Of Appeals.

- Sec. 7-74: Powers, Duties And Responsibilities Of The Board.
- Sec. 7-75: Reserved.
- Sec. 7-76: Reserved.
- Sec. 7-77: Reserved.
- Sec. 7-78: Reserved.
- Sec. 7-79: Reserved.

**Article VIII. Liability; Conflicts; Severability; Acknowledgment**

- Sec. 7-80: Liability.
- Sec. 7-81: Conflict Of Ordinances.
- Sec. 7-82: Severability.
- Sec. 7-83: Acknowledgment.
- Secs. 7-84 through 7-99: Reserved.

**ARTICLE I: GENERAL PROVISIONS**

**Sec. 7-1: Title.**

This chapter shall be known as the "**Neighborhood Preservation Ordinance of the City of South Tucson,**" and may be cited as such, and will be referred to herein as "**CHAPTER 7.**"  
 (Code 2009, Ord. No. 09-03, § 1, 09-28-09) (Code 2008, Ord. No. 08-08, § 1, 12-15-08)

**Sec. 7-2: Purpose and scope: Application of other codes.**

- A. The purpose of this chapter is to promote and preserve 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.
- B. This chapter shall be applied fairly, sensibly, consistently, and reasonably to promote the maintenance of all existing buildings and land in the city. The intent is to ensure that property owners, individuals and families do not suffer undue hardship.

- C. This chapter shall not require changes in existing buildings and utilities when alterations were installed and have been maintained in accordance with the building code in effect at the time of construction or alteration of the subject building or utilities. This subsection does not apply when the building has been determined to be an imminent hazard, unsafe, unhealthy, or deteriorated, when the building has been moved to another location, or in connection with the requirements of section 7-11 herein.
- D. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the building, administrative and technical codes adopted by this jurisdiction and in effect at the time of such repair, addition or alteration.
- E. To the extent that any provision of this chapter conflicts with or is preempted by any state or federal law, including state and federal laws concerning the construction and maintenance of manufactured homes and mobile homes, the provisions of this chapter shall not apply.

(Code 2009, Ord. No. 09-03, §§ 1 and 2, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 1 and 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-3: Definitions.**

The rules and the definitions set forth in this chapter shall be observed in the construction of this Code and the Ordinance of this City unless such construction would be inconsistent with either the manifest intent of the common council or the context of this Code. For the purpose of this chapter, and unless the context plainly requires otherwise, the following terms, phrases, and words shall have the meaning given herein:

*Acceptable evidence of age:* The evidence is limited to the following:

- (1) An unexpired driver's license issued by any state or Canada, provided such license includes a picture of the licensee;
- (2) A non-operating identification license issued pursuant to A.R.S. Tit. 28;
- (3) An armed forces identification card; or
- (4) A valid unexpired passport or border crossing identification card which is issued by any government or voter card issued by the any government, which contains a photograph of the person and the date of birth.

*Addressing Official:* The official(s) designated and authorized by the city manager to make

determinations regarding the address display requirements set forth in this chapter; or any authorized representative or designee of that official.

*Attractive nuisance:* “Attractive nuisance” means a condition that may reasonably be expected to attract children and that is dangerous to children because of their inability to appreciate the hazard.

*Building:* “Building” means a structure having a roof supported by columns, posts, or walls and intended for the shelter, housing, or enclosure of any person, entity, animal, process, equipment, goods, or materials of any kind or nature.

*Building code:* “Building Code” means the code or codes adopted by this jurisdiction regulating the design and construction of buildings and structures.

*Building Official:* “Building Official” means an officer or other person designated and authorized by the City Manager to enforce and administer the provisions of this chapter; or the building official's authorized representative.

*Code Official:* “Code Official” means the official(s) designated and authorized by the city manager to administer and enforce this chapter, or any duly authorized representative or designee of that official. Code Official includes any Peace Officer, Fire Code Official, City Code Enforcement Officer or designated Refuse Officer. In the context of violations that are classified exclusively as criminal offenses in this chapter, the Code Official is the Chief of Police or the Chief's designee.

*Commercial property:* “Commercial property” means any property occupied by a business or businesses which sell, rent, trade or store goods, or which provide a service.

*Contain or contained:* “Contain or contained” means to hold, store, bundle, stack or offer for collection in a manner, receptacle or location authorized by the City of South Tucson Code or by rules and regulations promulgated under the Code.

*Contiguous:* “Contiguous” means, relating to property or residences, property that shares or abuts the boundary line or edge of the immediately adjacent property.

*dB(A):* “dB(A)” means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighing scale, which most closely approximates the auditory sensitivity of the human ear.

*dB(C):* “dB(C)” means the intensity of a sound expressed in decibels read from a calibrated

sound level meter utilizing the C-level weighing scale, which is more sensitive to low frequency sound than the A-level weighing scale.

*Dilapidated:* "Dilapidated" means a condition relating to a structure and consisting of multiple violations of the City of South Tucson Code such that the structure is in an obvious and serious state of disrepair.

*Dwelling:* "Dwelling" means the same meaning as "dwelling unit."

*Dwelling unit:* "Dwelling unit" means any building or a portion thereof that is designed, occupied, or intended for occupancy as living quarters exclusively for a single household.

*Excavation:* "Excavation" means any well, shaft, basement, pit, tunnel, trench, hole or other like or similar removal of earth material.

*Garbage:* "Garbage" means all animal and vegetable and food wastes resulting from the handling, preparation, cooking or consumption of foods, or refuse or recyclables that have been contaminated by garbage, or other such matter the accumulation of which may create a nuisance or be deleterious to public health or offensive to sight or smell.

*Graffiti:* "Graffiti" means initials, slogans, figures, inscriptions, marks, designs or drawings written, spray-painted, etched, sketched or otherwise applied on a sidewalk, wall, building, fence, sign or any other structure or surface without consent of the owner.

*Graffiti Abatement Official:* "Graffiti Abatement Official" means the City Official designated by the City Manager to abate graffiti and otherwise enforce the provisions of section 07-30 of this chapter.

*Greenwaste:* "Greenwaste" means wastes consisting solely of vegetative materials, including but not limited to, tree trimmings, tree limbs, yard clippings, leaves, grass, weeds, branches, brush, and shrubs. Palm fronds and cactus are not greenwaste.

*Handbill:* "Handbill" includes any sign, notice, placard, poster, paper, advertising circular, sticker, card, leaflet, or other similar item calculated to attract the attention of the public.

*Health hazard:* "Health hazard" means the presence of any conditions or item(s) that adversely impact or jeopardize the well being or health of an individual. Such conditions or items include evidence of occupancy without adequate water and sanitation facilities, or may include the presence of human or animal waste, medical or biological waste, drug paraphernalia, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable

or explosive materials, friable asbestos, offal and decay matter.

*Imminent hazard:* “Imminent hazard” means a condition that places a person's life, health, or property in immediate, impending peril, or could cause serious or life-threatening injury or death at any time.

*Industrial property:* “Industrial property” means any property occupied by land uses whose primary operation involves manufacturing, assembling, processing or otherwise treating raw materials; semi finished products, or finished products, for packaging and distribution to either wholesale or retail markets.

*Infestation:* “Infestation” means the apparent presence of unpleasant, damaging, or unhealthful insects, rodents, reptiles or pests.

*Junked or inoperable vehicle:* “Junked or inoperable vehicle ” means any motor vehicle which is, at a minimum, of a type subject to registration under A.R.S. Title 28 but does not have a lawfully affixed unexpired number or license plate assigned to the vehicle by any state, or any trailer or camper shell, that exhibits one or more of the following conditions: wrecked, partially or fully dismantled, abandoned, stripped, inoperative, inoperable, scrapped, or unable to be safely operated.

*Litter:* “Litter” means to cause a condition of uncontained refuse, debris or trash.

*Manufactured home:* “Manufactured home” shall have the same meaning as defined in A.R.S. § 41-2142(24) or its successor provision.

*Mobile home:* “Mobile home” shall have the same meaning as defined in A.R.S. § 41-2142(26) or its successor provision.

*Motor vehicle:* “Motor vehicle” means any self-propelled land vehicle which can be used for transporting persons or property.

*Owner:* “Owner” means, as applied to a building, structure, or land, any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building, structure or land.

*Person:* “Person” means any natural person, firm, partnership, association, corporation, company or organization of any kind, but not the federal government, state, county, city or political subdivision of the state.

*Plainly audible:* “Plainly audible” means any sound that a person can detect using his or her unaided hearing faculties.

*Private property:* “Private property” means any real property not owned by the federal government, state, county, city or political subdivision of the state.

*Property line:* “Property line” means the line that represents the boundary of property (including an apartment, condominium, room or other dwelling unit) owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the property line shall be the nearest boundary of the public right-of-way.

~~*Recyclable materials (also recyclables):*~~ “Recyclable materials (also recyclables)” means those materials that are listed in the rules, procedures and regulations promulgated by the director of utility services as having recycle value.

*Refuse:* “Refuse” means all waste materials, including but not limited to greenwaste, garbage, waste generated by animals or pets, or recyclables.

*Resident:* “Resident” means a person that lives in a residence, or a responsible party. Unless specifically used in another context, resident assumes the premises owner, occupant, tenant, lessor, lessee, resident, manager, or licensee to whom a garbage or recycling container has been assigned.

*Residential property:* “Residential property” means a property where the dominant use is non-transient occupancy of residential dwelling units.

*Responsible party:* “Responsible person” means an occupant, lessor, lessee, manager, licensee, or person having control over a structure or parcel of land; and in any case where the demolition of a structure is proposed as a means of abatement, any lien holder whose lien is recorded in the official records of the Pima County Recorder's Office.

*Sidewalk area:* “Sidewalk area” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, whether identified on the ground as a pedestrian walkway or not.

*Sound amplification system:* “Sound amplification system” means any device, instrument or system, whether electrical or mechanical or otherwise, for amplifying sound or for producing or reproducing sound, including but not limited to any radio, stereo, musical instrument, compact disc, or sound or musical recorder or player.

*Sound level meter:* “Sound level meter” means an instrument used to measure the intensity of sound that satisfies American National Standards Institute (ANSI) standard S1.4 for type 1 or type 2 sound level meters, or an instrument that will provide equivalent data.

*Store:* “Store” means to park, leave, locate, keep, maintain, deposit, allow to remain or allow to have a physical presence.

*Structure:* “Structure” means a physical element that is erected or constructed with a fixed location on the ground, or is attached to another physical element having a fixed location at, below, or above grade. The term includes, but is not limited to, buildings, walls, fences, posts, patios, improvements and other structures that are constructed or placed on the land.

*Uncontained refuse:* “Uncontained refuse” means any refuse that is not contained according to the provisions of this chapter or authorized by the rules, procedures and regulations promulgated by the director of utility services.

*Vacant and unsecured building or structure:* “Vacant and unsecured building or structure” means any vacant or abandoned building or structure which is: (1) a fire or health hazard because of the accumulation of weeds, debris, or flammable or combustible waste or refuse; or (2) an attractive nuisance or hazard to the public because unsecured doorways or window openings or holes in the exterior of the building or structure permit entry of unauthorized persons.

*Vacant structure:* “Vacant structure” means any unoccupied or illegally occupied structure.

*Weeds:* “Weeds” includes but is not limited to untended or uncultivated plants, invasive plants, aggressively seeding plants, Russian thistle, ragweed, and plants generally accepted as having no value and frequently of uncontrolled growth.

(Code 2009, Ord. No. 09-03, § 1, 09-28-09)

(Code 2008, Ord. No. 08-08, § 1, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*Cross reference:* (Code 1994, § 20-1, Ord. No. 94-04, 10-31-94)

*Cross reference:* (Code 1976, Ch. I, § 1-2; Rules of Construction and Definitions)

*Cross reference:* (Code 1976, § 10.101(1); Ord. No. 87-08, 1-25-88)

#### **Sec: 7-4. Permits required.**

Unless otherwise exempt pursuant to section 105 of the International Building Code, as adopted by reference by Ordinance 08-04, Chapter 4, Article II, § 4-19 of this Code, or pursuant to any



other ordinance or statute, no building, structure or building service equipment regulated by this chapter or by the technical codes adopted by the city shall be built, erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a permit has first been obtained from the building official in the manner provided in the administrative and building codes adopted by the city.

(Code 2009, Ord. No. 09-03, §§ 1 and 2, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 1 and 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sections: 7-5--7-9: Reserved.**

## **ARTICLE II: MAINTENANCE STANDARDS**

### **Sec. 7-10: Scope.**

In this article, unless otherwise provided, the "building interior" section applies to the interior, utility service, plumbing and mechanical equipment of all residential dwellings and dwelling units. The "building and structure exteriors" section applies to all structures and buildings in the city. The "exterior premises and vacant land" section applies to all land, vacant or improved, in the city. The provisions related to dilapidated, vacant, and nuisance structures apply to all structures and buildings in the city.

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

### **Sec. 7-11: Building interior.**

#### **A. Fire safety:**

1. The presence and operations of window openings, size and condition of exits, bars, grills, grates covering windows and openings shall allow for safe and rapid egress in emergency situations. At least one (1) window and all doors in living/sleeping rooms in dwelling units must have an operable release mechanism that allows safe and rapid egress without the use of separate tools, special knowledge or force.
2. Every dwelling unit or guest room shall have unobstructed access directly to the outside, or to a public corridor. Every door, stairway, passageway or other means of exit shall be of sufficient size, width and arrangement so as to provide safe and rapid egress in the event of fire. Every walking surface of any means of exit shall be maintained free of warping, rotting, or other damage or obstructions so as to provide safe and rapid egress in the event of fire.

3. Every existing dwelling unit shall be provided with smoke detectors in good operating condition in each bedroom and/or living space, as required by the Fire Code of the City of South Tucson.

**B. Heating, cooling and ventilation systems:**

1. Heating. Every dwelling unit, guest room, and congregate residence shall be provided, with operable heating facilities capable of maintaining a room temperature of 70 degrees Fahrenheit in all habitable rooms. Temperature measurements shall be made in the center of the room, five (5) feet above the floor. Heating facilities shall be installed and maintained in a safe condition, in a state of good repair, and in accordance with applicable codes all heating facilities shall be free from health hazards associated with ventilation, mounting, electrical and gas connections and other defects. Unvented fuel-burning heaters must be of a listed and approved type, and are prohibited as the sole source of heating. Ovens, stoves or ranges, or other cooking appliances cannot be used for the purpose of heating any portion of a dwelling.
2. Cooling. Every dwelling unit, guest room, and congregate residence shall be provided, in at least one (1) habitable room, with either mechanical cooling or an alternate cooling method. Mechanical cooling shall be capable of maintaining a temperature of eighty (80) degrees when the ambient outside temperature is one hundred and five (105) degrees or less. Evaporative cooling shall follow the manufacturer's recommendations. Dwelling units using alternate methods shall maintain eighty-eight (88) degrees or less in at least one habitable room. Such facilities shall be installed and maintained in a safe condition and in accordance with the manufacturer's recommendations. Temperature measurements shall be made in the center of the room, five (5) feet above the floor. Evaporative cooling shall be maintained to be free of excessive rust, corrosion or mineral deposits that limit proper operation. Any mounting apparatus for a cooling facility must be structurally sound.
3. Ventilation.
  - (a) Habitable rooms within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings with an area of not less than five (5) square feet. A mechanical ventilating system may be provided in lieu of required exterior openings for natural ventilation, so long as such system is capable of providing thirty-five one-hundredths (0.35) air changes per hour and so long as the air supply is taken from the outside.

- (b) Bathrooms, laundry rooms, water closet compartments and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one and one-half (1½) square feet. A mechanical ventilation system connected directly to the outside may be provided in lieu of these required exterior openings for natural ventilation in bathrooms that contain a bathtub, shower or combination thereof; laundry rooms; and similar rooms. Such a system must be capable of providing five (5) air changes at the rate of fifty (50) cubic feet per minute if the system operation is intermittent; or twenty (20) cubic feet per minute if the operation is constant. The point of discharge of exhaust air shall be at least three (3) feet from any opening into the building. In bathrooms containing only a water closet, lavatory or combination thereof; or in similar rooms, ventilation may be provided with an approved mechanical recirculating-fan or a similar device designed to remove odors from the room.

**C. Electrical system:**

1. All dwellings and dwelling units shall be provided with electrical service. If electrical power is available within three hundred (300) feet of any building used in whole or part as a dwelling, the building must be connected to that electrical power. Electrical facilities connected to or in any building or structures are to be maintained hazard-free and in a state of good repair. The electrical system shall be free from such hazards as bare wiring; overloaded circuits or services; equipment not properly grounded; over-fused circuits; misuse of wiring, including the use of extension cords in lieu of permanent wiring; non-approved wiring; and wiring exposed to moisture or extreme heat. Broken, loose, frayed, inoperable, defective or missing portions of the electrical service, lines, switches, outlets, fixtures and fixture coverings shall be repaired or replaced.
2. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner and in accordance with all applicable laws.
3. Every habitable room must have at least two (2) electrical receptacle outlets, or one (1) outlet and one (1) electric light fixture. Every bathroom, kitchen (each outlet within three (3) feet of the faucet) and outdoor receptacle not protected from the elements shall be a GFCI protected. Water closet compartments and laundry rooms must have at least one (1) electric light fixture.

**D. Mechanical equipment:**

All mechanical equipment and appliances shall be properly installed, maintained in a safe,

working, operating condition, and shall be free of any defect that impairs operability.

**E. Plumbing systems:**

1. Dwelling units shall be provided with one (1) or more bathrooms equipped with a water closet, lavatory, and either a bathtub or shower. Hotels or subdivisions thereof where both sexes are accommodated shall contain at least two (2) separate toilet facilities that are conspicuously identified for male or female use, each of which contains at least one (1) water closet. Additional water closets shall be provided on each floor for each sex at the rate of one (1) for every additional ten (10) guests or fractional part thereof, in excess of ten (10). Each sink, bathtub and shower shall have hot and cold running water as necessary for its normal operation and use.
2. All dwellings or dwelling units shall have a kitchen, which shall include an indoor cooking area. The cooking area must be provided with a sink separate and apart from any bathroom sink or lavatory. Each kitchen sink shall have hot and cold running water necessary for its normal operation and use.
3. All plumbing systems are to be maintained safe and hazard free and in a state of good repair. Every dwelling or dwelling unit shall have an adequate potable water supply. Every plumbing fixture, water and waste-pipe, and gas connection shall be properly installed in accordance with all applicable laws and maintained in good and sanitary working condition so as to prevent structural deterioration or health hazards, and are to be free from leaks and obstructions.
4. All plumbing fixtures shall be connected to a public sewer system or to an approved private sewage disposal system, with the connections free from leaks, blockages, or other defects. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.
5. When a structure is equipped with a gas supply system, it must be installed and maintained in a safe, hazard-free condition.

**F. Interior surfaces and features:**

1. Every wall or vertical support must be sufficient to carry imposed loads safely, and must not lean, buckle, or split due to defect or lack of maintenance.
2. Every ceiling, roof, and ceiling and roof support must be sufficient to carry imposed loads safely, and must not buckle, sag or split due to defective material or deterioration, and impose dead/live loads.

3. Every floor and floor support shall be maintained in a safe and structurally sound condition, and every existing floor covering shall be maintained in safe condition that is free of defect or deterioration that creates an unsafe or unsanitary condition.
4. Every interior door, cabinet, and other feature shall be maintained in a safe and structurally sound condition.

**G. Interior sanitation:**

1. The interior of every building or structure shall be maintained free from any unsafe or unsanitary accumulation of refuse.
2. All sanitary facilities shall be installed and maintained in a safe and sanitary condition.
3. Every dwelling unit must have a kitchen, which shall include a sink. Sinks, drain boards and countertops adjacent to the kitchen sink shall be made of non-absorbent materials, or must be covered by a non-absorbent material.

**H. Interior insect and rodent control:**

The interior of all buildings and structures shall be kept free from infestation of insects, rodents and other noxious pests where such infestation threatens the health, safety or welfare of a person or persons.

**I. Ceiling heights:**

Habitable space, kitchens, halls, bathrooms and toilet compartments must have a ceiling height of not less than seven (7) feet measured to the lowest projection of the ceiling. If any room has a sloping ceiling, at least one-half (1/2) of the room area must have the prescribed minimum ceiling height.

**J. Access control:**

1. Exterior doors, including sliding glass doors, must have an operable locking mechanism. Double cylinder dead bolt locks or other mechanisms that prevent rapid egress in case of fire or other emergency are prohibited.
2. All windows must have an operable locking mechanism.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-12: Building and structure exteriors:**

**A. Exterior surfaces**

1. **Weather protection.** All weather-exposed exterior surfaces of every building, including windows and doors, shall provide weather protection. Every building shall be weather protected to provide shelter for the occupants against the elements and to exclude moisture and dampness.
2. **Protective treatment.** All exterior wood surfaces, except for decay-resistant woods, must be protected from deterioration and from the elements by paint or other protective treatment or covering. Where fifty (50) percent or more of an exterior wood surface has paint that is peeling, flaking, cracked, blistered or chipped, resulting in bare, unprotected surfaces, the deteriorated condition of that surface must be eliminated and the surface repainted. All metal surfaces subject to corrosion or rust must be treated or coated to inhibit corrosion and rust, unless corrosion or rust is a design element.
3. **Boarded window or door openings.**
  - a. No occupied structure may have boarded window or door openings, except as necessary on a temporary basis to keep the structure secure while under repair.
  - b. While vacant structures may temporarily be secured by boarding up window and door openings in accordance with section 7-14(b), having or maintaining boarded window or door openings on a vacant structure for one hundred eighty (180) days or more in any one-year period is prohibited.

**B. Foundations, walls and roofs, chimneys:**

Every foundation, wall, roof and all exterior surfaces of buildings and structures shall be maintained in structurally sound condition and shall provide weather protection. All wood showing evidence of termite damage or decay, where structural or functional integrity is impaired, shall be replaced.

1. **Foundations.** All foundations shall be maintained in a safe condition and shall be capable of supporting the load placed thereon by normal use. Foundations shall

have effective waterproofing.

2. Walls. Exterior walls shall be maintained in a sound condition that is substantially weather tight and weatherproof, and shall be protected from the elements by paint or other approved protective covering. Exterior walls must be free of loose, crumbling or deteriorated plaster or rotted, split or buckled exterior wall coverings.
3. Roofs. The roof of every building or structure shall be maintained in a safe condition and shall provide weather protection for that building or structure. Roof coverings shall not be rotted, broken, split, buckled or otherwise deteriorated.
4. Chimneys. All chimneys must be maintained to be structurally safe and in sound condition.

