

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE PUBLIC NUISANCES, PROPERTY MAINTENANCE, AND NEIGHBORHOOD PRESERVATION OF THE MESA CITY CODE INCLUDING THE FEEDING OF PIGEONS; AMENDING TITLE 8, CHAPTER 6, SECTIONS 1 THROUGH 4, 9 AND 13.

Text written in BOLD ALL CAPS indicates new language. Strikethrough fonts indicates deletions
--

WHEREAS, the Mesa City Council hereby determines that revising language within this Code clarifies definitions and requirements for compliance for property owners and the revised language will ensure that this Code is consistent with other sections of the City Code; and

WHEREAS, the Mesa City Council determines that pigeons and pigeon droppings can damage property and create unsanitary conditions and therefore a public nuisance; and

WHEREAS, providing readily available food sources for pigeons allows their numbers to increase and this ordinance is intended to address means to reduce the public nuisance associated with large numbers of pigeons; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Title 8, Chapter 6, Section 1(C) is hereby amended as follows:

- (C) The ~~Director of Development and Sustainability~~ **CODE COMPLIANCE ADMINISTRATOR** or designee shall interpret this Chapter to the public, city departments, and other branches of government subject to the general and specific policies established by the City Council.

Section 2: That Title 8, Chapter 6, Section 2 is hereby amended by modifying and adding the following definitions. All other definitions not changed by this Ordinance shall remain the same.

BIRD FOOD: GRAIN, SEEDS, BIRDSEED, BREADCRUMBS, NUTS, DRIED FRUIT, FOOD INTENDED FOR OTHER ANIMALS, FOOD SCRAPES, OR GARBAGE NOT PROPERLY DISPOSED OF OR CONTAINED.

BLIGHT: UNSIGHTLY, UNSAFE, OR UNSANITARY CONDITIONS INCLUDING, BUT NOT LIMITED TO, THE ACCUMULATION OF LITTER OR DEBRIS; BUILDINGS OR STRUCTURES EXHIBITING HOLES, BREAKS, ROT, CRUMBLING, CRACKING, PEELING OR RUSTING MATERIALS; GENERAL DAMAGE TO THE INTEGRITY OF THE CONSTRUCTION OF A BUILDING OR STRUCTURE;

~~UNCONTROLLED GROWTH OF LANDSCAPING THAT EXHIBITS EXHIBITED BY UNCONTROLLED GROWTH, OR LACK OF MAINTENANCE, CHARACTERIZED BY BARE DIRT AREAS, UNTENDED DAMAGE TO PLANT AND LANDSCAPE MATERIALS, OR THE CONTINUED PRESENCE OF DEAD OR DECAYING PLANTS; AND ANY SIMILAR CONDITIONS OF DISREPAIR AND DETERIORATION REGARDLESS OF THE CONDITION OF OTHER PROPERTIES IN THE VICINITY OR NEIGHBORHOOD.~~

CITY INSPECTOR: A City of Mesa staff member authorized by the ~~Director of Development Services~~ **CITY MANAGER OR HIS DESIGNEE** to conduct inspections, investigate complaints and file civil actions with the Mesa Civil Hearing Office on matters related to enforcement of the Mesa City Code, and as provided by the Mesa City Code.

CIVIL HEARING OFFICER: ~~The Mesa Zoning Administrator or such person as designated by the City Manager.~~ **THE INDIVIDUAL DESIGNATED BY THE CITY MANAGER OR HIS DESIGNEE TO CONDUCT HEARINGS AND MAKE RULINGS ON CODE COMPLIANCE CASES.**

PIGEON: MEANS ANY BIRD OF THE FAMILY COLUMBIDAE, INCLUDING ROCK DOVES, PIGEONS, AND DOVES BUT EXCLUDING DOMESTICATED PIGEONS USED FOR HOMING, RACING, OR SHOW, OR THAT ARE PETS FED IN A CAGE

RECREATIONAL VEHICLE: A VEHICLE BUILT ON A SINGLE CHASSIS, 400 SQUARE FEET OR LESS IN SIZE; DESIGNED TO BE SELF-PROPELLED OR PERMANENTLY TOWED BY ANY VEHICLE AND IS PRIMARILY DESIGNED AS TEMPORARY LIVING QUARTERS FOR RECREATIONAL CAMPING OR SEASONAL USE.

RESPONSIBLE PARTY: A person who knows or has reason to know of the existence of any violation of this Chapter on **PROPERTY OWNED BY THAT PERSON, OR ON PROPERTY** ~~that person's property or property which~~ that person occupies or controls, in whole or in part, including but not limited to an owner, occupant, lessor, lessee, manager, managing agent, licensee or any person who has legal care or control of the property **OR RIGHT-OF-WAY APPURTENANT AND ADJACENT TO SUCH PROPERTY.**

RIGHT OF WAY: AN AREA OF LAND WHICH BY DEED, CONVEYANCE, AGREEMENT, EASEMENT, DEDICATION, USAGE OR PROCESS OF LAW IS RESERVED OR DEDICATED TO THE CITY FOR PUBLIC PURPOSES INCLUDING, BUT NOT LIMITED TO, STREET, HIGHWAY, ALLEY, PUBLIC UTILITY, PEDESTRIAN WALKWAY, BIKEWAY, OR DRAINAGE.

Section 3: That Title 8, Chapter 6, Sections 3(C), 3(O) and 3(Q) are hereby amended as follows; and Sections 3(Y), 3(Z), 3(AA), and 3(AB) are added to Title 8, Chapter 6 as follows: (All other Sections and Subsections not changed by this Ordinance shall remain the same.)

(C) The responsible party of any property or place of business within the city shall keep

the **RIGHT-OF-WAY, GROUNDS, STABLES, ALLEYS, STREETS AND SIDEWALKS APPURTENANT AND ADJACENT TO** ~~sidewalk or public places fronting or bordering~~ such property or place of business free of garbage, junk, obstructions, and weeds or grass; provided, however, this section shall not prohibit the temporary storage of such matters in authorized receptacles for collection consistent with Chapter 3 of Title 8 of the Mesa City Code.

- (O) The responsible party of a parcel of land within the city, **INCLUDING ALLEYS AND FRONTAGE AREAS UNDER THEIR RESPONSIBILITY**, shall not allow thereon weeds or grass which occupy more than 10 percent or 50 square feet, in total area of a developed parcel to attain a predominant height in excess of 9 inches, or more than 10 percent of the area of an undeveloped parcel to attain a predominant height in excess of 12 inches. This provision shall not apply to:
1. Single residence rear yards not visible from the adjacent right-of-way; or
 2. Parcels of land in which livestock graze; or
 3. Parcels of land used to raise feed crops.
- (Q) **THE RESPONSIBLE PARTY OF ANY PROPERTY WITHIN THE CITY SHALL NOT ALLOW** ~~It shall be unlawful for~~ any person to place or allow to be placed any rubbish, trash, filth or debris upon any private or public property or property, **RIGHT-OR-WAY, SIDEWALK OR PUBLIC PLACES, APPURTENANT OR ADJACENT TO THE PROPERTY, THEY HAVE THE** ~~their~~ responsibility to maintain. ~~Not owned or under their control~~
- (Y) **THE RESPONSIBLE PARTY OF ANY PROPERTY WITHIN THE CITY SHALL DISPLAY THE CITY DESIGNATED ADDRESS ON THE RESIDENCE OR PROPERTY OF SUFFICIENT SIZE TO BE CLEARLY VISIBLE FROM THE RIGHT OF WAY. NUMBERS SHALL BE PLACED IN A POSITION TO BE CLEARLY VISIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY. THESE NUMBERS SHALL CONTRAST WITH THEIR BACKGROUND AND SHALL NOT BE OBSTRUCTED BY TREES, SHRUBS OR ANYTHING THAT WOULD TEND TO HIDE OR OBSCURE THE NUMBERS.**
- (Z) **THE RESPONSIBLE PARTY OF ANY PROPERTY WITHIN THE CITY SHALL NOT ALLOW PARKING OF A RECREATIONAL VEHICLE OR WATERCRAFT ON A DRIVEWAY OR PUBLIC STREET IN A RESIDENTIAL AREA EXCEPT FOR THE PURPOSES OF LOADING, UNLOADING OR CLEANING FOR A PERIOD NOT TO EXCEED 48 HOURS SUBJECT TO THE PARKING AND TRAFFIC REGULATIONS OF THE CITY OF MESA AND PROVIDED THE VEHICLE IS NOT PARKED SO AS TO CREATE A TRAFFIC HAZARD OR OBSTRUCT TRAFFIC VISIBILITY.**

- (AA) **THE RESPONSIBLE PARTY OF ANY PROPERTY WITHIN THE CITY SHALL NOT CAUSE OR ALLOW THE STORAGE OF MORE THAN ONE (1) RECREATIONAL VEHICLE, WHICH EXCEEDS 6 FEET IN HEIGHT AS MEASURED FROM GRADE AND IS VISIBLE FROM THE PUBLIC STREET, ON A RESIDENTIAL PARCEL. THE RECREATIONAL VEHICLE SHALL BE STORED WITHIN THE SIDE OR REAR YARDS AND BE SCREENED BY A 6-FOOT HIGH OPAQUE FENCE.**
- (AB) **NO PERSON SHALL KNOWINGLY PROVIDE BIRD FOOD TO PIGEONS ON ANY PRIVATE OR PUBLIC PROPERTY, EXCEPT THE FEEDING OF BIRDS USING PRACTICES OR DEVICES DESIGNED OR INTENDED TO PREVENT PIGEONS FROM OBTAINING THE BIRD FOOD.**

Section 4: That Title 8, Chapter 6, Section 4(A) is hereby amended as follows:

- (A) The Mesa Development **SERVICES** ~~and Sustainability~~ Department or such other City division or department as the City Manager may designate is hereby authorized to make inspections for violations of this Chapter in the normal course of job duties or in response to a citizen complaint that an alleged violation of the provisions of this Chapter may exist or when there is a reason to believe that a violation of this Chapter has been or is being committed. The city may also conduct inspections of individual residential rental property in accordance with state law.

Section 5: That Title 8, Chapter 6, Section 9(A) is hereby amended as follows:

- (A) Any responsible party who is found responsible for a civil violation of this Chapter, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than ~~\$150~~ **\$250** or more than \$1,500. A second finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in an enhanced civil sanction of not less than ~~\$250~~ **\$350** or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in an enhanced civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development Services (Code Compliance) Schedule of Fees and Charges and may be ordered to pay any other applicable fees and charges.

Section 6: That a new Section 13(B)(9) is hereby added to Title 8, Chapter 6 as follows:

9. THE NOTICE TO ABATE SHALL BE SERVED IN ACCORDANCE WITH SECTION 8-6-8 (H).

Section 7: **EFFECTIVE DATE.** The effective date of this Ordinance shall be thirty (30) days following adoption by the Mesa City Council

Section 8: PRESERVATION OF RIGHTS AND DUTIES. The repealing provisions of this Ordinance do not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of the repeal.

Section 9: 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 Council of the City of Mesa, Maricopa County, Arizona, this 26th day of August, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk