

ORDINANCE NO.____

AN ORDINANCE OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING TITLE 4, CHAPTER 1, SECTION 1 (E) OF THE MESA CITY CODE DEFINITION OF OWNER TO INCLUDE OTHER LEGAL ENTITIES, AMENDING TITLE 4, CHAPTER 1, SECTION 9, OF THE MESA CITY CODE PERTAINING TO THE BUILDING REGULATIONS; AMENDING 4-1-9 (A), UNLAWFUL ACTS, TO STATE THAT ALLOWING OCCUPANCY OR FAILING TO PREVENT OCCUPANCY OF UNSAFE BUILDINGS IS A VIOLATION, AND STATING THAT FAILURE TO COMPLY WITH A WRITTEN ORDER TO ABATE A VIOLATION OF THE BUILDING REGULATIONS IS UNLAWFUL; AND AMENDING 4-1-9 (E) PENALTY CLAUSE.

WHEREAS, the Mesa City Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the City of Mesa and its residents, and

WHEREAS, the Mesa City Council finds that failure to maintain buildings to a degree that creates an unsafe condition poses a hazard to the public.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Mesa, Arizona, as follows:

Text written in **BOLD ALL CAPS** indicates new language.

~~Strikethrough~~ fonts indicate deletions.

SECTION 1. That Title 4, Chapter 1, Section 1(E) of the Mesa City Code entitled “Definitions” is hereby amended as to “OWNER” to include:

OWNER: The person, ~~agent~~, firm, ~~or~~ corporation, **COMPANY, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, ESTATE, TRUST, RECEIVER, OR OTHER LEGAL ENTITY**, with legal or equitable interest in a property.

SECTION 2. That Title 4, Chapter 1, Section 9 of the Mesa City Code entitled “PENALTIES” is set forth in its entirety and hereby amended as follows:

4-1-9: PENALTIES

(A) Unlawful Acts. It shall be unlawful: ~~for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, or equipment regulated by this Chapter, or cause same to be done, in conflict with or in violation of any of the provisions of this Chapter and the technical codes.~~

1. FOR ANY OWNER, PERSON, FIRM, OR CORPORATION TO ERECT, CONSTRUCT, ALTER, EXTEND, REPAIR, MOVE, REMOVE, DEMOLISH,

OR OPERATE, ANY BUILDING, STRUCTURE, OR EQUIPMENT REGULATED BY THIS CHAPTER, OR CAUSE SAME TO BE DONE, IN CONFLICT WITH OR IN VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER AND THE TECHNICAL CODES.

- 2. FOR ANY OWNER, PERSON, FIRM, OR CORPORATION TO OCCUPY, OR FOR ANY OWNER TO ALLOW OCCUPANCY OR FAIL TO PREVENT OCCUPANCY OF, ANY BUILDING OR STRUCTURE REGULATED BY THIS CHAPTER, OR CAUSE SAME TO BE DONE, IN CONFLICT WITH OR IN VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER AND THE TECHNICAL CODES.**
- 3. FOR AN OWNER, PERSON, FIRM, OR CORPORATION TO FAIL TO COMPLY WITH A LAWFUL WRITTEN NOTICE OF VIOLATION OR ORDER TO DISCONTINUE AND ABATE A VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER AND THE TECHNICAL CODES.**

(B) Notice of Violation. The Building Safety Director is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this Chapter, the technical codes, or in violation of a permit or certificate issued under the provisions of this Chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(C) Prosecution of Violation. If the notice of violation is not complied with in the time frame specified in the notice, the City may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Chapter or of the technical codes or of the order or direction made pursuant thereto.

(D) Remedies Not Exclusive. Violations of this Chapter or the technical codes are in addition to any other violation established by law, and this Chapter shall not be interpreted as limiting the penalties, actions, or abatement procedures that may be taken by the City or other persons under the laws, ordinances, or rules.

(E) Penalty Clause. Any **OWNER**, person, firm, or corporation who shall violate any of the provisions of this Chapter of the Mesa City Code as amended shall be guilty of a Class One misdemeanor and upon conviction shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment in the City jail for a period not to exceed six (6) months, or by both such fine and imprisonment, and each day of violation continued shall be a separate offense, punishable as described above.

SECTION 2. RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 3. EFFECTIVE DATE. The effective date of this Ordinance shall be 30 days following adoption by the Mesa City Council.

SECTION 4. PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION 5. SEVERABILITY. If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 9th day of February, 2015.

APPROVED:

Mayor

ATTEST:

City Clerk