**C. Stairways, decks, and porches:**

All stairways, decks and porches shall be maintained in a safe condition and shall be capable of supporting the load and resisting all forces placed thereon by normal use.

**D. Coolers:**

Evaporative coolers, cooler stands, and any cooler mounting apparatus must be maintained in a safe condition. Cooler stands and any mounting apparatus must be structurally sound.

**E. Accessory structures:**

All accessory structures, including but not limited to detached garages, fences and walls, must be structurally sound and free of disrepair. Examples of disrepair include missing slats or blocks, or damage, rot, or deterioration to fifty (50) percent or more of the fence or wall. Fences and walls cannot be constructed or covered with materials not designed or commonly used for that purpose, such as pallets and tarps. Fences and walls must be properly anchored so as not to be in danger of failure or collapse.

**F. Address display:**

1. General requirements:

- A. All structures, whether new or existing, designed for human occupancy or uses which have an assigned address shall display the address in a manner to be plainly legible and visible from the street or road fronting the property.

- B. Upon commencement of construction, the assigned address shall be displayed at the primary access of the subject lot parcel or structure. The address display may be temporary signage during construction.
  - C. Permanent address display shall be installed on all buildings, tenant spaces and entrance signage, or as otherwise required by this section, prior to building inspection final approval, certificate of occupancy or occupancy of any building or structure. Display shall be required at all times thereafter, conforming to this section.
  - D. More than one (1) address or number display may be required for each building or site.
  - E. The complete address shall be displayed on all corner buildings at a street intersection, for each side of the building facing any street.
  - F. Addresses shall be displayed and visible from both directions of approaching vehicular travel.
  - G. Numbers and letters shall be made of durable and clearly visible material. Paint shall not be considered durable for building addresses.
  - H. Numbers and letters shall be of colors contrasting with the background of the sign or wall to which they are attached.
  - I. Numbers and letters shall have a minimum proportion ratio of height to width of six to one (6:1). The formula is  $w = h/6$ , where  $w$  is width and  $h$  is height in inches.
  - J. Numbers shall not be spelled.
  - K. All height requirements stated in this section are minimum sizes.
2. Residential requirements: The address numbers assigned shall be conspicuously placed immediately at the appropriate location on each building, structure entrance or at the property access point.
- A. For properties containing multiple addresses, addresses shall be placed near the primary entrance in addition to the structure placement.





5. **Commercial:** The address number assigned shall be conspicuously placed immediately at each property access point, and the appropriate locations on each building, and each structure entrance.
- A. Buildings or structures set back no more than fifty (50) feet from the curb line or edge of pavement shall display a twelve-inch minimum height number.
  - B. Buildings or structures set back more than fifty (50) feet from the curb line or edge of pavement shall display a fifteen-inch minimum height number.
  - C. Individual addresses shall be placed near the primary entrance, a minimum of ~~three (3) inches in height.~~
  - D. The low and high number range may be displayed on buildings with multiple addresses, a minimum of twelve (12) inches in height.
  - E. Site and building addresses shall be visible at all times.
6. **RV and Mobile Home Park:** The address numbers assigned shall be conspicuously placed immediately at each property access point, and at the appropriate locations for each building, structure, and property rental space.
- A. Number height:
    - 1. Space, directional signage and internal street signage numbers shall be a minimum of three inches; and
    - 2. Building numbers shall be a minimum of six (6) inches.
  - B. Park owners shall provide current maps of the park, describing the locations of structures, buildings and spaces, to the fire code official upon request.
7. **Entrance signage:** Where this section requires entrance signage, the address or address numbers assigned shall be placed at primary access points immediately and shall be permanently installed prior to first occupancy of any internal structure or building.
- A. Numbers or address shall be a minimum of twelve (12) inches in height on all entrance signage.

**B. Complete address display shall be required at all street access points in addition to the primary access street.**

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-13: Exterior premises and vacant land:**

**A. Accumulation of vegetation prohibited:**

Each owner, lessee, tenant, resident or occupant shall maintain a property so it is free of the accumulation or untended growth of vegetation. The accumulation or untended growth of vegetation means the presence of plants on property that create a fire, safety or health hazard, or that attract vermin either on the property, on neighboring properties, or on both, and includes but is not limited to:

1. Any lawn grass that exceeds six (6) inches in height.
2. All weeds that exceed six (6) inches in height.
3. Dead plants or dead parts of plants of any kind.
4. Any tree, shrub, or other form of vegetation of any kind on the property or on the adjoining right-of-way, street, or alley that extends over or under the sidewalk space or roadway in a manner that may interfere with the reasonable use of the street, sidewalk, or alley for pedestrian or vehicular traffic of any kind or that may obstruct the view or light distribution of traffic-control devices or luminaries.

**B. Accumulation of refuse prohibited:**

Each owner, lessee, tenant, resident or occupant shall maintain a property so it is free of accumulated refuse. Accumulated refuse means contained refuse that is present on the property in a manner authorized by the South Tucson Code.

**C. Composting permitted on residential property; standards and procedures; violation.**

The provisions of subsections (a) and (b) of this section do not prohibit the maintenance of a compost pile on residential property, so long as the compost pile does not create a hazard and is:

- (1) Contained;

- (2) Maintained so as not to produce offensive odors or attract flies or vermin;
- (3) Located, insofar as reasonably possible, so that it is not visible from abutting properties or streets;
- (4) Maintained in compliance with all rules, regulations and procedures that may be promulgated by the director of utility services.

A compost pile not in compliance with all the provisions of this section is in violation of this chapter.

**D. Duty to remove weeds and refuse from abutting sidewalks, streets and alleys upon notice.**

Upon receipt of notice served pursuant to section 7-45, the owner, lessee, tenant or occupant of any premises shall remove from the premises and the abutting portions of contiguous sidewalks, streets and alleys, all weeds, garbage, or other refuse which may endanger the health, safety or welfare of the persons in the vicinity of such premises. This duty extends to and includes any abutting sidewalk area and one-half (1/2) the width of abutting alleys, from the property line to the center-line of the alley.

**E. Exterior insect, rodent and animal control:**

All premises shall be kept free from infestation of insects, rodents and other noxious pests where such infestation threatens the health, safety or welfare of a person or persons.

**F. Burning of refuse prohibited:**

Except as specifically permitted by this Chapter or other adopted codes, the open burning or incineration of refuse and/or debris is prohibited.

**G. Exterior hazard or attractive nuisance:**

All premises shall be kept free of any condition that constitutes a health hazard, imminent hazard, or attractive nuisance. Such prohibited conditions include, but are not limited to, the following:

1. Abandoned refrigerators. All premises shall be kept free of iceboxes, refrigerators or other containers with a capacity of one and one-half (1/2) cubic feet or greater that have an attached door or lid, snap-lock or other locking device that may not be released from the inside and that are abandoned, discarded or no longer used for refrigeration and are in any place accessible to children. In addition to any other remedy provided under this chapter, a code official may immediately and without prior notice remove an attached door, lid or other locking device or take

other similar action to abate the hazard presented.

2. Hazardous excavations. All premises shall be kept free of abandoned or unsecured excavations; or any excavation that creates a hazard to public safety or an attractive nuisance. An excavation made under permit and secured and maintained in a manner that complies with the applicable permit requirements is not considered a violation of this section.
3. Hazardous pools. Any swimming pool or other contained body of water that contains water eighteen (18) inches or more in depth at any point and that is wider than four (4) feet at any point and is intended for swimming must be properly secured and maintained so as not to create a hazard to public safety, a health hazard or attractive nuisance, and shall be entirely enclosed by a minimum five (5) feet high wall, fence or other barrier that is adequate to prevent access by children. Water shall not be allowed to stagnate or to harbor insect infestation.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to compel owners to clean premises, A.R.S. § 9-240(21) (a)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to compel owners to remove debris, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

#### **Sec. 7-14: Dilapidated structures; vacant and unsecured structures; buildings and structures constituting a nuisance.**

- A. **Dilapidated structures.** Buildings or structures that are so deteriorated, damaged, dilapidated, or in need of repair so as to present a threat to the health, safety and welfare of the community constitute a nuisance and shall be abated by repair, rehabilitation or demolition as provided in Article VI of this chapter.
- B. **Vacant and unsecured buildings or structures.**

Vacant and unsecured buildings or structures are unlawful and are prohibited by this chapter.

1. Duty to clean, secure and prohibit trespass. The owner or responsible party of a vacant building or structure shall remove any accumulation of weeds, combustible waste, or refuse from the interior of the building or structure and the surrounding yards; and shall secure all doors, windows, and other openings to prevent

unauthorized entry. The owner or responsible party also shall post both the structure and the exterior premises with signs to provide conspicuous and reasonable notice prohibiting entry (i.e., "No Trespassing" signs).

2. Reinspection of secured buildings and structures. The code official shall periodically reinspect a building or structure that was cleaned or secured pursuant to an administrative or judicial order to ensure continued compliance with the order and this chapter. The code official may assess a reinspection fee for actual costs of each inspection in those instances where the building or structure is again found to be vacant and unsecured or in need of debris or weed removal.
3. Abatement of vacant and unsecured buildings. When ordered abated, a vacant and unsecured building shall be cleaned and secured as follows:
  - a. All accumulated debris and/or refuse that poses a fire or health hazard within or upon the property or premises shall be removed; and
  - b. All unsecured doorway, windows, or exterior openings shall be barricaded in accordance with standards established by the code official, which shall be kept on file with the city clerk, and in accordance with section 7-12(a) (3) of this chapter; and
  - c. Both the structure and the exterior premises shall be posted with signs that provide reasonable notice prohibiting entry (i.e., "No Trespassing" signs).

**C. Buildings and structures constituting a nuisance.**

All buildings and structures are to be maintained so as not to pose a threat to the health and safety of any person or persons. The condition of a building or structure that meets any or all of the following is a public nuisance, is a violation of this chapter, and subjects the building or structure to abatement as provided in Article VI of this chapter, including demolition as provided in section 7-65:

1. The building or structure lacks safe and adequate means of exit in case of fire or panic.
2. The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1/2) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.

3. The building, structure or any portion thereof has been damaged by fire, earthquake, wind, flood or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the damage and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.
4. The building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
  - a. An attractive nuisance to children; or
  - b. A harbor for trespassers or persons committing unlawful acts.
5. The building, structure, or any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to partially or completely collapse and thereby injure persons or damage property.
6. Any portion of a building or structure, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
7. Any portion of a building or structure that has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. The walls or other vertical structural members of the building or structure list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
9. The building or structure, excluding the foundation, has thirty-three (33%) percent or more damage or deterioration to the supporting member or members or structural assembly, or fifty (50%) percent damage or deterioration to the nonsupporting members, enclosing or outside walls or coverings.
10. The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.

11. The building or structure exhibits conditions that present actual or imminent hazards or dangers, or is otherwise unsafe for the purpose for which it is being used.
12. The building or structure, whether or not erected in accordance with all applicable laws, has in any nonsupporting part, member or portion less than fifty (50%) percent, or in any supporting part, member or portion less than sixty-six (66%) percent of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
13. A dwelling is unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
14. The building or structure, because of obsolescence, dilapidated condition, damage, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire chief to be a fire hazard.
15. The building or structure has been found, upon reinspection, to be vacant and unsecured, and either:
  - a. The code official has issued at least one (1) previous abatement order to secure within the preceding twelve (12) months, or more than three (3) abatement orders to secure over any time frame; or
  - b. The code official has secured the building or structure on at least one (1) previous occasion within the preceding twelve (12) months, or more than three (3) times over any time frame.
16. A building or structure or portion thereof remains for any period of time on a site after the demolition or destruction of the building or structure; or normal construction of an unfinished or incomplete building or structure has ceased for a period of more than twelve (12) months.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to compel owners to clean premises, A.R.S. § 9-240(21) (a)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)



*State law reference:* Authority to compel owners to remove debris, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sec. 7-15: Junked motor vehicles.**

**A. Prohibited storage:**

- (1) No person owning or having custody of any junked or inoperable vehicle may store such vehicle on private property, or on any sidewalks, streets or alleys, within the city, except as otherwise permitted under this section;
- (2) No person owning, occupying or in control of any private property within the city may store any junked or inoperable vehicle on the owned or occupied property, or on any abutting sidewalks, streets or alleys, except as otherwise permitted under this section.

**B. Permitted storage:**

This section shall not apply to any junked or inoperable vehicle stored on private property if the vehicle:

- (1) Is on the premises of a business enterprise operated in a lawful place and manner and licensed by the city under Chapter 11 of the South Tucson City Code, Business Privilege Licenses and the storage of the vehicle is necessary to the operation of the business enterprise; or
- (2) Is lawfully enclosed within:
  - a. An enclosed garage or other permanent building lawfully constructed of opaque materials without openings, holes or gaps other than doors and windows;
  - b. A carport, and an opaque car cover designed for that purpose (and not including tarps, bed sheets, plastic sheeting, or similar materials) completely covers the body of the vehicle; or
  - c. Any fence, wall or barrier, not less than five (5) 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. Such fence, wall or barrier must comply with section 7-

12(e).

**C. Persons responsible:**

Whenever the city finds that any junked or inoperable vehicle is stored on private property or on any abutting sidewalks, streets or alleys in violation of this section, the persons responsible for the violation include the recorded owner, occupant or person in control of the private property, as well as the registered owner or custodian of the vehicle.

**D. Evidence of abatement:**

Within fifteen (15) days from the issuance of the civil infraction citation or civil infraction complaint or at the first appearance date, whichever date comes first, the judge or hearing officer shall dismiss the civil citation or civil complaint if the defendant produces at the administrative hearing office competent evidence of abatement as set forth in this subsection; and, if necessary, the first appearance date may be continued to permit city verification of the abatement.

Abatement shall consist of one (1) or more of the following:

- (1) Lawfully storing the vehicle; or
- (2) Lawfully registering the vehicle and affixing thereto unexpired number or license plates assigned to the vehicle by any state; or
- (3) Eliminating the condition (i.e. wrecked, inoperable, etc.) that causes the vehicle to be deemed a junked or inoperable vehicle.

**E. Evidence of registration:**

Evidence of the current registration for the vehicle may be presented as a defense to the violation.

**F. Authorization to enter private property for vehicle removal pursuant to court order.**

Any code official or persons as may be directed by such code official may enter private property to remove or cause the removal of a vehicle upon order of the court pursuant to section 7-60.

**G. Penalty; violation declared a nuisance:**

- (1) A violation of this section is punishable in accordance with section 7-48 of this chapter.

- (2) The unlawful storage of any junked or inoperable vehicle within the city in violation of this section is declared dangerous to the public safety and a public nuisance.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to compel owners to clean premises, A.R.S. § 9-240(21) (a)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to compel owners to remove debris, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

### **Sec. 7-16: Disposal and accumulation of body waste of domestic animals and pets:**

#### **Sec. 7-16(1):**

Except as otherwise provided, no owner, proprietor, agent or occupant of any premises where domestic animals or dogs, cats or other domestic pets are kept within the city shall deposit, cause to be deposited or allow to accumulate within or about such premises for a longer time than twenty-four (24) hours, any manure, animal bedding or body wastes from domestic animals and pets. Such person shall provide a receptacle of sufficient size for the reception of such manure, animal bedding or body wastes of domestic animals and pets.

#### **Sec. 7-16(2):**

Such receptacle shall be so constructed that the contents thereof will not be accessible to flies; and such receptacle shall be placed upon the premises owned, occupied or controlled by such person in a location as remote as possible from any surrounding dwelling or street. Such person shall empty and cleanse the same as often as necessary, but not less than twice each week, and more often when directed to do so by the Code Official.

#### **Sec. 7-16(3):**

It shall be a civil infraction for any person to violate the provisions of this section. A violation of this section is punishable in accordance with section 7-48 of this chapter.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to compel owners to clean premises, A.R.S. § 9-240(21) (a)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to compel owners to remove debris, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sections: 07-17--07-19: Reserved.**

### **ARTICLE III: SLUM PROPERTY**

#### **Sec. 7-20: Slum property; definitions:**

The rules and the definitions set forth in this chapter shall be observed in the construction of this Code and the Ordinance of this City unless such construction would be inconsistent with either the manifest intent of the common council or the context of this Code. For the purpose of this chapter, and unless the context plainly requires otherwise, the following terms, phrases, and words shall have the meaning given herein:

*Managing agent:* “Managing agent” means a person, corporation, partnership or limited liability company that is authorized by the owner to operate and manage the property.

*Residential rental property:* “Residential rental property” means property that is used solely as leased or rented property for residential purposes. If the property is a space rental mobile home park or a recreational vehicle park, residential rental property includes the rental space that is leased or rented by the owner of that rental space but does not include the mobile home or recreational vehicle that serves as the actual dwelling if the dwelling is owned and occupied by the tenant of the rental space and not by the owner of the rental space.

*Slum property:* “Slum property” means 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:

- (1) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings.
- (2) Lack of potable water, adequate sanitation facilities, adequate water or waste pipe connections.

- (3) Hazardous electrical systems or gas connections.
- (4) Lack of safe, rapid egress.
- (5) Accumulations of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*Cross reference:* (Code 1976, Ch. I, § 1-2; Rules of Construction and Definitions)

*State law reference:* Definitions, Title 33, Chapter 17, Article 1, AR.S. § 33-1901

**Sec. 7-21: Registration of residential rental property:**

- A. An owner of a residential rental property shall obtain a City and State business license at the time of commencing/acquiring residential rental property.
- B. An owner of residential rental property shall maintain with the assessor in the county where the property is located information required by this section in a manner to be determined by the assessor. The owner shall update any information required by this section within ten (10) days after a change in the information occurs. The following information shall be maintained:
  - 1. The name, address and telephone number of the property owner.
  - 2. If the property is owned by a corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust, the name, address and telephone number of the statutory agent, if applicable, and the name, address and telephone number of any of the following:
    - a) For a Corporation, a Corporate Officer.
    - b) For a Partnership, a General Partner.
    - c) For a Limited Liability Company, the Managing or Administrative Member.
    - d) For a Limited Partnership, a General Partner.
    - e) For a Trust, a Trustee.
    - f) For Real Estate Investment Trust, a General Partner or an Officer.

3. The street address and parcel number of the property.
  4. The year the building was built.
- C. An owner of residential rental property who lives outside this state shall designate and record with the assessor a statutory agent who lives in this state and who will accept legal service on behalf of the owner. The owner shall designate the agent in a manner to be determined by the assessor. The information shall include the name, address and telephone number of the agent.
- D. Residential rental property shall not be occupied if the information required by this section is not on file as a residential rental property with the county assessor. This subsection does not affect any lease existing on January 15, 2009.
- E. All records, files and documents that are required by this section are public records.
- F. A person who fails to comply with any provision of this subsection is responsible for 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.
- G. 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.
- H. 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 the notice from the county assessor, the court shall dismiss the complaint and shall not impose a civil penalty.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*State law reference:* Assessor recording, Title 33, Chapter 17, Article 1, A.R.S. § 33-1902

### **Sec. 7-22: Inspection of residential rental property.**

The code official is hereby authorized to inspect residential rental property under the following circumstances.

- A. The property owner fails to comply with the provisions of A.R.S. §33-1902 or successor provision. If the property is occupied, consent of the tenant shall be requested before entering the interior of the structure. Except as otherwise provided by law, the right of inspection does not extend to the interior of the dwelling unit in a space rental mobile home park or recreational vehicle park if it is not owned by a landlord unless the tenant is in possession of the dwelling unit, or if the dwelling unit is vacant or abandoned, the owner consents to the inspection. If a tenant refuses to consent to entry, inspection may be obtained by any means provided by law.
- B. The property has been designated as a slum property, in which case it may be inspected annually for three (3) consecutive years.

~~(Code 2009, Ord. No. 09-03, § 2, 09-28-09)~~

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Inspections, Title 33, Chapter 17, Article 1, A.R.S. § 33-1904

*State law reference:* Inspections, Title 9, Chapter 12, Article 1, A.R.S. § 9-1302

**Sec. 7-23: Abatement of slum property.**

All buildings or portions thereof which are determined after inspection by the code official to be slum properties as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this chapter.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to compel owners to clean premises, A.R.S. § 9-240(21) (a)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to compel owners to remove debris, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

*State law reference:* Inspection, Title 33, Chapter 17, Article 1, A.R.S. § 33-1904

**Sec. 7-24: Designation of slum property; recordation.**

- A. A residential rental property may be designated as a slum property if it meets all of the following:

- (1) The definition of slum property;
- (2) Has three (3) or more of the conditions or defects described in Article II of this chapter at the time of the inspection;
- (3) The conditions or defects set forth in a notice of violation provided per section 7-45 of this chapter have not been remedied within the time set forth in the notice of violation; and
- (4) No proper and timely appeal of the notice of violation has been filed.

B. Where designation of a property as a slum is appropriate pursuant to subsection (a), the code official shall designate a slum property by filing in the office of the county recorder a certificate describing the property and certifying that the property is a slum property and that the owner has been so notified. Whenever the corrections ordered thereafter have been completed or the building demolished so that it no longer exists as a slum property, the code official shall file a new certificate with the county recorder certifying that all required corrections have been made and that the property is no longer a slum property.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Slum property, Title 33, Chapter 17, Article 1, A.R.S. § 33-1905

**Sec. 7-25: Notice of designation.**

In addition to any notice provided pursuant to section 7-45 of this chapter, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of Title 33, A.R.S. § 33-1901 *et seq.* providing for penalties, the appointment of a temporary receiver, annual inspections, and payment of costs for inspections.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

**Sec. 7-26: Appointment of temporary receiver and recovery of costs.**

In addition to other remedies provided in this code for the abatement of slum property, the code official is authorized to seek the appointment of a temporary receiver and recover costs associated with such appointment including the filing of liens as provided by law.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)



**Sec. 7-27: Recovery of inspection costs.**

In addition to any other remedy providing for recovery of costs either by law or otherwise specified by this code, the code official is authorized to file costs as provided by law associated with inspections of slum properties in accordance with A.R.S. § 33-1904 or its successor sections in the recorder's office and upon such filing such costs shall be a lien/assessment on the property.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Fee provision, Title 9, Chapter 12, Article 1, A.R.S. § 9-1305

**Sec. 7-28: Appeal from designation as slum property.**

A property owner may appeal the designation of the owner's property as a slum property pursuant to the procedures set forth in Article VII of this chapter.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Provisions for appeal, Title 9, Chapter 12, Article 1, A.R.S. § 9-499 et seq.

*State law reference:* Appeals Provision, Title 33, Chapter 17, Article 1, A.R.S. § 33-1905 et seq.

**Sec. 7-29: Licensed property management company; crime free multi-housing program; required training.**

As provided in Section 33-1906 of the Arizona Revised Statutes, the Code Official may require a residential rental property owner whose property has been designated as a slum or exhibits the criteria prescribed in Section 7-14(C), relating to violations that materially affect the health and safety of the occupants of the property, to hire a property management firm that is regulated pursuant to Arizona Revised Statutes **Title 32, Chapter 20, Article 3.1** to manage the property, participate in the city's crime free multihousing program, and attend city-approved landlord tenant training classes if available from the city. The Code Official may also require the property owner to participate in comparable training provided by a nonprofit corporation that is designated as a (501) (C) (3), 501(C) (4), 501(C) (5) OR 501 (C) (6) corporation and that is certified by the City to provide that training.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Management Company, Title 33, Chapter 17, Article 1, A.R.S. § 33-1906

## **ARTICLE IV: UNLAWFUL ACTS**

### **Sec. 7-30: Graffiti prevention; prohibition and removal.**

#### **A. Graffiti prohibited, abatement procedures, penalty.**

No person who owns or is in control of any real property within the city shall maintain, permit or allow graffiti to remain on any building, fence, structure or otherwise on such property where the graffiti is visible from the street or other public or private property.

(1) Notice of violation and abatement.

Upon the receipt of notice requiring abatement from the graffiti abatement official, any person owning or otherwise being in control of the property shall remove or abate all graffiti within the time frame specified in such notice. The graffiti abatement official shall give notice utilizing the procedures set forth in section 7-45 of this chapter, except that the notice need not include a statement describing the right to an administrative appeal, since none exists. The graffiti abatement official may cause the removal of graffiti from private property should the property owner or person in control fail to remove graffiti after the required notice. The city or its authorized representative is expressly authorized to enter private property and abate graffiti.

(2) Penalty.

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.

#### **B. Prohibited conduct; penalties.**

(1) No person may write, paint, or draw any inscription, figure, or mark of any type on any public or private building, wall, fencing or other real or personal property unless permission of the owner or operator of the property has been obtained.

(2) No person may possess an aerosol spray paint container on any private property unless the owner, agent, manager, or other person having control of the property

consented to the presence of the aerosol spray paint container.

- (3) No person under the age of eighteen (18) may possess an aerosol spray paint container on any public property unless the possession is for a lawful purpose and the person is accompanied by a parent, guardian, teacher or other person in a similar relationship over the age of eighteen (18).
- (4) No person under the age of eighteen (18) may buy any aerosol spray paint container from any person or firm.
- (5) Penalties: A violation of this subsection shall constitute a class one (1) misdemeanor and shall be punished as provided below. No judge shall suspend the imposition of any of the mandatory minimum penalties required by this section.—

- a. A person convicted of violating subsection (1) shall be punished by a term of up to forty-eight (48) hours in jail, a fine of not less than two hundred fifty dollars (\$250.00) 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.
- b. A person convicted of violating subsection (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.
- c. A person convicted of violating subsection (4) shall be punished as provided for in Title 8, Arizona Revised Statutes.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Title 8, Arizona Revised Statutes

### **C. Sale, storage and display of spray paint containers.**

- (1) No person shall sell, deliver, transfer or give spray paint containers to persons

under age eighteen (18). Evidence that a person examined acceptable evidence of age and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this subsection. This subsection does not apply to the transfer of an aerosol spray paint container from a parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for a lawful purpose.

- (2) Spray paint containers sold at retail establishments shall be stored or displayed either (a) in an area that is inaccessible to the public without employee assistance in the regular course of business or (b) within fifteen (15) feet of a cash register and within the line of sight of a cashier at all times.
- ~~(3) Identification shall be required of purchasers of spray paint containers appearing to be under the age of twenty-six (26). A retailer shall not be found responsible for violation of this subsection unless the failure to require identification resulted in a sale of spray paint to a person under age eighteen (18).~~
- (4) No person shall sell, deliver, transfer or display spray paint containers at swap meets, yard sales, garage sales, or other like events.
- (5) A retailer shall be responsible for the violation of any provision of this section by its employees.
- (6) **Penalty.** A violation of any provision of this subsection constitutes a civil infraction. A person found responsible for a violation of any provision of this subsection 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.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-31: Excessive noise:**

- A. No person shall conduct or permit any activity that produces a dB(A) beyond that person's property line exceeding the levels specified in Table I. Where property is used for both residential and commercial purposes, the residential sound levels shall be used only for

measurements made on the portion of the property used solely for residential purposes.

**TABLE I**

<b>Use of Property Receiving the Sound</b>	<b>7:00 a.m.to10:00 p.m.</b>	<b>10:00 p.m.to7:00 a.m.</b>
Residential	70	62
Commercial	72	65
Industrial	85	70

**All limits expressed in dB(A)**

**B. Other noises prohibited; standards for excessive noise:**

Some sounds may be such that they are not measurable by the sound level meter or may not exceed the limits set forth in subsection (a) of this section, but nonetheless may be excessive and may disturb the peace and quiet of a neighborhood or person. Noises prohibited by this subsection are in violation of this chapter notwithstanding the fact that there is no apparent violation of subsection (a) of this section. The following activities are prohibited if they produce plainly audible sound beyond the property line of the property on which they are conducted and they disturb the peace and quiet of a neighborhood or person:

- (1) Allowing or causing any continuous or intermittent noise that persists for a period of at least fifteen (15) minutes and which is caused by using, operating or permitting to be played any radio, television, tape deck, record player, amplifier, musical instrument, or instrument, machine or device used for the production, reproduction or emission of sound;
- (2) Creating or allowing a loud, disturbing noise in connection with the loading or unloading of any vehicle;
- (3) Owning, possessing, harboring or permitting any animal or bird which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds. Any peace officer or any county animal control officer is hereby authorized to issue citations to owners for any violation of this subsection;
- (4) Allowing or causing any shouting, yelling, screaming or any other form of raucous vocalization by a person or group of people.

**C. General exemptions:**

The following activities are exempted from the provisions of subsections (a) and (b):

- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger;
- (2) Sound made to alert persons to the existence of an emergency, danger or attempted crime;
- (3) Activities or operations of governmental units or agencies;
- (4) Parades, concerts, festivals, fairs or similar activities that remain within any sound limits approved by the city;
- (5) Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, and public or private colleges or universities;
- (6) Construction, repair, remodeling, demolition, drilling, wood cutting or excavation work conducted between sunrise and 8:00 p.m. Mondays through Saturdays, except legal holidays. Also, a person may engage in such activities at that person's residence between 9:00 a.m. and 6:00 p.m. on Sundays or legal holidays.

**D. Temporary exemptions:**

The city manager is authorized to grant a temporary exemption from the maximum permissible sound levels established by this article if such temporary exemption would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary exemption is sought.

A temporary exemption must be in writing and signed by the city manager and must set forth the name of the party granted the exemption, the location of the property for which it is authorized, the date(s) and time(s) for which it is effective and the dB(A) level(s) authorized.

A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may exceed thirty (30) days.

The following factors shall be considered by the city manager in determining whether to grant a temporary exemption:

- (1) The balancing of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance;

- (2) The nearness of any residence or residences, or any other use which would be adversely affected by sound in excess of the limits prescribed by this article;
- (3) The level of the sound to be generated by the event or activity;
- (4) Whether the type of sound to be produced by the event or activity is usual or unusual for the location or area for which the variance is requested;
- (5) The density of population of the area in which the event or activity is to take place;
- (6) The time of day or night which the activity or event will take place;
- (7) The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive.

**E. Variances.**

Persons wishing to continue activities which commenced prior to this article and which create noise in excess of the permitted levels may seek a variance from the board of adjustment. Such a variance may be granted if the board finds that strict application of this chapter would cause a hardship and that there is no reasonable and prudent alternative method of engaging in the activity.

**F. Noisy vehicles, motors prohibited:**

No person may use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

**G. Mufflers required on mechanical devices; cutouts prohibited:**

No person may operate any mechanical device operated by gasoline, or otherwise, without having a muffler, in good working order and in constant operation, to prevent excessive or unusual noise and smoke; and no person shall use a muffler cutout, bypass or similar device.

**H. Hours for operation of engines other than on public highways:**

No person may operate or use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, on race tracks, race courses, or other similar tracks or courses at places of amusement, not being public highways, between the hours of 10:30 p.m. and 8:00 a.m. on Sundays through Thursdays, or between the hours of 12:00 midnight and 8:00 a.m. on Fridays and Saturdays. The above hours of use may be extended to 12:00 midnight, provided any sound emission is not in excess of seventy (70) dB(C), measured at a distance of one hundred (100) feet from the automobile, motorcycle or other vehicle, engine or motor.

**I. Noise by street vendors, advertisers:**

No person may produce any sound in connection with the sale, advertising or display of merchandise from a pushcart, bicycle or vehicle:

- (1) In excess of seventy (70) dB(A), measured at a distance of fifty (50) feet from the pushcart, vehicle or bicycle;
- (2) While such pushcart, bicycle or vehicle is not in motion; or
- (3) Between the hours of 1:00 p.m. and 3:00 p.m. and between the hours of 9:00 p.m. and 10:00 a.m.

**J. Persons responsible for noise violations:**

If the person responsible for an activity that violates this section cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

**K. Sound amplification systems in vehicles:**

Noise from sound amplification systems in vehicles cannot be practically regulated by imposing decibel limits as decibel measurements are difficult to obtain from moving vehicles. Noises prohibited by this subsection are in violation of this article notwithstanding the fact that there is no apparent violation of subsection (a) of this section.

- (1) Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner or with such volume as to annoy or disturb the peace and quiet of any person or neighborhood in the vicinity.
- (2) Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner that the sound is plainly audible at a distance of fifty (50) feet, or in such a manner that it causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet.
- (3) Exemptions. This subsection shall not apply to:
  - a. Amplification systems being operated to request assistance of an emergency nature or to warn of a hazardous situation;
  - b. Authorized emergency vehicles;
  - c. Vehicles operated by utility companies; or



- d. Vehicles used in parades, concerts, festivals, fairs or similar activities that remain within any sound limits approved by the city; or
- e. Amplification systems in vehicles which are operated on private property with the permission of the owner and which are not plainly audible beyond the property line.

**L. Penalty:**

A violation of any provision of this subsection constitutes a civil infraction. A person found responsible for a violation of any provision of this subsection 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.

**M. Enforcement.**

The police department and city attorney are authorized to enforce the provisions of this section. A complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible for a violation of this section.

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

**Sec. 7-32: Unruly gatherings.**

**A. Definitions.**

The rules and the definitions set forth in this chapter shall be observed in the construction of this Code and the Ordinance of this City unless such construction would be inconsistent with either the manifest intent of the common council or the context of this Code. For the purpose of this chapter, and unless the context plainly requires otherwise, the following terms, phrases, and words shall have the meaning given herein:

*Owner:* "Owner" means any owner, as well as any agent of an owner acting on behalf of the owner to control or otherwise regulate the occupancy or use of the property.

*Premises:* "Premises" means the property that is the site of an unruly gathering. For residential properties, "premises" means the dwelling unit or units where the unruly gathering occurs.

*Unruly gathering:* "Unruly gathering" means a gathering of five (5) or more persons on any private property, including property used to conduct business, in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons. Such

disturbances include, but are not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and littering.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*Cross reference:* (Code 1976, Ch. I, § 1-2; Rules of Construction and definitions)

**B. Abatement of unruly gathering.**

A peace officer may abate an unruly gathering by reasonable means including, but not limited to, citation or arrest of violators under applicable ordinances or state statutes, and dispersal of the persons attending the gathering.

**C. Notice of unruly gathering; posting; removal of notice prohibited; right to contest posting.**

**(1) Contents of Notice.**

The premises at which the unruly gathering occurs shall be posted with a notice stating:

- a. That an unruly gathering has occurred at the premises;
- b. The date of the unruly gathering;
- c. That any subsequent unruly gathering on the same premises within a one hundred eighty (180) day period shall result in liability for the penalties provided in this section. Parties liable include any persons in attendance causing the gathering to be unruly, or any owner, occupant or tenant of the premises at which the unruly gathering occurred, or any sponsor of the event constituting the unruly gathering; and
- d. The right to contest the posting as provided in subsection (C) (4) of this section.

**(2) Posting requirements.**

Premises shall be posted with a notice as provided in this section each time an unruly gathering occurs. The owner, occupant, tenant of the premises or sponsor of the event constituting the unruly gathering, if present, shall be consulted as to the location in which such notice is posted in

order to achieve both the security of the notice and its prominent display.

In the event that the premises is already posted at the time of a subsequent posting, the one hundred eighty (180) day period from the date of the existing posting shall be extended to one hundred eighty (180) days from the date of the subsequent posting. Once the premises is initially posted as a result of an unruly gathering and the conduct causing the gathering to be unruly has ceased, a resumption of unruly behavior on the premises resulting in another police response shall constitute a new and separate unruly gathering for purposes of this section.

**(3) Removal of notice prohibited.**

The owner, occupant, or tenant of the posted premises shall be responsible for ensuring that the notice is not removed, defaced, or concealed. The removal, defacement, or concealment of a posted notice is a civil infraction carrying a penalty of a minimum, mandatory one hundred dollar (\$100.00) fine, in addition to any other penalties which may be imposed under this section.

**(4) Right to contest posting.**

- a. An owner, occupant, or tenant of the posted premises may contest the posting of the notice by filing a written petition for review with the civil infractions division of the city court requesting that the court determine whether justification existed for posting of the notice under the provisions of this section. The petition must be filed within ten (10) days after the posting of the notice or, if the notice is given by mail, within fifteen (15) days after the date of the mailing of the notice, and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the criminal division of the city attorney's office of the hearing date. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the city has the burden of proving by a preponderance of evidence that the posting of the notice was justified pursuant to the provisions of this section.
- b. An owner of a posted premises, at any time after the posting or the mailing of the notice, may petition the court for an order directing the removal of the notice on the grounds that the owner has taken reasonable and necessary actions, such as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent unruly gathering at the posted

location. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the petition and shall notify both the petitioner and the criminal division of the city attorney's office of the hearing date. At the hearing, the petitioner has the burden of proving by a preponderance of evidence that the petitioner has taken reasonable and necessary actions to prevent the occurrence of a subsequent unruly gathering. This petition process is not available to an owner who was present at the unruly gathering and engaged in conduct causing the gathering to be unruly.

**D. Notification of property owner.**

- (1) ~~Notification of the posting of the notice of unruly gathering shall be mailed to any property owner at the address shown on the Pima County Property Tax Assessment Records. The notification shall advise the property owner that any subsequent unruly gathering within one hundred eighty (180) days on the same premises shall result in liability of the property owner for all applicable penalties as provided in this article. Notification shall be made by certified mail. The return receipt shall be prima facie evidence of service.~~
- (2) Additionally, notice shall be provided to an agent of the owner who controls or regulates the use of the premises, if known. Notice to the owner's agent may be provided by hand delivery or by certified or regular mail sent to the agent's last known address.
- (3) The failure to serve notice to any person described in this subsection shall not invalidate any citation or other proceedings as to any other person duly served, or relieve any such person from any duty imposed by this section.

**E. Unruly gathering a civil infraction; parties responsible.**

An unruly gathering is unlawful and constitutes a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (g) (1):

- (1) The person or persons who organized or sponsored the event constituting the unruly gathering, including any owner or occupant in attendance at the unruly gathering.
- (2) Any person in attendance at the unruly gathering who engaged in any conduct causing the gathering to be unruly.

**F. Subsequent unruly gathering a civil infraction; parties responsible.**

The occurrence of an unruly gathering on the same premises more than once in any one hundred eighty (180) day period is a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (G) (2):

- (1) The owner of the property where the subsequent unruly gathering occurred, if either:
  - (a) The owner was present when the property was posted, or
  - (b) Notification of posting was mailed or delivered to the owner of the ~~property per subsection (D), and the subsequent unruly gathering occurred~~ not less than two (2) weeks after the mailing of such notification.
- (2) The occupant or tenant of the property where the subsequent unruly gathering occurred.
- (3) The person or persons who organized or sponsored the event constituting the subsequent unruly gathering.
- (4) Any person in attendance at the subsequent unruly gathering who engaged in any conduct causing the gathering to be unruly.

Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the event constituting the unruly gathering, for the conduct of persons who are in attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant or sponsor has taken steps reasonably necessary to prevent a subsequent unruly gathering or to exclude the uninvited persons from the premises, including owners who are actively attempting to evict a tenant from the premises. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purposes of determining liability under this section.

**G. Penalties**

**1. Unruly gathering.**

The penalty for a party found responsible for an unruly gathering, as provided in subsection (e), shall be a minimum mandatory fine of one hundred dollars (\$100.00).

## **2. Subsequent unruly gathering**

The penalty for a party found responsible for the occurrence of a subsequent unruly gathering, as provided in subsection (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.

## **3. Abatement**

The civil fines provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an unruly gathering. The court shall also enter an order of abatement against a party found responsible for a violation of this section.

## **H. Enforcement**

The police department is authorized to enforce the provisions of this section provided that enforcement is initiated by a complaint from a member of the public. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

## **Sec. 7-33: Placing refuse upon the property of another or public property; illegal littering or dumping prohibited; persons responsible:**

- A. No person shall place any refuse upon any private or public property not owned or under the control of that person. In addition to any penalty that may be imposed by this chapter or the South Tucson Code, such person shall be liable for all costs for the removal, abatement or enjoining of the refuse.
- B. No person shall litter, discard refuse, or allow refuse to be discarded except at the places and in the manner authorized in Chapter 20 of the City of South Tucson City Code.
- C. The following persons are jointly and individually liable for a violation of subsection (b):

- (1) The resident of the property upon which the debris has been discarded;
- (2) The person who discarded or allowed the debris to be discarded;
- (3) The person who owns or maintains a refuse container in which refuse is improperly placed or discarded; and
- (4) The person who generated the refuse. When an item contained in refuse discarded in violation of this section identifies a person, the item creates a rebuttable presumption that the person so identified generated the refuse.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 1976, Chapter 20, Ord. No. 87-08, 1/25/88)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

**Sec. 7-34: Public Nuisance.**

- A. Anything that is injurious to health, or is indecent or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, is hereby declared to be a public nuisance. Any act or thing that affects an entire community or neighborhood, or any considerable number of persons, as herein described, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.
- B. No person of legal drinking age in Arizona may knowingly permit or fail to take reasonable action to prevent the illegal consumption of spirituous liquor by an underage person on premises owned by the person or under the person's control.
- C. Any person who knowingly maintains or commits a public nuisance, or who knowingly fails or refuses to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to compel owners to abate, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sec. 7-35: Obstructing streets, alleys or sidewalks prohibited.**

No person shall obstruct any public sidewalk, street or alley in the city by placing, maintaining or allowing to remain thereon any item or thing that prevents full, free and unobstructed public use in any manner, except as otherwise specifically permitted by law.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*State law reference:* Obstruction removal, abatement, A.R.S. § 9-240(B)

*State law reference:* Obstruction removal, abatement, A.R.S. § 9-276(A)

**Sec. 7-36: Posting of handbills prohibited.**

- (a) Posting prohibited. No person shall post, affix, display, paint or attach; or direct, permit, or cause any other person to attach any handbill upon any street lamp post, street sign, traffic sign or signal, traffic control device, curb, sidewalk, hydrant, tree, shrub, utility pole or any other public building, structure or object except as may otherwise be required or authorized by law; or upon any private structure or building, without the consent of the owner or person in control thereof.
- (b) Presumption. For purposes of this section, there shall be a rebuttable presumption that any person or entity whose name, address, telephone number, e-mail address or other identifying information is indicated on the handbill, and any owner, manager, or responsible party of any business, product or service which is the subject of the handbill, has directed or caused the posting or attaching of the handbill in violation of subsection (a).
- (c) Penalty. A violation of this section 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.
- (d) Enforcement and abatement by code official. The code official is authorized to enforce the provisions of this section. The code official may, but is not required to, initiate enforcement by issuing a notice of violation pursuant to section 7-45 to the person(s) responsible for a violation of this section, and therein direct and



order the responsible person(s) to remove of the unlawful handbill(s). The code official is further authorized to remove or cause the removal of any handbills posted in violation of this section, with or without giving prior notice to the person(s) responsible for the violation.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*State law reference:* Obstruction removal, abatement, A.R.S. § 9-240(B)

*State law reference:* Obstruction removal, abatement, A.R.S. § 9-276(A)

**Sections: 7-37--7-39: Reserved.**

## **ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

### **Sec. 7-40: Authority to enforce.**

- (a) The code official, police department and/or city attorney shall enforce the provisions of this chapter. In addition, the code official is authorized to make safe any structure, in whole or part, which in the opinion of the code official, is an imminent hazard to the health or safety of any person or persons due to the conditions of such structure.
- (b) No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully engaged in the enforcement or execution of the provisions of this chapter.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

### **Sec. 7-41: Rules and regulations.**

The code official is authorized to make reasonable and necessary rules and regulations to carry out the provisions of this chapter. When approved by the mayor and council, such rules and regulations shall be binding upon and obeyed by all persons affected by this chapter after three (3) copies of any such rules and regulations shall have been filed in the office of the city clerk as a public record and there kept for use or inspection by any member of the public at any time during the regular office hours of that office. A printed copy of such rules and regulations shall be furnished any member of the public upon request and payment of a reasonable charge thereto as set forth in such printed copy.

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Rules and regulations, A.R.S. § 9-240(B) (28) and (29)

#### **Sec. 7-42: Authority and inspections.**

The code official is authorized to make inspections of property to determine compliance with this chapter. Interior inspections will be done with approval of the owner, occupant or responsible party, or by a court order or as otherwise authorized by law.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Inspections, Title 33, Chapter 17, Article 1, A.R.S. § 33-1904

*State law reference:* Inspections, Title 9, Chapter 12, Article 1, A.R.S. § 9-1302

#### **Sec. 7-43: Enforcement independent of other provisions.**

The authority of the code official to enforce the provisions of this chapter is independent of and in addition to the authority of city officials to enforce the provisions of any other chapter of the city code or other laws, ordinances, or statutes.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

#### **Sec. 7-44: Cooperation of other departments.**

The police department and any other department of the city have authority to assist and cooperate with the code official in the performance of duties under this chapter. This cooperation may include assistance in enforcement or abatement actions. This section is not intended to create or expand the authority of any department to perform acts that are otherwise prohibited by law.

(Code 2009, Ord. No. 09-03, § 7, 09-28-09)

(Code 2008, Ord. No. 08-08, § 7, 12-15-08)

#### **Sec. 7-45: Notice of violation.**

- A. If the code official finds a violation of sections 7-4, 7-11, 7-12, 7-13, 7-14, 7-15, 7-30(a), 7-35 or 7-36 of this chapter, the code official may notify the owner or responsible party through the issuance of a notice of violation.

