

PROPOSED CODE REVISIONS

Below are the proposed changes to Sections § 90.2, § 90.03, § 90.04, § 90.07, § 90.13, § 90.14 and § 90.99 of the City Code.

§ 90.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED/INOPERABLE VEHICLE. Any vehicle which is partially or wholly dismantled, discarded, or wrecked; or on blocks, stands, or similar devices; or stripped or scrapped; or inoperable due to mechanical disassembly; or with a deflated tire or tires, or physically incapable of operation; or other reasons that may include an expired license plate or the absence of a license affixed or assigned thereto.

ANIMAL WASTE. Waste from stables, kennels, pet pens, chicken coops, veterinary establishments, and others of similar nature and household pet waste.

BOARD OF APPEAL. The **BOARD OF APPEAL** established pursuant to § 111 of the International Property Maintenance Code (IPMC), 2006 edition, as adopted by the City of El Mirage Council.

CONSTRUCTION AND DEMOLITION WASTES. All waste building materials, rubble, and spoils resulting from construction, remodeling, repair, and demolition operations on any building or structure.

CONSTRUCTION MATERIAL. Includes but is not limited to asphalt, concrete, plaster, tile, rocks, bricks, sand, dirt, lumber, blocks, or any other materials commonly used in construction or landscaping material.

COUNCIL. The Mayor and City Council of El Mirage, Arizona.

DEBRIS. Substance or material of little or no apparent value, including but not limited to deteriorated lumber, old newspapers, cardboard material, scrap metal, vehicle parts, discarded furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, abandoned, broken, or neglected equipment, or the scattered remains of items.

FRONT YARD. An open space extending the full width of the lot between the front lot line and the front planes of the building projected to the side lot lines.

LITTER. All solid waste including, but not limited to, ashes, street cleanings, severed plant growth, garbage, dead animals, abandoned or junked vehicles or parts thereof, solid commercial and industrial waste, paper, rugs, empty barrels, crates, packing cases, boxes, cartons, wood shavings, packing materials, wrapping, cigarettes, cardboard, landscape clippings, leaves, metal, mattresses, bedding, crockery, bottles, cans, glass, plaster, plastic, asphalt, tile, rock, bricks, clean fill, fill dirt, excavation

material, or other materials tending to create an unsightly condition and having an adverse effect upon the health, safety, aesthetic, or general welfare of citizens.

PERSON. A **PERSON** as defined in § [10.03](#) of the City of El Mirage City Code and shall for purposes of this chapter include an occupant, responsible party, or owner of the property.

PRIVATE PROPERTY. Land owned by any person other than the United States, the State of Arizona, a county, city, or town.

RESIDENTIAL AREA. Any area of the city which is comprised primarily of residential structures.

RESPONSIBLE PARTY. An owner, tenant, lessee, occupant, or person with lawful control over the property or building.

SIDE YARD. An open space between the side lot line and the side planes of the building and extending from the front yard to the rear yard.

TRASH. All nonputrescible wastes consisting of both combustible and noncombustible solid waste material, excluding ashes.

UNSHELTERED. Items, rubbish, debris, or any other items located outside a garage or other building or structure in such a manner as to be visible to a person standing upon any public street or sidewalk or at ground level upon any adjoining piece of property or right-of-way.

VEHICLE. Every device by which any person or property is or may be transported or drawn; including but not limited to automobiles, motor homes, travel trailers, utility trailers, recreational vehicles, or watercraft. Devices moved by human power or used exclusively upon stationary rails or tracks are exempt.

VEHICLE PARTS. Any part(s), component(s), or accessory of a vehicle.

(Prior Code, § 20-1-2) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed -)

§ 90.03 ENFORCEMENT.

(A) The provisions of this chapter shall only apply to conditions that are visible to a person standing upon a public street or sidewalk except where the city determines that the conditions are, or are likely to become, a threat to the public health or safety or where the conditions are so severe they are, or are likely to become, a nuisance to a neighborhood.

(B) A violation of any of the provisions of this chapter shall be considered to be a public nuisance. The city may elect to proceed either civilly or criminally against any person who is found to be responsible for causing, permitting, facilitating, or aiding or abetting a violation of any provision of this chapter.

