

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; REPEALING AND REPLACING TITLE 8, CHAPTER 6, SECTIONS 5 THROUGH 18.

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

WHEREAS, the Mesa City Council has determined that revising language within this Code clarifies definitions and requirements for compliance for property owners; and

WHEREAS, revising language will ensure that this Code is consistent with other sections of the City Code; 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, Sections 5 through 18 of the Mesa City Code, Mesa, Arizona, are removed in their entirety and replaced with the following:

ARTICLE III

ENFORCEMENT

SECTION:

- 8-6-5: COMMENCEMENT OF AN ACTION**
- 8-6-6: REMEDIES NOT EXCLUSIVE**
- 8-6-7: DEFENDANTS AND RESPONSIBLE PARTIES**
- 8-6-8: CIVIL VIOLATIONS AND CITATION**
- 8-6-9: CIVIL PENALTIES**
- 8-6-10: (RESERVED)**
- 8-6-11: HABITUAL OFFENDER**
- 8-6-12: FAILURE TO PROVIDE EVIDENCE OF IDENTITY**
- 8-6-13: ABATEMENT**
- 8-6-14: REQUEST FOR ABATEMENT HEARING**
- 8-6-15: RECORDING AN ABATEMENT VIOLATION**
- 8-6-16: EMERGENCY ABATEMENT**
- 8-6-17: SUSPENSION OF CONSTRUCTION PERMIT OR LICENSE**
- 8-6-18: SLUM PROPERTY**

8-6-5: COMMENCEMENT OF AN ACTION:

- (A) THE CITY MANAGER OR DESIGNEE IS AUTHORIZED TO COMMENCE AN ENFORCEMENT ACTION UNDER THIS CHAPTER BY ISSUING A NOTICE OF ABATEMENT UNDER THIS ARTICLE OR A CITATION FOR CIVIL SANCTIONS UNDER THIS ARTICLE, OR BOTH. THEY MAY ALSO SEEK THE ISSUANCE OF A COMPLAINT BY THE MESA CITY PROSECUTOR FOR CRIMINAL PROSECUTION OF HABITUAL OFFENDERS AS DEFINED IN THIS ARTICLE.**

(B) NOTHING IN THIS SECTION SHALL PRECLUDE CITY EMPLOYEES FROM SEEKING VOLUNTARY COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER OR FROM ENFORCING THIS CHAPTER THROUGH NOTICES OF VIOLATION, WARNINGS, OR OTHER INFORMAL DEVICES DESIGNED TO ACHIEVE COMPLIANCE IN THE MOST EFFICIENT AND EFFECTIVE MANNER UNDER THE CIRCUMSTANCES.

8-6-6: REMEDIES NOT EXCLUSIVE:

VIOLATIONS OF THIS CHAPTER 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 WHICH MAY BE TAKEN BY THE CITY OR OTHER PERSONS UNDER OTHER LAWS, ORDINANCES, OR RULES.

8-6-7: DEFENDANTS AND RESPONSIBLE PARTIES:

ANY RESPONSIBLE PARTY WHO CAUSES, PERMITS, FACILITATES, AIDS, OR ABETS ANY VIOLATION OF THIS CHAPTER OR WHO FAILS TO PERFORM ANY ACT OR DUTY REQUIRED PURSUANT TO THIS CHAPTER IS SUBJECT TO THE ENFORCEMENT PROVISIONS OF THIS CHAPTER. RESPONSIBLE PARTIES MAY BE INDIVIDUALLY AND JOINTLY RESPONSIBLE FOR THE VIOLATIONS, THE PRESCRIBED CIVIL OR CRIMINAL SANCTIONS, FOR ABATEMENT OF THE VIOLATION AND FOR ANY ASSOCIATED COSTS AND FEES.

8-6-8: CIVIL VIOLATIONS AND CITATION:

(A) A CIVIL ACTION FOR VIOLATIONS OF THIS CHAPTER MAY BE COMMENCED BY ISSUANCE OF A CITATION.