B. A notice of violation issued pursuant to this section shall include:

- (1) The identification of the property in violation; a street address or legal description of the property is sufficient identification of the property;
- (2) A statement of the violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
- (3) A statement of the actions required to correct and abate the violations. The statement of required action shall direct the owner or responsible party to perform whatever action is reasonably necessary to correct the violations, including clean-up, extermination, repair, rehabilitation, vacation of the building or structure, compliance with Section 7-29 and/or demolition:
  - a. If the action required is a repair, the notice shall direct that all required permits be secured for the repair, and that the repair work shall be commenced and completed within such time, not to exceed sixty (60) days, as the code official determines is reasonable under the circumstances.
  - b. If the action required includes the vacation of a building or structure, the notice shall direct that the building or structure be vacated within a time certain as the code official determines is reasonable under the circumstances.
  - c. If the action required includes demolition and removal of a building or structure, the notice shall direct that the building or structure be vacated within a time certain as the code official determines is reasonable under the circumstances; that all permits required for the demolition be secured within sixty (60) days from the date of the notice; and that the demolition and removal be completed within a time certain as the code official determines is reasonable under the circumstances.
  - d. If the action required is the abatement of a hazardous excavation, the notice shall direct any or all of the following actions be completed within a time certain as determined to be reasonable by the code official:
    1. Securing the excavation by completely surrounding either the excavation or the property with a fence or other enclosure that is at

least five (5) feet in height at all points;

2. Securing the excavation by completely covering the excavation in a manner that prevents any access to the excavation and eliminates any hazard or attractive nuisance;
  3. Completely filling the excavation with clean fill.
  4. The address and phone number of a city representative to contact;
  5. A statement describing the city's authority to abate should the owner or responsible party not correct the violation within the time specified in the notice, and to assess a lien against the property for the costs of abatement;
  6. A statement advising that any person having any legal interest in the property may appeal from the notice in the manner specified in this chapter, and that failure to appeal will constitute a waiver of all rights to an administrative determination and hearing of the matter.
  7. In order for the city to assess the property for the costs of abatement as provided in section 7-61, the notice shall be given not less than thirty (30) days before the day set for compliance and shall include the estimated cost of such abatement to the city if the owner or responsible party does not comply.
- e. The notice shall be served upon the record owner and/or the responsible party in the manner described in subsection (e) of this section. In addition, the notice shall be served on the holder of any legal interest in the property, if known to the code official, and in cases involving an order to vacate, upon any lawful tenant. Any failure to serve any person holding legal interest in the property shall not invalidate any proceedings as to any other person duly served, and shall not relieve any such person from any obligation imposed by this chapter.
- f. Any notice given for any purpose under this chapter shall be deemed effective on the date when written notice is hand delivered or mailed certified mail return receipt requested, addressed to the property owner or responsible party. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill

for the property was last mailed. If personal service or mailed service is not practicable, service of notice shall also be deemed effective upon notification through one time public notice published in a newspaper of general circulation and by posting the property for a period of thirty (30) days. Nothing herein shall preclude the city from giving additional verbal, written, or posted 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 situations.

- g. Unless otherwise specifically provided, nothing in this section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.
- h. Any person who fails to comply with a notice of violation issued pursuant to this section shall be subject to the penalties set forth in section 7-48 of this chapter.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

#### **Sec. 7-46: Transfer of property after notice.**

- A. **Responsibility upon transfer of property.** The transfer of any and all property interests in any manner of any real property against which a notice of violation has been issued shall not relieve the party(s) served with a notice unless the legal entity assuming an ownership interest in such property, in writing, assumes responsibility for compliance with the notice of violation and a copy of such writing is presented to the code official.
- B. **Fraudulent transfer as a misdemeanor.** Any person who has been served with a notice of violation and who then transfers an ownership interest in the real property against which the notice has been served is guilty of a misdemeanor if the transfer is made without first obtaining a written acceptance of liability from the new owner for the items listed in the notice.

(Code 2009, Ord. No. 09-03, §§ 2 and 3, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 3, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-47: Recording a violation.**

If there is not compliance with a notice of violation within the time specified in the notice, and no appeal has been properly and timely filed, the code official may record a notice of violation with the county recorder. A recorded notice of violation shall describe the property and the violations and shall certify that the owner has been notified. Whenever the corrections ordered thereafter have been completed or the building demolished so that the violations described in the notice have been abated, the code official shall file a new certificate with the county recorder certifying that all required corrections have been made and that the property is no longer in violation of this chapter. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-48: Violations and penalties.**

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.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-49: Jurisdiction of court.**

- (A) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in the city court of the City of South Tucson.
- (B) Civil infraction proceedings to enforce this chapter may be adjudicated by a magistrate or a special limited magistrate.
- (C) The city court of the City of South Tucson shall have jurisdiction to issue orders pursuant to this chapter permitting the city to abate conditions that constitute a violation of the provisions of this chapter.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-50: Commencement of civil infraction proceedings.**

Any civil infraction proceedings to enforce the provisions of this chapter shall be commenced, and summons shall be issued in accordance with the procedures set forth in Arizona Revised Statutes, city ordinance or as provided in the Local Rules of Practice and Procedure-City Court-City of South Tucson. If the city is unable to personally serve the complaint, the complaint may be served in the same manner prescribed for alternative methods of service by the Arizona Rules of Civil Procedure or by certified or registered mail, return receipt requested.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-51: Appeal of court decision.**

Any party may appeal the judgment of the court to the Superior Court. Appeals from civil infraction proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure-Civil. Appeals from criminal proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure-Criminal.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

**Sections: 07-52--07-59: Reserved.**

**ARTICLE VI: ABATEMENT**

**Sec. 7-60: Court ordered abatement.**

- A. Upon finding a person guilty or responsible for a violation of any provision of this chapter, the court shall order such person to perform whatever action is reasonably necessary to correct and abate the violations, including clean-up, board-up, extermination, repair, rehabilitation, vacation of the building or structure, permanently securing or filling the excavation, compliance with Section 7-29 and/or demolition. An abatement order shall be effective for one (1) year unless stayed on appeal. If stayed on appeal, the order shall be effective for one (1) year from the end of the appeal if the judgment and sentence are upheld. If more than one (1) person is guilty or responsible for a violation, such persons shall be jointly and severally responsible for completing the abatement.
  
- B. For violations of section 7-15 of this chapter, upon a finding of responsibility, the court shall order the abatement of the offending vehicle within thirty (30) days of judgment, unless additional time is requested by the defendant and granted by the court. Upon expiration of the time for abatement, and upon request by the city, the court shall order the city to abate a violation of section 7-15 by towing and impounding the vehicle; and the city shall dispose of the vehicle pursuant to the procedures for such disposal as set forth in Chapter 14, Article II, division 3 of the City of South Tucson City Code.
  
- C. When the court orders abatement pursuant to this section, the court shall advise a violator that additional fines will be imposed for failure to abate a violation, and that the city may bring criminal charges for failure to obey an order to abate a violation.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)  
(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-61: Abatement by the city.**

- A. In addition to ordering abatement of a violation as provided in section 7-60, upon finding a person guilty or responsible for a violation of any provision of this chapter, the court may issue an order authorizing the city to perform whatever action is reasonably necessary to correct and abate the violation, including clean-up, board-up, extermination, repair, rehabilitation, vacation of the building or structure, disconnection of utilities, permanently securing or filling the excavation, and/or demolition.
  
- B. The reasonable costs of any such abatement shall be the responsibility of the person found guilty or responsible of the violation. If more than one (1) person is guilty or responsible



for a violation, such persons shall be jointly and severally responsible for the costs of the abatement. The city shall pay the cost and expense of such abatement from any appropriation made available for that purpose and shall certify a statement of account to the finance director who shall collect the amount due, together with interest at the rate established by law.

- C. Any and all charges and costs arising from the city taking action to abate a violation pursuant to a court order shall be a lien filed against the real property that is the subject of the violation.
- D. The city may make the 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.

Upon commencement of action on the property or after mailing the statement of account to the owner or responsible party, the city shall assess the property for the cost of work performed, including actual costs of any additional inspection and other incidental connected costs, and for associated legal costs for abatement or injunction, and may pursue any or all means for recovery of cost if the assessment is not paid. If the assessment is paid, the city shall remove the assessment. In the event it is necessary to enforce the assessment by sale, the sale shall be made from a judgment of foreclosure and order of sale. The city shall have the right to enforce the assessment in the Superior Court of Pima County, at any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessment or assessments for the purposes provided for in this chapter shall not be a bar to a subsequent assessment or assessments and any number of liens or assessments on the same parcel may be enforced in the same action.

- E. An assessment made pursuant to this section is prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes.
- F. Any liens or assessments filed with the county recorder pursuant to previous provisions of this chapter or any similar chapter shall remain in effect under the same terms and

conditions that existed at the time of recording.

- G. If the code official observes a violation of sections 7-13(A), (B), (C), (D), (E) or 7-33 and serves a written notice of violation pursuant to section 7-45 and the violation has not been completely abated within thirty (30) days, then the violation is presumed to constitute a health or fire hazard. The code official may then go upon the property and abate the violation at the expense of the owner or responsible party. Any and all costs arising from the city's action to abate the violation shall be a lien filed against the real property that is the subject of the violation. A verified statement of the costs or expenses shall be prepared and charged pursuant to rules, procedures and regulations promulgated by the Director of Public Works to the last-known address of the responsible person. In determining costs, the city may charge twice the rate established by mayor and council resolution for the collection of trash and refuse. If the charged person has a utility services account with the city, the costs shall be charged to that account. If more than one (1) person is responsible for the violation, such persons shall be jointly and severally responsible for the payment of costs or expenses of the abatement. The payment may be in addition to any civil or criminal penalty imposed pursuant to this Code.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to make assessments for abatement, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

#### **Sec. 7-62: Temporary abatement.**

If it is determined that a nuisance as provided in section 7-14 is a hazard to the public safety and health, the code official may declare such structure a hazard. After notice is communicated to any owner of record to secure the structure and the owner does not secure the structure to city specifications, the hazard may be summarily abated by the city through boarding. The city may also post both the structure and the exterior premises with signs to provide reasonable notice prohibiting entry (i.e., "No Trespassing" signs). Any and all charges and costs arising from the city taking action to secure the structure shall be a lien filed against the real property containing such a structure.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to make assessments for abatement, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sec. 7-63: Emergency abatement.**

- A. Notwithstanding any other provision of this chapter if, in the opinion of the code official, the conditions at a property constitute an imminent hazard, the code official may order immediate abatement of the hazard without notice. Such abatement of an imminent hazard shall be limited to the minimum work necessary to remove the hazard, and may include disconnection of utilities.
- B. The city shall pay the cost and expense of such abatement from any appropriation made available for that purpose.
- C. A lien shall be recorded with the Pima County Recorder's Office and shall address the same costs and procedures identified in section 7-61, entitled abatement by the city.
- D. Whenever the code official finds that any structure contains an imminent hazard or health hazard, the code official may declare such structure unfit for human occupancy and order it to be vacated or to remain vacant. A structure declared unfit for occupancy and ordered vacated or to remain vacant under the provisions of this section shall not be leased, rented or occupied, and the utilities cannot be reconnected, until it has been inspected and deemed fit for occupancy by the city. The city shall reinspect, for the purpose of reoccupancy, within three (3) business days of the receipt of a written request by the owner.
- E. Fire department suppression forces are responsible for emergency operations related to fire conditions. In any case involving fire conditions at a building or structure, fire suppression forces shall be responsible for fire suppression and structure control until such time as the fire is fully extinguished. After fire conditions are fully extinguished, and after any necessary fire cause investigation, fire suppression forces shall transfer control and responsibility for the building or structure to the building official or other appropriate code official. After this transfer, all subsequent enforcement actions, such as securing the structure, restoring utilities, or ordering demolition, as well as all follow up actions such as cost recovery, shall be the responsibility of the building official or code official. After the transfer of responsibility, fire cause investigators shall retain authority over and responsibility for investigation of fire causation.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to make assessments for abatement, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sec. 7-64: Structures posted as hazardous.**

- A. Whenever the code official has determined that a structure is unfit for occupancy and orders the structure to be vacated, the code official shall post a written notice at or upon each exit of the structure. The notice shall be in substantially the following form:

**DO NOT ENTER**

**UNSAFE TO OCCUPY**

It is unlawful to occupy this structure, or to remove or deface this notice.

- B. No person shall remain in or enter any structure that has been so posted, except to make repairs, demolish or remove such structure under permit. No person shall remove or deface such notice after it is posted until the required repairs, demolition or removal of the structure is completed and the property is reinspected and found to be in compliance.
- C. Whenever a notice is posted pursuant to subsection (B) of this section, the code official shall provide notice of such posting to the property owner using the procedures and provisions set forth in section 7-45 of this chapter. This notice shall recite the emergency and describe the hazardous condition(s) that necessitate the posting.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-65: Abatement by demolition.**

Abatement by demolition shall be ordered only where repair of the structure is unreasonable or impracticable, and demolition and removal of a structure or building is necessary to correct and abate a violation. Any action involving the demolition of a building or structure shall be commenced by issuing a notice of violation to the owner and any responsible parties in accordance with the provisions of section 07-45.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Authority to define nuisance and abatement, A.R.S. § 9-276(16)

*State law reference:* Authority to abate, A.R.S. § 9-499 et seq.

*State law reference:* Public Nuisance and abatement, A.R.S. § 13-2917 et seq.

**Sec. 7-66: Failure to obey abatement order.**

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.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

*State law reference:* Penalty, A.R.S. § 13-2917(D).

**Sections: 07-67--07-69: Reserved.**

**ARTICLE VII: ADMINISTRATIVE APPEALS**

**Sec. 7-70: Availability of administrative appeal.**

The provisions of this article, which permit administrative review of a notice of violation, only apply to:

- (1) Violations of sections 7-4, 7-11, 7-12 and 7-14 of this chapter;
- (2) Designations of slum properties pursuant to section 7-24 of this chapter; and
- (3) Violations of this chapter wherein the city seeks the recovery of costs through the imposition of an assessment as provided in sections 7-61(d), (e). No administrative appeal is available in a case involving a pending or adjudicated court proceeding.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-71: Administrative conference.**

- A. Any notice of violation or slum designation described in section 7-70 can be appealed to the code official for an administrative conference for review. An appeal shall be made to the code official in the following manner:
1. The applicant shall file a written appeal on the forms provided by the code official and accompanied by a non-refundable fee, as determined by separate ordinance, within ten (10) days after the date of service of the notice.
  2. The appeal will be heard by the code official within ten (10) days at a regular, specified time.
  3. The code official may use a hearing committee consisting of such staff as the code official deems appropriate or other technical persons to advise the code official on a particular appeal.
  4. The applicant shall provide adequate information to fully describe the conditions in question.
  5. The applicant may, but is not required to, meet personally with the code official.
- B. If the code official denies an appeal made under this section, the applicant must comply with the decision of the code official or may appeal to the board of appeals pursuant to section 7-73 of this chapter.
- C. Failure to file an appeal in accordance with the provisions of this section constitutes a waiver of the right to an administrative conference. Additionally, any person who appeals directly to the board of appeals pursuant to section 7-73 waives the right to an administrative conference.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-72: Modifications:**

The code official may grant a minor variance to the provisions specified in section 7-70 of this chapter when an unusual or unreasonable hardship exists resulting from a literal interpretation of this chapter. The code official shall first find that a special individual hardship makes the strict application of this chapter impractical, and the variance is in conformity with the intent and

purpose of this chapter, and that the variance does not lessen health, life safety and fire safety requirements or any degree of structural integrity. The details of actions granting variances shall be recorded and maintained by the code official.

(Code 2009, Ord. No. 09-03, § 2, 09-28-09)

(Code 2008, Ord. No. 08-08, § 2, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

### **Sec. 7-73: Appeals to the Board of Appeals.**

- A. An owner or responsible party who is not or was not a party to a pending or adjudicated court proceeding involving a request for court ordered abatement of the violation (hereinafter, the appellant) may appeal a notice of violation or slum designation described in section 7-70 to the Board of Appeals (hereafter board) established in South Tucson Code Chapters 4 and 6 and section 204 of the Administrative Code, when it is claimed that:
1. Substantive errors exist in the notice of violation or the slum designation.
  2. The method or schedule for correcting the violation as set forth in the notice of violation is unreasonable or arbitrary.
- B. An owner or responsible party whose relationship with the property existed at the time of the recording of an assessment, and who is not or was not a party to a court proceeding which has established or may establish the amount of an assessment, may appeal the amount of the assessment for abatement to the board.
- C. In cases involving an order to vacate, any lawful tenant of the property that is the subject of the order to vacate may appeal that order to the board on the grounds that the order to vacate is unreasonable or arbitrary.
- D. The appellant shall prepare the appeal in a written application as follows:
1. The appellant shall file a written appeal on the forms provided by the code official;
  2. The appellant shall provide adequate information to fully describe the conditions in question;
  3. The application for appeal shall contain each appellant's signature and mailing

address to which the decision of the board may be mailed;

4. The appellant shall provide a brief statement describing the legal interest of each of the appellants in the property involved in the proceeding;
  5. The appellant shall verify by declaration under penalty of perjury the truth of the matters stated in the application;
  6. The appeal shall be filed within thirty (30) days from the date of the service of the notice of violation or notice of designation as a slum property; provided, however, that if the building or structure is in such condition as to make it an imminent hazard and is posted and vacated in accordance with sections 7-63 and 7-64 of this chapter, an appeal shall be filed within ten (10) days from the date of the service of such notice.
- E. Except for vacation orders made pursuant to sections 7-63 and 7-64, the timely filing of an appeal shall act as an automatic stay of enforcement of the notice of violation until the appeal is finally determined by the board. The filing of an appeal does not stay enforcement of any notice or order, or any provision thereof, where the notice or order includes an order to vacate.
- F. As soon as practicable after receiving the written appeal, the board shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than ten (10) days nor more than sixty (60) days from the date the appeal was filed. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the board, either by causing a copy of the notice to be delivered personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- G. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to a administrative hearing of the appeal and adjudication of the notice of violation or notice of designation as a slum, and such person shall be stopped to deny the validity of any order or action of the city which could have been timely appealed.
- H. The board shall decide any appeal immediately after the hearing, or within a reasonable time thereafter, but in no event shall the board keep an appeal under consideration for more than five (5) days after the hearing. The board shall render its decision in writing, and the decision of the board shall be filed with the secretary of the board, with a copy to the appellant or applicant. The decision of the board is final. No further appeal is available to city or county boards or officials. In cases involving the designation of a



property as a slum, persons aggrieved by decisions of the board may appeal the decision pursuant to Title 12, Chapter 7, Article 6, Arizona Revised Statutes or pursuant to successor provisions relating to judicial review of administrative decisions. In all other cases, persons aggrieved by decisions of the board may apply to Superior Court for relief in accordance with the Arizona Rules of Procedure for Special Actions. In the absence of a court order, the filing of an appeal or special action will not stay enforcement.

**Sec. 7-74: Powers, duties and responsibilities of the board:**

**A. Appeals.**

1. On an appeal, the board may affirm, reverse, or modify the notice of violation or notice of designation as a slum. ~~In the event that the board modifies the notice,~~ the following limitations and procedures shall apply:
  - (a) If the appeal is taken on the grounds that the amount of time for correction of the violation given in the notice of violation is unreasonable, upon a showing by the appellant that the time is unreasonable, and upon a satisfactory showing by the appellant that there is a reasonable probability that the appellant will be able to correct the violation by the granting of additional time, the board may grant up to an additional ninety (90) days to correct the violation. The board may permit city staff to grant additional time of up to ninety (90) days if during the initial time extension the appellant has substantially complied with any plan or timetable approved by the board.
  - (b) If the appeal is taken on the grounds that the method to correct the violation as specified in the notice of violation is unreasonable, the board may approve an alternate method of correction as long as the purposes of this chapter are fulfilled.
  - (c) In the event that the appeal is taken on the grounds that the cost of the abatement is unreasonable, the board may affirm, modify or reverse the lien or assessment amounts resulting from the abatement for good cause shown.
  - (d) If the appeal is taken on the grounds that an order to vacate is unreasonable or arbitrary, the board may affirm, reverse, or modify the order to vacate.
2. In order to assist it in making the determinations set forth above, the board may

take evidence from the appellant, city staff, and any other person. Any relevant evidence is admissible, including hearsay evidence, if it would assist the board in making its decision.

**B. Adoption of rules.**

The board may adopt rules necessary to carry out the duties and responsibilities imposed upon it by this section. Such rules shall not be inconsistent with the provisions of this chapter, or the Charter or Code of the City of South Tucson.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sections: 7-75--7-79: Reserved.**

**ARTICLE VIII: LIABILITY; CONFLICTS; SEVERABILITY; ACKNOWLEDGMENT**

**Sec. 7-80: Liability.**

- A. The board, manager, code official, or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the city in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not be personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against said board, manager, code official, police officer, city attorney or employee because of such act or omission performed in the enforcement of any provisions of this chapter or other pertinent laws or ordinances shall be defended by the city until the final termination of the proceedings, and any judgment resulting therefrom shall be assumed by the city.
- B. This chapter does not relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the city be held as assuming any such liability by reason of the inspections authorized by this chapter.

(Code 2009, Ord. No. 09-03, §§ 2, 3 and 7, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2, 3 and 7, 12-15-08)

**Sec. 7-81: Conflict of Ordinances.**

- A. In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, housing, fire, safety or health ordinance or code

of the city existing on the effective date of this chapter, the provision which establishes the higher standard for the protection and preservation of public health and safety shall control.

- B. In cases where two (2) or more provisions of this chapter disagree, the most stringent or restrictive shall prevail.
- C. This chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter.

(Code 2009, Ord. No. 09-03, §§ 2 and 4, 09-28-09)

(Code 2008, Ord. No. 08-08, §§ 2 and 4, 12-15-08)

*Cross reference:* (Code 2008, Chapter 4, Ord. No. 08-04, 11/17/08)

*Cross reference:* (Code 2008, Chapter 6, Ord. No. 08-05, 11/17/08)

**Sec. 7-82: Severability.**

If a provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Code 2008, Ord. No. 08-08, §§ 2 and 8, 12-15-08)

**Sec. 7-83: Acknowledgment.**

Certain provisions of this chapter have been included with the permission of the International Conference of Building Officials, 5360 S. Workman Mill Road, Whittier CA 90601, publishers of copyrighted codes such as the Uniform Housing Code and Uniform Code for the Abatement of Dangerous Buildings.

**Sections: 7-84--7-99: Reserved.**