(C) Any code enforcement officer or police officer who observes a violation of any of the provisions of this chapter is empowered to issue a citation to the alleged violator. Prior to issuing a citation, the code enforcement officer or police officer may, except as otherwise specifically provided here, issue a written or verbal notice of violation. If the violation is not remedied within the time frame specified in the notice of violation, a citation may be issued.

(Prior Code, § 20-1-3) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed -
-)

§ 90.04 OWNER OF RECORD RESPONSIBLE PARTY.

An occupant, tenant, lessee, person having lawful control and any ~~The owner of record, as recorded in the Maricopa County Recorder's Office, of or over any building or parcel of land shall be presumed a Responsible Party jointly and severally who may be held responsible for violations of this Chapter in or on such building or parcel. ~~to be a person having lawful control over any building or parcel of land. If more than one person is recorded as the owner of the property, those persons shall be jointly and severally presumed to be persons having lawful control over the building or parcel.~~~~

(Prior Code, § 20-1-4) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed -
-)

§ 90.07 SERVICE OF NOTICE.

Notice shall be personally served on the owner, person, controlling the property, and on the occupant or lessee by a code enforcement officer or police officer, or a vendor who provides such services, or mailed certified mail to the owner or person controlling the property at his or her last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall be sent to him or her by certified or registered mail at his or her last known address. In the event that the post office address of the owner or person controlling the property is unknown or if the owner or person controlling the property cannot be reached by mail, a notice may be posted at or on the property in a conspicuous place, the City Clerk may cause the notice to be published in the newspaper used by the city for one publication, and that service posting shall ~~be complete and shall~~ have the same effect and force as if personally served upon the owner or user of the property.

(Prior Code, § 20-1-7) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed -
-)

§ 90.13 LAND MAINTENANCE.

The following acts, omissions, conditions, and things in or upon any land, building, or structure in the city constitute public nuisances, the existence which are hereby prohibited and declared to be unlawful.

(A) No person, shall place or allow to remain any personal property, materials, good, wares, merchandise, or similar items of any kind in or upon any public street,

sidewalk, alleyway, or right-of-way. Items placed by or approved by the city are exempt from this division.

(B) No person shall place, deposit, or leave, or allow to remain in or upon any public street, alleyway, sidewalk, right-of-way, park, or other city building or property any bottles, glass, cans, graffiti, handbills, posters, pieces of scrap metal, metal articles, paper, or other material or items, except in proper containers for collection.

(C) No owner or an occupant of any property shall allow or permit any trees, shrubs, or other plant growth on the property to impede, obstruct, or interfere with the free passage upon any public street, sidewalk, or alleyway; or obstruct the visibility of drivers; or interfere with any traffic control device; or signs or street lighting. Tree limbs must be maintained to hang no lower than 12 feet above any public street or alleyway and seven feet above any public sidewalk. Trees below seven feet, shrubs, or other plant growth must be maintained one foot from any public sidewalk. Dead trees, dead plants, and dead shrubs must be removed.

(D) No person shall allow the accumulation of items such as but not limited to bottles, glass, cans, pieces of scrap wood, metal, metal articles, paper, plastic, boxes, tires, vehicle parts, or other such materials or items in unsheltered areas of private property.

(E) No person shall place, and/or store, or allow to remain furniture, except furniture designed and placed for outdoor use, household equipment, appliances, construction or landscape material, cardboard material, plastic material, debris, or any similar materials in a location that is visible to a person standing upon any public street or sidewalk.

(F) No person owning or occupying any property fronting on any street, alleyway, or public place in the city including the area between the property line of the property and the street shall allow thereon grass or weeds to exceed a height over six inches when such conditions create a blighting condition or may harbor infestations or are likely to become a hazard to the public health and safety. Dead trees, dead plants, and dead shrubs must be removed.

(G) No person owning any vacant building or vacant property within the city shall allow thereon grass or weeds to exceed a height over six inches, dead trees and bushes, or allow the accumulations of discarded construction materials, construction waste, trash, or any other debris or when such conditions create a blighting condition, or may harbor infestations or are likely to become a hazard to public health or safety.

(H) No person shall place any waste materials, trash, weeds, or other accumulation of debris upon any public or private property not owned or under the control of that person, other than the placement of refuse for collection in accordance with policy.

(I) The storage of construction materials in unsheltered areas of the yard in which insects may breed or multiply or which provides harborage for rodents or which constitutes a hazard to the public health or safety is prohibited. This division shall not apply to any construction materials when a valid building permit exists for the property

on which the construction material is located and the construction materials is intended to be incorporated in the project for which the permit is issued.

(J) Any person owning any vacant property that has been subject to illegal dumping on more than three occasions within a 12-month period must effectively secure the area where the illegal dumping has occurred and place “no dumping” signs.

(K) The person in control of any private property shall at all times maintain adjacent unutilized street right-of-way and the portion of the alley contiguous with the property up to the centerline of the alley free of litter.

(Prior Code, § 20-1-13) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed --)

§ 90.14 VEHICLES.

(A) No person shall park or permit to be parked any vehicle for the purpose of sale upon any property or vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with [Chapter 154](#) of this code.

(1) The display of one vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved surface, would otherwise be permitted to be parked there, and is not being sold in connection with an automobile sales business.

(2) No more than three vehicles may be displayed for sale at the same residence within a 12-month period and only one vehicle shall be displayed for sale at one time.

(B) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, trailers, recreational vehicles, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with [Chapter 154](#) of this code.

(C) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, trailers, recreational vehicles, or any other vehicle with a gross vehicle weight of 20,000 pounds or more in any residentially-zoned district area.

(D) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk is prohibited except where the storage, repair, or restoration is customary and incidental to the principal use of the property and in accordance with [Chapter 154](#) of this code.

(E) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles.

(F) Within any residential ~~zoned-district~~ area any vehicle undergoing repair must be titled to the owner or occupant of the property and not exceed 15 days and no more than three such repairs shall be permitted within a 12-month period.

(G) Within any residential ~~zoned-district~~ area, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, trailer, boat, recreational vehicle or utility trailer in any portion of the side yard unless the side yard is screened from the street and the surface area is improved to gravel, concrete, asphalt, or paving bricks.

(H) Within any residential ~~ly-zoned-district~~ area no person shall park or store any vehicle, such as but not limited to watercraft, camper shell, truck camper, trailer, boat, recreational vehicle or utility trailer in any portion of the front yard.

(Prior Code, § 20-1-14) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed --)

§ 90.99 PENALTIES.

(A) The remedies herein are cumulative, and the City may proceed under one or more such remedies.

(B) (1) Any owner or responsible party, who 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 subject to a civil sanction of not less than one hundred dollars or more than two thousand five hundred dollars. Any owner or responsible party who commits a second violation of this Chapter within thirty-six months of the commission of a prior violation of this Chapter shall be subject to a civil sanction of not less than two hundred fifty dollars. Any owner or responsible party who commits a third violation of this Chapter within thirty-six months of the commission of a violation of this Chapter shall be subject to a civil sanction of not less than five hundred dollars.

(2) The thirty-six-month period provision of subsection B(1) of this section shall be calculated by the dates the violations were committed. The owner or responsible party shall receive the enhanced civil sanction upon a finding of responsibility for any violation of this Chapter which was committed within thirty-six months of the commission of another violation for which the owner or responsible party was convicted or found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.

(C) (1) Any owner, responsible party, or other person having control over a structure or parcel of land who 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 guilty of a Class 1 misdemeanor.

(2) Any person convicted of a violation of this Chapter shall be sentenced to a fine of not less than one hundred dollars. Any person who is convicted of a second violation of this Chapter committed within thirty-six months of a prior violation of this Chapter shall be subject to a fine of not less than two hundred fifty dollars. Any person who is convicted of a third or subsequent violation of this Chapter committed within thirty-six months of a prior violation of this Chapter shall be subject to a fine of not less than five hundred dollars.

(3) The thirty-six-month period provision of subsection C(2) of this section shall be calculated by the dates the violations were committed. The owner or responsible party shall receive the enhanced fine upon a conviction of any violation of this Chapter which was committed within thirty-six months of the commission of another violation for which the owner or responsible party was found responsible or convicted, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.

(D) Each day any violation of any provision of this Chapter or the failure to perform any act or duty required by this Chapter exists shall constitute a separate violation or offense.

(E) In addition to any other sanction or penalty authorized under subsections B and C of this section, the court may issue an order permitting the City to abate the condition giving rise to the violation. The reasonable costs of any such abatement shall be the responsibility of the person found responsible or guilty of the violation and may be collected as provided in Section 90.09.