(B) THE CITATION WILL BE SUBSTANTIALLY IN THE FORM ESTABLISHED BY THE CITY MANAGER OR DESIGNEE. THE CITATION SHALL ADVISE THE RESPONSIBLE PARTY OF THE VIOLATION(S) COMMITTED, EITHER BY WRITTEN DESCRIPTION OF THE VIOLATIONS OR BY DESIGNATION OF THE CITY CODE SECTION THAT WAS VIOLATED. THE CITATION SHALL DIRECT THE RESPONSIBLE PARTY TO PAY THE CIVIL SANCTION AND ALL APPLICABLE FEES IN ACCORDANCE WITH SECTION 8-6-9 OF THIS CHAPTER WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION OR TO APPEAR BEFORE THE CIVIL HEARING OFFICER WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION AND ADMIT OR DENY THE ALLEGATIONS CONTAINED IN THE CITATION. THE CIVIL HEARING OFFICER MAY PERMIT AMENDMENTS TO THE CITATION IF SUBSTANTIAL RIGHTS OF THE RESPONSIBLE PARTY ARE NOT THEREBY PREJUDICED. THE CITATION SHALL BE SERVED IN ACCORDANCE WITH SECTION 8-6-8 (H). HOWEVER, IN A VIOLATION INVOLVING SECTION 8-6-3(L) OF THE MESA CITY CODE, A CITATION MAY BE SERVED UPON THE OWNER OR OWNERS OF THE VEHICLE, THE REGISTERED OWNER OR OWNERS OF THE VEHICLE, OR THE OPERATOR OR PERSON WHO PARKED OR PLACED THE VEHICLE WHERE THE VIOLATION OCCURRED BY ATTACHING A COPY OF THE CITATION TO THE VEHICLE.

(C) THE RESPONSIBLE PARTY SHALL, WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION OR WITHIN 10 CALENDAR DAYS OF THE ISSUANCE OF THE CITATION, WHICHEVER IS GREATER, EITHER PAY THE CIVIL SANCTION AND THE FEES, OR APPEAR IN PERSON, OR THROUGH AN ATTORNEY OR BY EMAIL TO THE DESIGNATED CLERK OF THE CIVIL HEARING OFFICE AND ADMIT OR DENY THE ALLEGATIONS CONTAINED IN THE CITATION.

1. IF THE RESPONSIBLE PARTY TIMELY PAYS THE CIVIL SANCTION AND THE FEES, EITHER IN PERSON OR BY MAILING PAYMENT TO THE CITY, THE ALLEGATIONS IN THE CITATION SHALL BE DEEMED ADMITTED AND SUCH PERSON SHALL BE DEEMED RESPONSIBLE FOR HAVING COMMITTED THE OFFENSE(S) DESCRIBED IN THE CITATION. IF THE RESPONSIBLE PARTY APPEARS IN PERSON, THROUGH AN ATTORNEY OR BY

EMAIL AND ADMITS THE ALLEGATIONS, THE CIVIL HEARING OFFICER SHALL ENTER JUDGMENT AGAINST THE RESPONSIBLE PARTY IN THE AMOUNT OF THE CIVIL SANCTION, PLUS ANY APPLICABLE FEES DESIGNATED IN SECTION 8-6-9; OR

2. IF THE RESPONSIBLE PARTY APPEARS IN PERSON, THROUGH AN ATTORNEY OR BY EMAIL AND DENIES THE ALLEGATIONS CONTAINED IN THE CITATION, THE MATTER SHALL BE SET FOR A HEARING.

- (D) IF A PERSON SERVED WITH A CITATION FAILS TO PAY THE CIVIL SANCTION AND THE FEES OR TO FILE ON OR BEFORE THE TIME DIRECTED ON THE CITATION OR APPEAR AT THE TIME SET FOR THE HEARING, THE ALLEGATIONS IN THE COMPLAINT SHALL BE DEEMED ADMITTED, AND THE CIVIL HEARING OFFICER SHALL ENTER A FINDING OF RESPONSIBLE AND A JUDGMENT FOR THE CITY AND IMPOSE THE APPROPRIATE SANCTIONS AND FEES.**
- (E) ALL PROCEEDINGS BEFORE THE CIVIL HEARING OFFICER SHALL BE INFORMAL AND WITHOUT A JURY, EXCEPT THAT TESTIMONY SHALL BE GIVEN UNDER OATH OR AFFIRMATION. THE TECHNICAL RULES OF EVIDENCE DO NOT APPLY, EXCEPT FOR STATUTORY PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. IF THE ALLEGATIONS IN THE CITATION ARE DENIED, THE CITY IS REQUIRED TO PROVE VIOLATIONS OF THIS CHAPTER BY A PREPONDERANCE OF THE EVIDENCE. NO PREHEARING DISCOVERY SHALL BE PERMITTED, EXCEPT UNDER EXTRAORDINARY CIRCUMSTANCES AS DETERMINED BY THE CIVIL HEARING OFFICER. THE CIVIL HEARING OFFICER IS AUTHORIZED TO MAKE SUCH ORDERS AS MAY BE NECESSARY OR APPROPRIATE TO FAIRLY AND EFFICIENTLY DETERMINE THE TRUTH AND DECIDE THE CASE AT HAND.**
- (F) ANY PERSON AGGRIEVED BY A DECISION OF THE CIVIL HEARING OFFICER, AT ANY TIME WITHIN 30 CALENDAR DAYS AFTER A FINAL JUDGMENT HAS BEEN RENDERED, MAY FILE A COMPLAINT OF SPECIAL ACTION IN SUPERIOR COURT TO REVIEW THE CIVIL HEARING OFFICER'S DECISION. FILING THE COMPLAINT DOES NOT STAY PROCEEDINGS ON THE DECISION SOUGHT TO BE REVIEWED, BUT THE COURT MAY, ON APPLICATION, GRANT A STAY AND ON FINAL HEARING, AFFIRM OR REVERSE, IN WHOLE OR IN PART, OR MODIFY THE DECISION REVIEWED.**
- (G) ANY CIVIL JUDGMENT ISSUED PURSUANT TO THIS ARTICLE SHALL CONSTITUTE A LIEN AGAINST THE REAL PROPERTY OF THE RESPONSIBLE PARTY THAT MAY BE PERFECTED BY RECORDING A COPY OF THE JUDGMENT WITH THE MARICOPA COUNTY RECORDER. ANY JUDGMENT ISSUED PURSUANT TO THIS ARTICLE MAY BE COLLECTED AS ANY OTHER CIVIL JUDGMENT.**
- (H) CITATIONS ISSUED UNDER THIS CHAPTER SHALL BE SERVED IN COMPLIANCE WITH A.R.S. §9-500.21 AS FOLLOWS:**
 - 1. FIRST, BY PERSONAL SERVICE AS DESCRIBED IN THE PROCEDURES SET FORTH ARIZONA RULES OF CIVIL PROCEDURE, RULE 4.1 BY:**
 - a. A CODE COMPLIANCE OFFICER; OR**
 - b. A CITY OF MESA SWORN POLICE OFFICER; OR**
 - c. THE CITY MANAGER OR DESIGNEE.**
 - 2. IF THE CITATION CANNOT BE PERSONALLY SERVED, THE CITATION SHALL BE SERVED AS FOLLOWS:**
 - a. BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED; OR**
 - b. BY PUBLICATION, IN THE SAME MANNER PRESCRIBED BY THE ARIZONA RULES OF CIVIL PROCEDURE. BEFORE THE DATE OF THE FIRST**

PUBLICATION, THE CITATION SHALL BE MAILED, BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY OTHER MAIL OR DELIVERY SERVICE THAT ALLOWS THE SENDER TO TRACK THE PROGRESS AND CONFIRM THE DELIVERY OF THE CITATION.

8-6-9: CIVIL PENALTIES:

- (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 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 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.
- (B) UNDER UNUSUAL OR EXTRAORDINARY CIRCUMSTANCES, AND FOR GOOD CAUSE, THE CIVIL HEARING OFFICER SHALL HAVE THE DISCRETION TO REDUCE OR ELIMINATE ANY PORTION OF THE CIVIL SANCTIONS SPECIFIED IN THIS SECTION, AND/OR TO MAKE ANY OTHER JUDGMENTS OR ORDERS DEEMED BY THE CIVIL HEARING OFFICER TO BE IN THE BEST INTERESTS OF THE CITY OF MESA, WHICH WILL RESULT IN THE FURTHERANCE OF THESE REGULATIONS AND EFFECTUATE THE ABATEMENT OR CESSATION OF ANY VIOLATION OF THIS CHAPTER.
- (C) AFTER ENTERING A JUDGMENT OF RESPONSIBLE AND SETTING A CIVIL SANCTION AND FEES AS SPECIFIED IN SECTION 8-6-9 (A), THE CIVIL HEARING OFFICER MAY ORDER A COMPLIANCE HEARING AND SET A DATE FOR SUCH HEARING. UPON PRESENTATION OF EVIDENCE AND/OR TESTIMONY BY THE CITY INSPECTOR AT THE COMPLIANCE HEARING THAT THE VIOLATION(S) SPECIFIED IN THE COMPLAINT HAS BEEN ABATED, THE CIVIL HEARING OFFICER MAY REDUCE ALL OR A PORTION OF THE CIVIL SANCTION COMMENSURATE WITH THE COST BORNE BY THE DEFENDANT TO ACHIEVE COMPLIANCE, OR THE CIVIL HEARING OFFICER MAY VACATE THE PREVIOUS JUDGMENT AND DISMISS THE CITATION(S). IF, A MINIMUM OF 7 CALENDAR DAYS BEFORE A SCHEDULED COMPLIANCE HEARING, THE CIVIL HEARING OFFICER RECEIVES BOTH OF THE FOLLOWING ITEMS, THEN THE CIVIL HEARING OFFICER MAY ISSUE WRITTEN ORDERS COMMENSURATE WITH THE AUTHORITY GIVEN IN THIS SECTION, TO REDUCE CIVIL SANCTIONS AND/OR VACATE THE RELATED JUDGMENT WITHOUT HOLDING THE SCHEDULED COMPLIANCE HEARING:
1. A WRITTEN AND NOTARIZED CONFIRMATION FROM THE CITY INSPECTOR THAT THE VIOLATION HAS BEEN SUCCESSFULLY ABATED; AND
 2. A WRITTEN AND NOTARIZED STATEMENT FROM THE DEFENDANT DESCRIBING THE ACTIONS TAKEN AND THE ITEMIZED COSTS BORNE TO ABATE THE VIOLATION.
- IF EITHER ITEM HAS NOT BEEN RECEIVED BY THE DESIGNATED CLERK OF THE CIVIL HEARING OFFICE 7 CALENDAR DAYS BEFORE, THEN THE COMPLIANCE HEARING SHALL TAKE PLACE AS PREVIOUSLY SCHEDULED.
- (D) THE 36 MONTH PROVISION OF PARAGRAPH (A) OF THIS SECTION SHALL BE CALCULATED BY THE DATES THE VIOLATIONS WERE COMMITTED. THE RESPONSIBLE PARTY SHALL

RECEIVE THE ENHANCED SANCTION UPON A FINDING OF RESPONSIBILITY FOR ANY VIOLATION OF THIS CHAPTER THAT WAS COMMITTED WITHIN 36 MONTHS OF THE COMMISSION OF ANOTHER VIOLATION FOR WHICH THE RESPONSIBLE PARTY WAS CONVICTED OR WAS OTHERWISE FOUND RESPONSIBLE, IRRESPECTIVE OF THE ORDER IN WHICH THE VIOLATIONS OCCURRED OR WHETHER THE PRIOR VIOLATION WAS CIVIL OR CRIMINAL.

- (E) EACH DAY IN WHICH A VIOLATION OF THIS CHAPTER CONTINUES OR THE FAILURE TO PERFORM ANY ACT OR DUTY REQUIRED BY THIS CHAPTER OR BY THE CIVIL HEARING OFFICER CONTINUES SHALL CONSTITUTE A SEPARATE CIVIL OFFENSE.

8-6-10: (RESERVED):

8-6-11: HABITUAL OFFENDER:

- (A) A PERSON WHO COMMITS A VIOLATION OF THIS CHAPTER AFTER PREVIOUSLY HAVING BEEN FOUND RESPONSIBLE FOR COMMITTING CIVIL VIOLATIONS OF THIS CHAPTER ON 3 SEPARATE DATES AND WITHIN A 36 MONTH PERIOD, WHETHER BY ADMISSION, BY PAYMENT OF THE FINE, BY DEFAULT, OR BY JUDGMENT AFTER HEARING, SHALL BE GUILTY OF A CLASS 1 CRIMINAL MISDEMEANOR. THE MESA CITY PROSECUTOR IS AUTHORIZED TO FILE A CLASS 1 CRIMINAL MISDEMEANOR COMPLAINT IN THE MESA CITY COURT (COURT) AGAINST HABITUAL OFFENDERS. FOR PURPOSES OF CALCULATING THE 36 MONTH PERIOD UNDER THIS PARAGRAPH, THE DATES OF THE COMMISSION OF THE OFFENSES ARE THE DETERMINING FACTOR.

- (B) UPON CONVICTION OF A VIOLATION OF THIS SECTION, THE COURT MAY IMPOSE A SENTENCE AUTHORIZED BY THE LAWS OF THE STATE OF ARIZONA FOR A CLASS 1 MISDEMEANOR, INCLUDING INCARCERATION NOT TO EXCEED 6 MONTHS IN JAIL OR A FINE NOT TO EXCEED \$2,500, EXCLUSIVE OF PENALTY ASSESSMENTS PRESCRIBED BY LAW, OR BOTH. THE COURT SHALL ORDER A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF THIS SECTION TO PAY A FINE OF NOT LESS THAN \$500 FOR EACH COUNT UPON WHICH A CONVICTION HAS BEEN OBTAINED AND BE PLACED ON PROBATION FOR UP TO 36 MONTHS. THE COURT MAY REDUCE SUCH FINES TO \$250 FOR EACH COUNT UPON WHICH A CONVICTION HAS BEEN OBTAINED PROVIDED ALL VIOLATIONS HAVE BEEN ABATED AND THE SITE IS IN COMPLIANCE WITH ALL SECTIONS OF THIS CHAPTER WITHIN 90 DAYS OF SENTENCING.

- (C) EVERY ACTION OR PROCEEDING UNDER THIS SECTION SHALL BE COMMENCED AND PROSECUTED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA RELATING TO CRIMINAL MISDEMEANORS AND THE ARIZONA RULES OF CRIMINAL PROCEDURE.

8-6-12: FAILURE TO PROVIDE EVIDENCE OF IDENTITY:

A PERSON WHO FAILS OR REFUSES TO PROVIDE EVIDENCE OF HIS IDENTITY TO A DULY AUTHORIZED AGENT OF THE CITY UPON REQUEST, WHEN SUCH AGENT HAS REASONABLE CAUSE TO BELIEVE THE PERSON HAS COMMITTED A VIOLATION OF THIS CHAPTER, IS GUILTY OF A MISDEMEANOR. EVIDENCE OF IDENTITY UNDER THIS SECTION SHALL CONSIST OF A PERSON'S FULL NAME, RESIDENCE ADDRESS, AND DATE OF BIRTH.

8-6-13: ABATEMENT:

- (A) IN ADDITION TO OR IN LIEU OF FILING A CIVIL CITATION OR CRIMINAL COMPLAINT, THE CITY MAY SERVE A NOTICE TO ABATE ANY VIOLATION OF THIS CHAPTER IN ACCORDANCE WITH SECTION 8-6-8(H).

(B) THE NOTICE TO ABATE SHALL SET FORTH THE FOLLOWING INFORMATION, (EXCEPT IN THE CASE OF AN IMMINENT HAZARD):

1. THE RESPONSIBLE PARTY HAS 30 CALENDAR DAYS FROM THE SERVICE OF THE NOTICE TO ABATE OR CORRECT THE VIOLATION.

2. IDENTIFICATION OF THE PROPERTY IN VIOLATION BY STREET ADDRESS, IF KNOWN, AND IF UNKNOWN, THEN BY LEGAL DESCRIPTION OF THE PROPERTY OR BY MARICOPA COUNTY BOOK, MAP, AND PARCEL NUMBER.

3. STATEMENT OF THE VIOLATION IN SUFFICIENT DETAIL TO ALLOW A REASONABLE PERSON TO IDENTIFY AND CORRECT THE VIOLATION(S).

4. REINSPECTION DATE AND TIME.

5. NAME, BUSINESS ADDRESS, AND BUSINESS PHONE NUMBER OF THE CITY INSPECTOR WHO ISSUED THE NOTICE TO ABATE.

6. A STATEMENT INDICATING THAT IF THE VIOLATIONS ARE NOT CORRECTED WITHIN THE 30 CALENDAR DAY PERIOD, THE CITY MAY ABATE THE PROBLEM ITSELF OR BY PRIVATE CONTRACTOR, ASSESS THE OWNER FOR THE COST OF SUCH ABATEMENT, AND RECORD A LIEN ON THE PROPERTY FOR THE ASSESSMENT.

7. HEARING PROCEDURES.

8. STATEMENT INDICATING THAT THE 30 CALENDAR DAY NOTICE SET FORTH IN THIS SECTION SHALL NOT APPLY TO EMERGENCY ABATEMENTS PURSUANT TO THIS CHAPTER.

(C) IF THE RESPONSIBLE PARTY SERVED A NOTICE TO ABATE BY THE CITY PURSUANT TO THIS CHAPTER FAILS TO COMPLY WITH SUCH NOTICE; THE CITY MAY CORRECT OR ABATE THE CONDITIONS SUBJECT TO THE NOTICE IF THOSE CONDITIONS CONSTITUTE A HAZARD. IF THE CITY CORRECTS OR ABATES THOSE CONDITIONS, THE CITY MANAGER OR DESIGNEE MAY PREPARE A VERIFIED STATEMENT AS TO THE ACTUAL COST OF CORRECTING OR ABATING THE VIOLATION, INCLUDING COSTS OF INSPECTION AND OTHER CITY-INCURRED COSTS ASSOCIATED WITH ABATING THE VIOLATION. THE STATEMENT SHALL BE SERVED IN ACCORDANCE WITH 8-6-8(H) TO THE RESPONSIBLE PARTY UPON WHICH THE NOTICE TO ABATE OR ORDER WAS SERVED. THAT STATEMENT SHALL FURTHER SET FORTH THE FOLLOWING:

1. THAT THE STATEMENT OF COSTS IS AN ASSESSMENT UPON THE LOTS AND TRACTS OF LAND FROM WHICH THE CITY CORRECTED OR ABATED THE VIOLATION.

2. THAT THE PARTY HAS 15 CALENDAR DAYS FROM THE DATE OF DELIVERY OR MAILING OF THE STATEMENT TO PAY THE ASSESSMENT.

3. IN THE EVENT PAYMENT IS NOT RECEIVED IN 15 CALENDAR DAYS, THE CITY WILL PLACE A LIEN ON THE PROPERTY IN THE AMOUNT OF THE ASSESSMENT.

4. APPEAL PROCEDURES.

(D) THE NOTICE TO ABATE AND THE STATEMENT OF ABATEMENT COSTS SHALL BE SERVED IN ACCORDANCE WITH 8-6-8(H) TO THE RESPONSIBLE PARTY. SERVICE IS DEEMED

EFFECTIVE AND COMPLETE ON THE DATE IT IS RECEIVED BY THE RESPONSIBLE PARTY.

8-6-14: REQUEST FOR ABATEMENT HEARING:

THE RESPONSIBLE PARTY RECEIVING A NOTICE TO ABATE UNDER THIS CHAPTER OR A STATEMENT OF COSTS INCURRED BY THE CITY IN ABATING A HAZARD MAY APPEAL BY REQUESTING IN WRITING A HEARING AND BY SERVING SUCH A REQUEST TO THE DEVELOPMENT SERVICES DEPARTMENT WITHIN 15 CALENDAR DAYS OF SERVICE OF THE NOTICE TO ABATE OR THE STATEMENT OF COSTS. THE HEARING SHALL BE HELD BEFORE THE CIVIL HEARING OFFICER AS SOON AS PRACTICABLE AFTER THE FILING OF THE REQUEST. AN APPEAL FROM FINAL JUDGMENTS OF THE CIVIL HEARING OFFICER MAY BE TAKEN PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE FOR SPECIAL ACTIONS. IF NO WRITTEN AND TIMELY REQUEST FOR HEARING IS MADE UNDER THIS SECTION TO THE DEVELOPMENT SERVICES DEPARTMENT, THEN THE NOTICE OF ABATEMENT OR STATEMENT OF COSTS IS FINAL AND BINDING.

8-6-15: RECORDING AN ABATEMENT VIOLATION:

THE NOTICE TO ABATE AND STATEMENT OF COSTS SHALL RUN WITH THE LAND. THE CITY, AT ITS SOLE OPTION, MAY RECORD A NOTICE TO ABATE OR STATEMENT OF COSTS WITH THE MARICOPA COUNTY RECORDER AND THEREBY CAUSE COMPLIANCE BY A PERSON THEREAFTER ACQUIRING SUCH PROPERTY. WHEN THE PROPERTY IS BROUGHT INTO COMPLIANCE, A SATISFACTION OF NOTICE TO ABATE SHALL BE FILED WITH THE MARICOPA COUNTY RECORDER.

8-6-16: EMERGENCY ABATEMENT:

- (A) IF A SITUATION PRESENTS AN IMMINENT HAZARD, THE CITY MAY ISSUE A NOTICE TO ABATE DIRECTING THE RESPONSIBLE PARTY TO IMMEDIATELY TAKE SUCH ACTION AS IS APPROPRIATE TO CORRECT OR ABATE THE EMERGENCY DESCRIBED IN THE NOTICE. IN ADDITION, THE CITY MAY ACT IMMEDIATELY TO CORRECT OR ABATE THE EMERGENCY ITSELF OR MAY COMMENCE AN ACTION IN SUPERIOR COURT TO ENJOIN THE RESPONSIBLE PARTY TO ABATE THE IMMINENT HAZARD. IN THE EVENT THE CITY IS UNABLE TO CONTACT THE RESPONSIBLE PARTY DESPITE REASONABLE EFFORTS TO DO SO, IT IN NO WAY AFFECTS THE CITY'S RIGHT UNDER THIS SECTION TO CORRECT OR ABATE THE EMERGENCY ITSELF.**
- (B) THE CITY MAY RECOVER ITS COSTS INCURRED IN ABATING AN IMMINENT HAZARD UNDER THIS SECTION IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-6-13(C). THE RESPONSIBLE PARTY MAY APPEAL THE CITY'S EMERGENCY ABATEMENT ACTION UNDER THIS SECTION OR THE CITY'S STATEMENT OF COSTS FOR AN EMERGENCY ABATEMENT IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-6-14.**

8-6-17: SUSPENSION OF CONSTRUCTION PERMIT OR LICENSE:

ANY CONSTRUCTION PERMIT OR LICENSE ISSUED BY THE CITY WHICH AUTHORIZES WORK RESULTING IN AN ALLEGED VIOLATION OF ARTICLE I OF THIS CHAPTER MAY BE SUSPENDED PENDING ABATEMENT OF SAID VIOLATION OR FINAL RESOLUTION OF A CIVIL HEARING OF THE MATTER.

8-6-18: SLUM PROPERTY

(A) SLUM PROPERTY DESIGNATION:

1. THE CITY MANAGER, OR DESIGNEE, IS AUTHORIZED TO DESIGNATE RESIDENTIAL RENTAL PROPERTY AS A SLUM PROPERTY CONSISTENT WITH AND PURSUANT TO THE

PROVISIONS OF TITLE 33, CHAPTER 17, ARTICLE 1, ARIZONA REVISED STATUTES.

2. NOTICE OF SLUM PROPERTY DESIGNATION SHALL BE PROVIDED TO ALL OWNERS AND LIEN HOLDERS OF THE AFFECTED PROPERTY. SUCH NOTICE SHALL INFORM OF THE DESIGNATION, THE REASON OR REASONS FOR THE DESIGNATION, AND THE PROCEDURE TO APPEAL THE DESIGNATION. THE EFFECTIVE DATE AND MANNER OF SERVICE SHALL BE AS DESCRIBED IN SECTION 8-6-8 (H).

3. THE CITY MAY RECORD THE NOTICE OF SLUM PROPERTY DESIGNATION WITH THE COUNTY RECORDER. A RECORDED NOTICE SHALL RUN WITH THE LAND. FAILURE TO RECORD A NOTICE SHALL NOT AFFECT THE VALIDITY OF THE NOTICE AS TO PERSONS WHO RECEIVE THE NOTICE.

(B) ASSESSMENT AND LIENS:

1. THE CITY MANAGER, OR DESIGNEE, IS AUTHORIZED TO IMPOSE CIVIL PENALTIES, ASSESSMENTS AND LIENS PURSUANT TO THE PROVISIONS OF TITLE 33, CHAPTER 17, ARTICLE 1, ARIZONA REVISED STATUTES.

2. NOTICE OF A CIVIL PENALTY, ASSESSMENT OR LIEN SHALL BE PROVIDED TO ALL OWNERS AND LIEN HOLDERS OF THE AFFECTED PROPERTY. SUCH NOTICE SHALL INFORM OF THE AMOUNT OF THE ASSESSMENT OR LIEN, THE REASON FOR THE ASSESSMENT OR LIEN, AND THE PROCEDURE TO APPEAL THE ASSESSMENT OR LIEN. THE EFFECTIVE DATE AND MANNER OF SERVICE SHALL BE AS DESCRIBED IN THE SECTION 8-6-8 (H).

3. THE CITY MAY RECORD AN ASSESSMENT OR LIEN WITH THE COUNTY RECORDER OR THE DEPARTMENT OF TRANSPORTATION, IF THE LIEN IS FOR A RENTAL MOBILE HOME OR A RECREATIONAL VEHICLE NOT OWNED BY A LANDLORD. A RECORDED ASSESSMENT SHALL RUN WITH THE LAND. FAILURE TO RECORD AN ASSESSMENT OR LIEN SHALL NOT AFFECT THE VALIDITY OF THE ASSESSMENT OR LIEN AS TO PERSONS WHO HAVE NOTICE THEREOF. THE CITY SHALL RELEASE THE ASSESSMENT OR LIEN UPON RECEIPT OF PAYMENT.

4. IN THE EVENT THAT IT IS NECESSARY TO ENFORCE AN ASSESSMENT OR LIEN BY SALE, THE SALE SHALL BE MADE FROM A JUDGMENT OF FORECLOSURE AND ORDER OF SALE. THE CITY SHALL HAVE THE RIGHT TO ENFORCE AN ASSESSMENT OR LIEN IN THE SUPERIOR COURT, AT ANY TIME AFTER RECORDING, BUT FAILURE TO ENFORCE AN ASSESSMENT OR LIEN SHALL NOT AFFECT ITS VALIDITY. THE RECORDED ASSESSMENT OR LIEN 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 ASSESSMENTS OR LIENS FOR THE PURPOSES PROVIDED FOR IN THIS ORDINANCE SHALL NOT BE A BAR TO SUBSEQUENT ASSESSMENTS OR LIENS, AND ANY NUMBER OF LIENS OR ASSESSMENTS ON THE SAME PROPERTY MAY BE ENFORCED IN THE SAME ACTION.

(C) APPEALS:

1. APPEALS FROM DESIGNATIONS AS A SLUM PROPERTY OR ASSESSMENTS BY THE CITY MANAGER OR DESIGNEE AS SET FORTH IN 8-6-18(A) AND (B) SHALL BE SUBMITTED TO THE OFFICE OF THE ZONING ADMINISTRATOR IN THE MANNER SET FORTH IN SECTION 11-77-4 OF THE MESA CITY CODE. SAID APPEALS SHALL BE IN WRITING AND SHALL CONTAIN:

(A) A HEADING IN THE WORDS: "BEFORE THE ZONING ADMINISTRATOR..."

(B) A CAPTION READING: "APPEAL OF...," GIVING THE NAMES OF ALL APPELLANTS PARTICIPATING IN THE APPEAL.

(C) A BRIEF STATEMENT SETTING FORTH THE LEGAL INTEREST OF EACH OF THE APPELLANTS IN THE BUILDING OR LAND INVOLVED IN THE NOTICE AND ORDER.

(D) A BRIEF STATEMENT IN ORDINARY AND CONCISE LANGUAGE OF THE SPECIFIC ORDER OR ACTION PROTESTED, TOGETHER WITH ANY MATERIAL FACTS CLAIMED TO SUPPORT THE CONTENTIONS OF THE APPELLANT.

(E) A BRIEF STATEMENT IN ORDINARY AND CONCISE LANGUAGE OF THE RELIEF SOUGHT AND THE REASONS WHY IT IS CLAIMED THE PROTESTED ORDER OR ACTION SHOULD BE REVERSED, MODIFIED, OR OTHERWISE SET ASIDE.

(F) THE SIGNATURES OF ALL PARTIES NAMED AS APPELLANTS AND THEIR OFFICIAL MAILING ADDRESSES.

(G) THE VERIFICATION (BY DECLARATION UNDER PENALTY OF PERJURY) OF AT LEAST ONE APPELLANT AS TO THE TRUTH OF THE MATTERS STATED IN THE APPEAL.

2. ALL APPLICATIONS SHALL BE ACCOMPANIED BY A FEE IN ACCORDANCE WITH THE DEVELOPMENT SERVICES FEE SCHEDULE.

3. THE APPEAL SHALL BE FILED WITHIN 30 CALENDAR DAYS FROM THE DATE OF THE SERVICE OF SUCH ORDER OR ACTION OF THE DESIGNATION OF A SLUM.

4. APPEALS TO DECISIONS OF THE ZONING ADMINISTRATOR MAY BE FILED WITH THE BOARD OF ADJUSTMENT IN ACCORDANCE WITH SECTION 11-77-4 OF THE MESA CITY CODE.

Section 2: No changes to Title 8, Chapter 6, Sections 1-4 or 19 through 35.

Section 3: EFFECTIVE DATE. The effective date of this Ordinance shall be February 6, 2019.

Section 4: 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 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 Council of the City of Mesa, Maricopa County, Arizona, this 7th day of January, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk