

CHAPTER 6

PUBLIC NUISANCES, PROPERTY MAINTENANCE, NEIGHBORHOOD PRESERVATION AND ANIMAL REGULATIONS (3478, 4764, 4765, 4845, 4945, 5030, 5124, 5274)

ARTICLE I

PURPOSE, APPLICABILITY, DEFINITIONS, AND PROHIBITIONS

SECTION:

- 8-6-1: PURPOSE AND APPLICABILITY**
- 8-6-2: DEFINITIONS**
- 8-6-3: PUBLIC NUISANCES PROHIBITED**

8-6-1: PURPOSE AND APPLICABILITY:

- (A) The purpose of this Chapter is to promote the health, safety and welfare of the citizens of Mesa, Arizona by: (5124)
 - 1. Setting minimum standards necessary for the maintenance of improved lots and parcels, buildings, fences or walls, structures, and vacant or unimproved properties in order to safeguard against potential hazards, and reduce occurrences of blight and other influences considered to cause deteriorating conditions, unattractive neighborhoods, and potential loss of property value. (5124)
 - 2. Setting minimum standards for the proper location, control, and care required for the keeping of large animals and livestock within the City's corporate limits. (5124)
 - 3. Providing standards for inspecting the interiors of properties being rented and occupied, based on criteria consistent with and specified by the Arizona Revised Statutes. (5124)
- (B) This Chapter shall apply to all land within the City of Mesa without regard to the use or occupancy or the date of acquisition, alteration, or improvement of such land. (5124)
- (C) The Director of Development and Sustainability 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. (5124)
- (D) Appeals of the interpretations of this Chapter shall be filed within 30 days of the date of the decision and shall be reviewed by the Board of Adjustment except when the requirement references the Building or Fire Codes or Regulations. (5124)

8-6-2: DEFINITIONS:

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning: (5124)

ABANDONED OR INOPERABLE VEHICLE: A vehicle physically incapable of its intended operation as evidenced by:

- A. A condition of being partially or wholly dismantled, discarded, wrecked, on blocks or similar devices, stripped, or scrapped; or (5124)
- B. The presence of a deflated tire or tires or from which a wheel or tire has been removed; or (5124)
- C. Being inoperable due to mechanical failure or mechanical disassembly or other reasons which may be evidenced by the lack of a valid license plate lawfully affixed to the vehicle, or by the presence of an expired license plate affixed to the vehicle. (5124)

ACCESSIBLE: Capable of being removed or exposed without damaging the building structure or finish or not permanently closed in by the structure or finish of the building. (5124)

ACCESSIBLE, READILY (READILY ACCESSIBLE): Capable of being reached quickly for inspections without requiring inspectors to climb over or remove obstacles or to use portable ladders or similar tools. (5124)

AUTHORIZED PRIVATE RECEPTACLE: A litter storage and collection receptacle as required and authorized in this Code. (5124)

BLIGHT: Unsightly conditions including 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 exhibited by lack of maintenance, untended damage to plant and landscape materials, 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. (5124)

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy. (5124)

BUILDING, ENCLOSED: A building with a perimeter composed of rigid walls and a roof. (5124)

BUILDING REGULATIONS: Includes all construction codes in force at the time a building was constructed, altered, remodeled, repaired or enlarged. Including Building Code, Plumbing Code, Mechanical Code, Electrical Code, Residential Construction Code, Energy Conservation Code, Fuel Gas Code, Fire Code with reference to Title 7 for fire and existing building construction codes (such as, but not limited to, those set forth in Title IV, Mesa City Code) and includes any property maintenance codes, neighborhood preservation codes, anti-blight codes (such as, but not limited to, those set forth in this title) or other similar codes, however denominated. (5124)

CITY INSPECTOR: A City of Mesa staff member authorized by the Director of the Development and Sustainability Department 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. (5124)

CIVIL HEARING OFFICER: The Mesa Zoning Administrator within the Development and Sustainability Department or such other person as designated by the City Manager. (5124)

COMMERCIAL VEHICLE: Any vehicle having a Gross Vehicle Weight Rating (GVWR) exceeding 13,000 pounds and is intended to be used primarily for commercial purposes in the conduct of a business, rather than for private family or individual use. (5124)

DETERIORATION OR DISREPAIR: A decline of the general condition or appearance of a building, structure, or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, damage, neglect, or lack of maintenance. (5124)

DRIVEWAY, LEGAL: That area that aligns with the City designated and approved driveway depression in the curb of the public or private street. Where a roll curb or no curb exists and there is no driveway clearly designated, the legal driveway is the area that aligns with the observed designated access to parking for the structure such as a carport or garage. On properties with roll curbs or no curb and with no clearly designated parking area for the structure, the legal driveway shall be as observed and commonly used by the owner of the property, as may be designated by private recorded easements or other methods of ingress and egress, and shall at no time violate the provisions of this Code. (5124)

EUTROPHIC: Waters rich in phosphates, nitrates, and organic nutrients that promote a proliferation of plant life, especially algae. (5124)

FENCE, SCREEN WALL, AND/OR RETAINING WALL: Freestanding, self-supporting structures constructed of durable wood, chain link, metal, masonry, or other standard fencing materials designed to provide privacy, security, screening, or bank retention between grade separations. (5124)

GARAGE SALE: The occasional and/or temporary sale of used or second hand tangible personal property from a residential location. This activity may also be known as a yard sale, carport sale, estate sale or similar type of quasi-commercial indoor or outdoor activity that takes place on residential premises. It shall be considered a commercial use when the garage sale activity takes place on a continuous basis, and/or the activity includes the sale of first hand merchandise manufactured off-premises. (5124)

GARBAGE: An accumulation of spoiled, decaying or discarded animal or vegetable material resulting from the handling, preparation, cooking, or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition. (5124)

GRAFFITI: An inscription or drawing carved or drawn on a stationary structure or object so as to be discernible from the public right-of-way and which degrades the beauty and appearance of property. (5124)

GRASS: Barnyard grass, Bermuda grass, bluegrass, brome grasses, crab grass, foxtail, Johnson grass, ragweed, rye grass, St. Augustine, wild oats, or hybrids thereof. (5124)

HAZARD: A condition that presents a risk to the public safety, health or the environment. (5124)

IMMINENT HAZARD: A condition that presents an immediate likelihood for causing harm to the public safety, health, or the environment. (5124)

IMPROVED DUSTPROOF PARKING SURFACE: Concrete, asphalt, "chip seal," crushed rock or aggregate that is a minimum of 3 inches thick. All crushed rock or aggregate must be contained by a permanent border. (5124)

IMPROVED PROPERTY: Land on which buildings or other structures are located. (5124)

INCONGRUOUS MATERIALS, COLORS, AND FINISHES: Exterior surfaces that are not matching, and are inconsistent, incompatible, and discordant with the adjacent exterior surfaces. (5124)

INFESTATION: The presence of biological vectors, including insects, rodents, or other pests identified as carriers of pathogenic bacteria, virus, fungus or similar infectious biological hazards. (5124)

JUNK: Items that are of little or no economic value as the items may exist in their present condition, other than value as salvage, and that are not confined within an industrial area in compliance with the Mesa Zoning Ordinance, such as an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper, or machinery parts; inoperable machinery or appliances; building material wastes; litter; or discarded or empty containers. Junk shall also include all types of solid waste described in Chapter 3 of Title 8 of the Mesa City Code. (5124)

LAND: All lots, or parcels within the official boundaries of City of Mesa, whether improved or unimproved. (5124)

LANDSCAPED YARD, IMPROVED: Area with planted, configured and maintained landscaping material, such as trees, shrubs, turf, rock, gravel or stone, vegetative ground cover, natural desert landscape, artificial turf, mulch, decorative natural and structural features (walls, fences, hedges, trellises, fountains, sculptures), and bedding material, that serve an aesthetic or functional purpose. (5124)

LIVESTOCK: Domestic animals, such as cattle or horses, raised for home use or for profit. (5124)

NOTICE TO ABATE: A notice issued to a responsible party concerning a violation of the Mesa City Code. (5124)

OCCUPANT: The person occupying or having custody of a structure or premises as a lessee or otherwise. (5124)

OWNER: The person, corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust shown on the lawfully recorded title to the property. (5124, 5274)

PERSON: A human being, enterprise, corporation, association, partnership, firm, limited liability company, limited partnership, trust or real estate investment trust. (5124, 5274)

PLANT GROWTH: Vegetation, whether living or dead, such as grass, weeds, vines, bushes, cactus, or trees. (5124)

POLLUTED: A condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, debris, garbage, or any other foreign matter which, because of its nature or location, constitutes an unhealthy, unsafe, or unsightly condition. (5124)

PUBLIC PLACE: Any street, sidewalk, boulevard, alley, right-of-way, or other public way and any public park, square, space, ground, or building. (5124)

RESIDENTIAL RENTAL PROPERTY: 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. The term also includes any property defined as a residential rental dwelling unit by state law. (5124)

RESPONSIBLE PARTY: A person who knows or has reason to know of the existence of any violation of this Chapter on 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. (5124)

SERVICE: Methods of delivering official notice to a responsible party of an alleged civil violation of the Mesa City Code, as specified by the latest edition of the Arizona Rules of Civil Procedure and/or the Mesa City Code. (5124)

SLUM PROPERTY: Residential rental property that has deteriorated or is in a state of disrepair and that manifests 1 or more of the following conditions that are a danger to the health or safety of the public: (5124)

- (A) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches, or railings. (5124)
- (B) Lack of potable water, adequate sanitation facilities, adequate water, or waste pipe connections. (5124)
- (C) Hazardous electrical systems or gas connections. (5124)
- (D) Lack of safe, rapid egress. (5124)
- (E) Accumulation of human or animal waste, medical or biological waste, hazardous, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials, or drug paraphernalia. (5124)
- (F) Any other condition recognized as a basis for slum property designation by the Arizona Revised Statutes. (5124)

STORED: Parking, leaving, locating, keeping, maintaining, depositing, remaining, or being physically present on private property. (5124)

STREET OR HIGHWAY: The entire width between the boundary lines of every way publicly owned or maintained space when any part thereof is open to the use of the public for purposes of vehicular traffic. (5124)

UTILITY TRAILER: A vehicle without motive power designed for carrying property and for being drawn by a motor vehicle. (5124)

VEHICLE: Every device by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (5124)

WATERCRAFT: Any craft or vehicle specifically designed for use on water, such as a boat, canoe, jet ski, pontoon, or similar-type vehicle. (5124)

WEEDS: Bull thistle, cocklebur, foxtail, horseweed, lambs quarters, London rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sowthistle, white horsenettle, willow weed, and those types of plant growth defined as noxious weeds in A.R.S. §3-201 regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Code regards the growth as desirable. (5124)

YARD: An open space on the perimeter of the same lot or parcel of land that is unoccupied and unobstructed from the ground upward, except by structures or other items otherwise permitted as encroachments, as may be specified by Title 11. Yards may be described as front, side or rear based on the definitions found in this Chapter and Chapter 87 of Title 11, and shall not include courtyards or other open space found principally towards the lot interior. (5124)

YARD, FRONT: A yard extending across the full width of the lot or parcel of land between the most forward plane of the building fronting the street and the street. On single residence corner lots the front yard shall be the narrower frontage of the lot or the frontage with the primary entrance. For any other corner lots, all land between the portion of the building closest to the street, and the street shall be considered a front yard for the purposes of this Chapter of the City Code. (5124)

YARD, SIDE: A yard extending from the front plane of the building to the rear plane of the building, and then extending away from the building to the closest side property line. (5124)

8-6-3: PUBLIC NUISANCES PROHIBITED:

The following acts, omissions, conditions, and things in or upon any land or structure in the City constitute public nuisances, the existence of which are hereby prohibited and declared to be unlawful: (5124)

- (A) The responsible party of any property shall not cause or allow any abandoned, inoperable or unregistered vehicle, or parts of a vehicle thereof, to be parked or stored outside or under a carport or other roof area not enclosed by walls, doors or windows of any building on any lot for longer than 10 days, unless in complete conformance with the following terms: (5124)
1. When an unregistered vehicle is operable and visible from the right-of-way, it shall be placed under a carport or other roof area of any building; (5124)
 2. In the RS-6 and RS-7 zoning districts, a maximum of 3 inoperable or unregistered vehicles may be stored on a single lot. Such vehicles shall be stored within the side or rear yards and shall be screened by a 6' high opaque fence; (5124)
 3. In the RS-9, RS-15 and RS-35 zoning districts, a maximum of 5 inoperable or unregistered vehicles may be stored on a single lot. Such vehicles shall be stored within the side or rear yards and shall be screened by a 6' high opaque fence; (5124)
 4. In the RS-43 and RS-90 zoning districts, a maximum of 7 inoperable or unregistered vehicles may be stored on a single lot. Such vehicles shall be stored within the side or rear yards and shall be screened by a 6' high opaque fence; (5124)
 5. Vehicles stored on the premises of a business enterprise operated in a lawful place and manner in accordance with the provisions of the Mesa City Code where the storage of the vehicle is necessary to the operation of the business enterprise. (5124)
- (B) The responsible party of any property shall not cause or allow the deposit, storage, or maintenance of any garbage or junk, or an accumulation of materials such as: vehicle parts, appliances, indoor furniture, boxes, crates, packing cases, mattresses, bedding, lumber, scrap iron, tin, and other metals, unless stored safely in compliance with all applicable ordinances and regulations, and within a lawful, enclosed building or structure, or screened by a lawful fence or within a trash receptacle in such a manner as to not be visible from beyond the lot boundaries, except as authorized for collection under Title 8, Chapter 3 of this Code. (5124)
- (C) The responsible party of any property or place of business within the city shall keep the 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. (5124)
- (D) The responsible party of any property shall not allow or permit trees, shrubs, or plants on land adjacent to sidewalks or public places fronting or bordering their property to grow in a manner that impedes, obstructs, or interferes with the passage on any street, sidewalk, alley or other passageway within the city or that limits the visibility of any traffic control device or signal. Vegetation must be trimmed a minimum of 8 feet over the sidewalk and 14 feet over the street or alley. (5124)

- (E) The responsible party of any property within the city shall not allow plant material to remain on a property that is dead, diseased, dying or so dry as to be readily flammable or combustible that may constitute a fire hazard or other threat to the public health or safety. (5124)
- (F) The responsible party of any property shall not deposit, sweep, or permit the drainage of any garbage, junk, liquid, obstruction, or other material which is offensive to sight or smell or impedes passage or is detrimental to public health, into any public right of way, public place in the city, public utility easement (PUE) or public utility and facilities easement (PUFE). (5124)
- (G) The responsible party of any property shall not permit:
1. Any swimming pool or other body of water on the property to stagnate and therefore become eutrophic, polluted, or offensive to the senses and unsafe, or (5124)
 2. The ponding of water to become stagnant so as to cause a hazardous or unhealthy condition, facilitate the breeding of insects, or oversaturate the soil in a manner that may cause damage to foundation walls. (5124)
 3. Revision, blockage or disruption of storm water drainage patterns otherwise designed to flow into an on-site retention basin or storm water drain, such that storm water may be diverted to neighboring sites, and/or may cause local flooding to occur. (5124)
- (H) The responsible party of any property, building or structure within the city shall not permit graffiti on the building, structure, trailer, dumpster or any other object located on the property to remain, and shall be required to eradicate graffiti should it occur. (5124)
- (I) The responsible party of any property shall not:
1. Erect or maintain, or allow anyone to erect or maintain, any electric fence; (5124)
 2. Attach or allow anyone to attach to any fence such items as glass, nails, metal objects, or other materials in such a manner that is likely to injure any person who comes in contact with such object; or (5124)
 3. Erect or maintain, nor allow anyone to erect or maintain, barbed wire or razor wire; (5124)
 - a. Exception: no more than 3 strands of barbed wire or 1 coil of razor wire may be used when such wire is a minimum of 6 feet and 2 inches above the ground and such wire is placed at the top of an otherwise lawful fence enclosing a municipal, institutional, commercial or industrial building, structure or property. (5124)
 - b. Exception: barbed wire fencing may be primarily used for agricultural or livestock purposes only when a property is larger than 1 acre. This exception does not extend to the use of razor wire or similar products. (5124)
 - c. Where allowed, barbed wire or razor wire shall only extend up from the top of the fence either parallel to the fence alignment or towards the interior of the enclosed space, and not outwards beyond the property or enclosed space. (5124)

- (J) It shall be unlawful for any responsible party of any property to allow on vacant or undeveloped property, as may be evidenced by a lack of an improved dust-proof surface, the lack of a residence or an office or other enclosed building, or the lack of lawfully installed electric or water related utility improvements on the property, (5124)
1. To store a vehicle or boat, or (5124)
 2. To display any vehicle or boat for sale, rent, or lease or, (5124)
 3. To allow or permit such storage or displays of vehicles or boats to occur. (5124)
- (K) The responsible party of any property shall maintain, repair, replace or complete improvements to the exposed exterior surfaces of all buildings or structures including but not limited to exterior windows, doors, canopies, metal awnings, roofs, exhaust ducts, chimneys, painted surfaces, window screening, fences, screen walls, retaining walls, foundations, cooling devices, outdoor stairs, porches, and railings as visible from any rights-of-way so that such exterior surfaces do not exhibit deterioration or disrepair, damage or blight. The responsible party shall not allow the maintenance, repair, replacement, completion or use of materials, colors, or finishes that are incongruous with the predominant materials, colors, or finishes of such exposed exterior surface unless such incongruous materials, colors, or finishes are less than 20 contiguous square feet, or less than 10 percent of the area of any exposed individual plane surface unbroken by corners or angles. This Section is not intended to regulate signs as defined by Section 11-41-5 of the Mesa City Code, art, murals, architectural styles or color patterns and schemes as permitted or authorized in other titles of this Code. (5124)
- (L) No person or responsible party shall allow or permit any person to park any commercial vehicle on any undeveloped private property or property without an improved dustproof surface except when such parking is necessarily required while actually carrying out a lawful commercial purpose. The vehicle owner, the vehicle operator, and any responsible party for the land shall be jointly and severally liable for violation of this paragraph. (5124)
- (M) No person shall attach or cause to be attached any sign to any public utility structure, traffic control device, streetlight standard, or similar structure in the public right-of-way or erect any portable/temporary sign in the public right-of-way excepting those signs erected by a public utility, government agency or as otherwise permitted by the City Code. (5124)
- (N) The responsible party of vacant, abandoned, partially destroyed or partially constructed buildings shall secure such building against unauthorized entry at all times. (5124)
- (O) The responsible party of a parcel of land within the City 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: (5124)
1. Single residence rear yards not visible from the adjacent right-of-way; or (5124)
 2. Parcels of land in which livestock graze; or (5124)
 3. Parcels of land used to raise feed crops. (5124)
- (P) No responsible party shall permit or cause the escape or flow of water into or upon a public street or alley from any source in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, to cause damage to the public streets or alleys, or to cause a condition which constitutes a public nuisance or a threat to the public health and safety. (5124)

- (Q) 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 not owned or under their control. (5124)
- (R) No person shall offer to sell, or plant any male mulberry tree (*morus alba*) or olive tree (*olea europea*) in the City unless it is one of the nonpollinating varieties of such trees. The City shall maintain a current list of nonpollinating varieties, which shall be available for public review and shall be based on industry standard for nonpollinating varieties, applicable horticultural and scientific research and data, review and evaluation by qualified experts, and other appropriate information. (5124)
- (S) No responsible party shall maintain or display any sign regulated under the Mesa City Code, Title 11 Article 5, that is damaged or deteriorated to a condition constituting a visual blight. Visual blight shall include conditions detectable from beyond the lot boundaries such as chipping, peeling, fading, or rusting surfaces; the presence of cracks, holes, buckles, warps, or splinters in any sign component; and defective bulbs, fluorescent tubes, or neon or other inert gas light segments. (5124)
- (T) It shall be unlawful to park any motor vehicle within the front or side yard of a single-residence use unless such parking is on an improved, dustproof parking surface. Such parking within the front yard of a single-residence use shall be on or contiguous to a legal driveway and such parking shall not exceed a maximum of 50 percent of the front yard area. (5124)
- (U) It shall be unlawful to store any watercraft, utility trailer, or any nonvehicle-mounted camper shell or truck camper in the front yard or in front of the front plane of the nearest adjacent enclosed building on the same lot or parcel as such watercraft, utility trailer or nonvehicle-mounted camper. All watercraft trailers, utility trailers, nonvehicle-mounted campers and truck campers visible to the public rights-of-ways must be operable, have inflated tires and be kept free of weeds and debris. (See Figure 8-6-3.A) (5124)

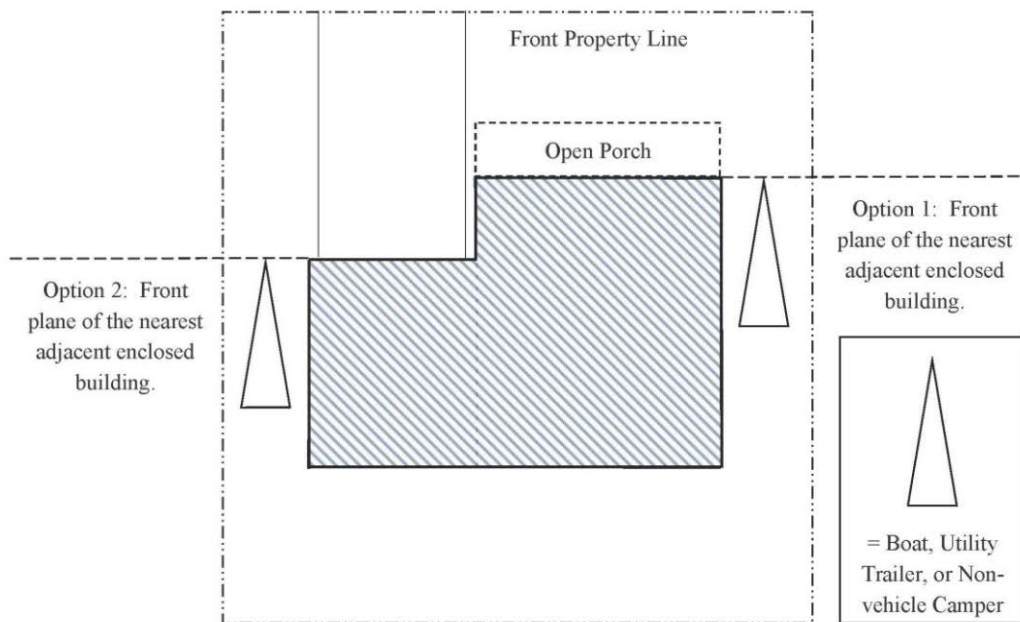


Figure 8-6-3.A Watercraft, Utility Trailer or Non-Vehicle Camper Shell or Truck Camper Storage (5124)

- (V) The responsible party of improved property within the City shall maintain all buildings, additions, appendages, accessory structures or other structures and exposed exterior surfaces such as, but not limited to, exterior windows, doors, canopies, metal awnings, roofs, exhaust ducts, chimneys, painted surfaces, window screening, fences, screen walls, retaining walls, foundations, cooling devices, outdoor stairs, porches and railings, in a structurally sound condition that does not constitute a hazard and is impervious to moisture and weather elements. (5124)
- (W) The responsible party of any property shall maintain:
1. All improved landscaped yards visible from the adjacent rights of way so as not to exhibit deterioration, disrepair, or blight constituting more than 20 contiguous square feet, or more than 10 percent of the area and (5124)
 2. All improved ground surfaces, such as but not limited to, private streets, drives, paving, concrete and asphalt so as not to exhibit deterioration, disrepair, or blight constituting an accumulation of pot holes, large surface cracks, or peeling, chipping away or disintegrating surface material. (5124)
- (X) No responsible party shall permit the conducting of garage sales from any property in excess of 4 events per calendar year with no more than 3 consecutive days for any given event. (5124)

The provisions of this Section may be applied cumulatively or separately for purposes of enforcement. (5124)

ARTICLE II

INSPECTIONS

SECTION:

8-6-4: AUTHORITY TO INSPECT:

- (A) The Mesa Development 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. (5124)
- (B) In order to determine compliance with this Chapter, private property may be entered with the consent of the owner or occupant or as authorized by a court of competent jurisdiction. (5124)

ARTICLE III

ENFORCEMENT

SECTION:

8-6-5:	COMMENCEMENT OF AN ACTION
8-6-6:	REMEDIES NOT EXCLUSIVE
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8-6-9:	CIVIL PENALTIES
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8-6-18:	SLUM PROPERTY
8-6-19:	INDIVIDUAL RESIDENTIAL RENTAL INSPECTION
8-6-20:	(RESERVED)

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. (5124)
- (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. (5124)

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. (5124)

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. (5124)

8-6-8: CIVIL VIOLATIONS AND CITATION:

- (A) A civil action for violations of this Chapter may be commenced by issuance of a citation. (5124)
- (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 the Arizona Rules of Civil Procedure. 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. (5124)
- (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, through an attorney or by email with the clerk of the Civil Hearing Office and admit or deny the allegations contained in the citation. (5124)
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 (5124)
 2. If the responsible party appears in person, through an attorney or by email and denies the allegations contained in the citation, the clerk of the Civil Hearing Office shall set the matter for hearing. (5124)
- (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 hearing by the clerk of the Civil Hearing Office, 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. (5124)
- (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. (5124)
- (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. (5124)
- (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. (5124)

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 and Sustainability Department (Code Compliance) Schedule of Fees and Charges, and may be ordered to pay any other applicable fees and charges. (5124)
- (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. (5124)
- (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: (5124)
1. A written and notarized confirmation from the City Inspector that the violation has been successfully abated; and (5124)
 2. A written and notarized statement from the defendant describing the actions taken and the itemized costs borne to abate the violation. (5124)
- If either item has not been received by the clerk of the Civil Hearing Office 7 calendar days before, then the compliance hearing shall take place as previously scheduled. (5124)
- (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. (5124)
- (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. (5124)

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. (5124)
- (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. (5124)
- (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. (5124)

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. (5124)

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. (5124)
- (B) The Notice to Abate shall set forth the following information, (except in the case of an imminent hazard): (5124)
1. The responsible party has 30 calendar days from the service of the Notice to Abate or correct the violation. (5124)
 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. (5124)
 3. Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation(s). (5124)
 4. Reinspection date and time. (5124)

5. Name, business address, and business phone number of the City inspector who issued the Notice to Abate. (5124)
 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. (5124)
 7. Hearing procedures. (5124)
 8. Statement indicating that the 30 calendar day notice set forth in this Section shall not apply to emergency abatements pursuant to this Chapter. (5124)
- (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 per the Arizona Rules of Civil Procedure to the responsible party upon which the Notice to Abate or order was served. That statement shall further set forth the following: (5124)
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. (5124)
 2. That the party has 15 calendar days from the date of delivery or mailing of the statement to pay. (5124)
 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. (5124)
 4. Appeal procedures. (5124)
- (D) The Notice to Abate and the statement of abatement costs shall be served per the Arizona Rules of Civil Procedure to the responsible party. Service is deemed effective and complete on the date it is received by the responsible party. (5124)

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 and Sustainability 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 and Sustainability Department, then the Notice of Abatement or statement of costs is final and binding. (5124)

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. (5124)

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. (5124)
- (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. (5124)

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. (5124)

8-6-18: SLUM PROPERTY

(A) Slum property designation: (5124)

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. (5124)
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 the Arizona Rules of Civil Procedure. (5124)
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. (5124)

(B) Assessment and liens: (5124)

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. (5124)
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 Arizona Rules of Civil Procedure. (5124)

3. The City may record an assessment or lien with the County Recorder or the Department of Transportation. 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. (5124)
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. (5124)

(C) Appeals: (5124)

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 11-77-2 of the Mesa City Code. Said appeals shall be in writing and shall contain: (5124)
 - (a) A heading in the words: "Before the Zoning Administrator..." (5124)
 - (b) A caption reading: "Appeal of...", giving the names of all appellants participating in the appeal. (5124)
 - (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. (5124)
 - (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. (5124)
 - (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. (5124)
 - (f) The signatures of all parties named as appellants and their official mailing addresses. (5124)
 - (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. (5124)
2. All applications shall be accompanied by a fee in accordance with the Development and Sustainability Fee Schedule. (5124)
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. (5124)
4. Appeals to decisions of the Zoning Administrator may be filed with the Board of Adjustment in accordance with Section 11-77-2 of the Mesa City Code. (5124)

8-6-19: INDIVIDUAL RESIDENTIAL RENTAL INSPECTION

- (A) The City may conduct interior inspections of individual residential rental property if an exterior inspection of the property reveals or if the property is found to have any of the following: (5124)
1. Conditions that materially affect the health and safety of the occupants (as defined in Section B). (5124)
 2. A significant level of crime associated with the property. (5124)
 3. A documented history of violations of building regulations. (5124)
 4. The responsible party repeatedly fails to comply with code enforcement requirements imposed by the City. (5124)
 5. There is probable cause that the property is not in compliance with building regulations. (5124)
 6. A complaint is received from, or consent for the inspection is given by, the responsible party. (5124)
- (B) For the purposes of this Article, a condition that materially affects the health and safety of the occupants of a residential rental property includes any of the following conditions: (5124)
1. Inadequate sanitation, ventilation or space requirements, including the following: (5124)
 - (a) Lack of adequate water closets, lavatories, bathtubs or showers. (5124)
 - (b) Lack of a required kitchen sink or a kitchen sink that complies with building regulations. (5124)
 - (c) Lack of hot and cold running water to plumbing fixtures. (5124)
 - (d) Lack of adequate heating and cooling. (5124)
 - (e) Lack of or improper operation of required ventilating equipment or broken or missing windows or doors that create a hazardous condition or a potential attraction to trespassers. (5124)
 - (f) Lack of minimum amounts of natural light and ventilation as required by building regulations. (5124)
 - (g) Inadequate room and space dimensions as required by building regulations. (5124)
 - (h) Lack of required adequate electricity and lighting as required by building regulations. (5124)
 - (i) Infestation of insects, vermin or rodents. (5124)
 - (j) Lack of connection to a sewage disposal system as required by building regulations. (5124)
 - (k) Lack of adequate garbage and rubbish storage and removal facilities. (5124)

2. Structural hazards, including the following: (5124)
 - (a) Significantly deteriorated or inadequate foundations or foundation areas that are not provided with adequate drainage. (5124)
 - (b) Flooring or floor supports of insufficient size to carry imposed loads with safety. (5124)
 - (c) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration. (5124)
 - (d) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that significantly sag, split or buckle due to defective material or deterioration. (5124)
 - (e) Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration or that are of insufficient size or strength to carry imposed loads with safety. (5124)
3. Hazardous wiring that does not conform with building regulations or that has not been maintained in good condition , or both, and that is not being used in a safe manner. (5124)
4. Hazardous plumbing that does not conform with building regulations or that has not been maintained in good condition, or both, and that is not free of cross-connections and backflow between fixtures. (5124)
5. Hazardous mechanical equipment including vents that do not conform with building regulations or that have not been maintained in good and safe condition, or both, and that are not working properly. (5124)
6. Faulty weather protection that may include: (5124)
 - (a) Significantly deteriorated, crumbling or loose plaster. (5124)
 - (b) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors. (5124)
 - (c) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering. (5124)
 - (d) Broken, rotted, split or buckled exterior wall coverings or roof coverings. (5124)
7. Fire hazards or inadequate fire protection, including: (5124)
 - (a) Any building or portion of a building or any device, apparatus, equipment, combustible waste or vegetation that is not in compliance with building and fire codes and regulations and that is in such a condition as to cause a fire or explosion or to provide a ready fuel to augment the spread and intensity of a fire or explosion arising from any cause. (5124)
 - (b) Any building or portion of a building that is not provided with fire-resistive construction or fire extinguishing systems or equipment required by building and fire codes and regulations, except those buildings or portions of buildings that conformed with all applicable building and fire codes and regulations in effect at the time of construction and that have fire-resistive integrity and fire extinguishing systems or equipment that has been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy. (5124)
 - (c) Lack of adequate fire detection systems as required by building and fire codes and regulations. (5124)

8. Faulty materials or construction that is not specifically allowed or approved by building and fire codes and regulations or that has not been adequately maintained in good and safe condition. (5124)
 9. Hazardous or unsanitary premises, including those premises on which an accumulation of weeds, vegetation, refuse, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials and similar materials or conditions that constitute fire, health or safety hazards. (5124)
 10. Inadequate maintenance, including any building or portion of a building that is determined to be an unsafe building in accordance with building and fire codes and regulations. (5124)
 11. Unhealthy conditions, including any condition defined in building regulations that results in the failure to maintain minimum standards of sanitation, health or safety or that renders air, food or drink that is detrimental to health. (5124)
 12. Inadequate exit facilities, including: (5124)
 - (a) All buildings or portions of a building that are not provided with exit facilities as required by building and fire codes and regulations; or (5124)
 - (b) Exit facilities that have not been adequately maintained; or (5124)
 - (c) Exit facilities that have not increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. (5124)
 13. Improper occupancy, including all buildings or portions of a building that are occupied for living, sleeping, cooking or dining purposes and that were not designed and permitted to be used for such occupancies, or that are occupied in excess of the maximum occupancy load allowed by any applicable provision of building, fire and zoning codes and regulations or state law. (5124)
- (C) Before entry into the interior of a residential rental property, the City shall obtain consent of the owner, managing agent, or occupant or obtain a warrant for entry. (5124)
- (D) Interior inspections performed under this Section shall be limited to items that can be easily viewed and shall not include hidden hazards, not accessible or readily accessible, that may be in the interior of the construction of the dwelling unit (e.g., inside of walls or ceilings or under floors). (5124)
- (E) No owner shall allow or permit a condition that materially affects the health and safety of the occupants of a residential rental property. (5274)
- (F) This section does not limit the authority of the City to:
1. Perform an exterior inspection of any property in the City at any time. (5124)
 2. Upon receipt of a complaint or consent from the owner or occupant perform an interior inspection of any property in the City's jurisdiction. (5124)
 3. Perform interior, exterior or construction job site inspections of new construction before issuance of a Certificate of Occupancy. (5124)
 4. Perform interior or exterior inspections of illegal construction that occurred without a required building permit. (5124)
 5. Perform an interior inspection of any property during an emergency or natural disaster. (5124)
 6. Perform any other inspection authorized by other provisions of the Mesa City Code. (5124)

8-6-20: (RESERVED)

ARTICLE IV

LIVESTOCK AND LARGE ANIMAL REGULATIONS

SECTION:

- 8-6-21: FOWL, RODENT, AND LIVESTOCK RESTRICTIONS**
- 8-6-22: PREMISES TO BE SANITARY; INSPECTION OF PREMISES**
- 8-6-23: SANITARY REGULATIONS FOR THE KEEPING OF FOWL AND RODENTS**
- 8-6-24: SANITARY REGULATIONS FOR THE KEEPING OF LIVESTOCK**
- 8-6-25: CONDITIONS UNDER WHICH FLIES BREED PROHIBITED**
- 8-6-26: OFFENSIVE OR NOXIOUS GASES OR ODORS PROHIBITED**
- 8-6-27: OBSTRUCTING OFFICERS**
- 8-6-28: UNSANITARY PREMISES UNLAWFUL**
- 8-6-29: NUISANCES; ABATEMENT**
- 8-6-30: FECAL MATTER**
- 8-6-31: NONHUMAN PRIMATES**
- 8-6-32: LIVESTOCK LICENSE**
- 8-6-33: DEFINITIONS**
- 8-6-34: VIOLATIONS AND CITATIONS**
- 8-6-35: CIVIL PENALTIES**

8-6-21: FOWL, RODENT, AND LIVESTOCK RESTRICTIONS

It shall be a violation of this article for any person to keep fowl, rodents, or livestock within the city, other than listed in this chapter and permission is hereby given to any such person to keep and maintain the same, but only in the manner and upon the conditions set forth in this chapter. Such permission may be withdrawn by a court of competent jurisdiction in the even a person is charged as a habitual offender in accordance with 8-6-11 and found guilty of any offense listed in Article IV of this Title. Except for Sections 8-6-25 through 8-6-30, this chapter does not apply to the keeping and maintenance of domestic dogs and cats. (4845, 4968)

- (A) Except as specified in Section 11-3-2, 11-3-3, and 11-4-3 of this Code, no more than a total of ten (10) rodents or fowl or a combination of rodents and fowl shall be kept upon the first one-half (1/2) acre or less; for each additional ten (10) head of rodents or fowl, an additional one-half (1/2) acre of land is required. For areas larger than two and one-half (2-1/2) acres, the number of such rodents and fowl shall not be limited. (4845)
- (B) Except as specified in Sections 11-3-2, 11-3-3, and 11-4-3 of this Code, it shall be a violation of this article to keep livestock or any similar large animal regulated by this chapter within the City on any property less than thirty-five thousand (35,000) square feet. (4845, 4968)
- (C) The maximum number of livestock and similar large animals allowed on a property at any one time shall be based on a calculation of animal points as specified below: (4968)
 1. Animal points shall be assessed based upon the entire area of land held by the owner as a parcel or as abutting and contiguous parcels, and by the relative location of the parcels within the Lehi Sub-Area Plan as adopted by Resolution 8655 on January 23, 2006. (4968)

- (a) Parcels located within the corporate limits of Mesa, but outside of the Lehi Sub-Area and without a livestock license, as described in Section 8-6-32, shall be assessed animal points based upon Table 8.6-A, below: (4968)

TABLE 8.6-A:

PROPERTY SIZE	ANIMAL POINTS
35,000 SQ. FT. – 43,560 SQ. FT.	TWO (2) ANIMAL POINTS
FOR EVERY ADDITIONAL 10,890 SQ. FT. (1/4 ACRE)	ONE (1) ADDITIONAL ANIMAL POINT

(4968)

- (b) Parcels located within the Lehi Sub-Area and owners outside of the Lehi Sub-Area with an approved livestock license pursuant to Section 8-6-32, shall be assessed animal points based upon Table 8.6-B.

TABLE 8.6-B:

PROPERTY SIZE	ANIMAL POINTS
35,000 SQ. FT. – 43,560 SQ. FT.	FOUR (4) ANIMAL POINTS
FOR EVERY ADDITIONAL 5,445 SQ. FT. (1/8 ACRE)	ONE (1) ADDITIONAL ANIMAL POINT

(4968)

2. Animal points shall be assigned to the animals present on a property, as set forth below in Table 8.6-C:

TABLE 8.6-C:

ANIMAL TYPE	ANIMAL POINTS
FULL-SIZED EQUINES (HORSES OR SIMILAR)	ONE (1) ANIMAL POINT PER HEAD
FULL-SIZED BOVINES (CATTLE, OXEN, BISON OR SIMILAR)	ONE (1) ANIMAL POINT PER HEAD
SHEEP	ONE-HALF (0.5) OF AN ANIMAL POINT PER HEAD
GOATS	ONE-HALF (0.5) OF AN ANIMAL POINT PER HEAD
MINIATURE EQUINES OR BOVINES (MINIATURE HORSES OR CATTLE OR SIMILAR)	ONE-HALF (0.5) OF AN ANIMAL POINT PER HEAD
LARGE FLIGHTLESS BIRDS (OSTRICHES, RHEAS, EMUS OR SIMILAR)	THREE-QUARTERS (0.75) OF AN ANIMAL POINT PER HEAD
CAMELIDS (LLAMAS, ALPACAS OR SIMILAR)	THREE-QUARTERS (0.75) OF AN ANIMAL POINT PER HEAD

(4968)

3. Unless the owner obtains a Special Use Permit issued by the City pursuant to Title 11 of the Mesa City Code, it shall be a violation of this article for any owner to have present on the owner’s property any combination of listed animals that, in the aggregate, have a total sum of animal points assigned under paragraph (C)(2) that exceeds the total sum of animal points assessed for the owner’s property under paragraphs (C)(1) or (C)(2), as may be applicable. (4968)

- (D) Paragraphs (A), (B) and (C) of this Section shall not apply to any lot or parcel which is reduced in size as a result of an acquisition by gift, purchase, or condemnation of a portion of the lot or parcel for right-of-way by a governmental entity, provided the size of the parcel was in excess of 35,000 square feet prior to the size reduction or the parcel is not reduced by more than twenty percent (20%) of the size that existed prior to the right-of-way acquisition. (4845, 4968)
- (E) Exceptions shall be allowed to paragraphs (B) and (C) regarding animals raised by students participating in an affiliated State of Arizona sponsored or nationally chartered agricultural education program, such as FFA or 4-H. The maximum number of exceptions permitted for parcels of less than one-acre (43,560 square feet) is one. The maximum number of exceptions permitted for parcels greater than one acre is four. (4968)
- (F) An exception to paragraphs (B) and (C) shall permit infant animal(s) of less than one (1) year in age to remain with its mother. In the event an infant is separated from its mother, this exception no longer applies. (4968)
- (G) It shall be a violation of this article to keep any animal regulated by this chapter in an enclosure within a distance of less than forty feet (40') from another person's lawfully erected permanent residence, dining, or sleeping quarters that was constructed before the construction of such animal enclosure. (4845, 4968)
- (H) It shall be a violation of this article for any animal regulated by this chapter to be cooped, stabled, or confined in any building within seventy-five feet (75') from another person's lawfully erected permanent residence, dining, or sleeping quarters that was constructed before the construction of such animal enclosure. (4845, 4968)
- (I) All animals regulated by this Chapter shall be kept in suitable enclosures and shall not be permitted to run at large. (4845, 4968)
- (J) The provisions of this Section shall not apply to registered homing (racing) pigeons, fancy pigeons, or show pigeons. (4845, 4968)
- (K) It shall be a violation of this article for any swine (pigs, hogs or similar) to be kept within the corporate limits of the City, except as follows: (4845, 4968)
1. Swine kept by a student that is participating in an affiliated State of Arizona sponsored or nationally chartered agricultural education program, such as FFA or 4-H. No more than one (1) swine may be kept per participating student. (4968)
 2. Vietnamese Pot-belly Pigs or similar miniature varieties of swine that, at full maturity, stand less than twenty-one (21) inches at the withers and weigh less than two-hundred (200) pounds may be kept on any lot as a personal pet such as a cat or dog, provided no more than two (2) such pigs are kept on one (1) parcel of land. (4968)
- (L) Miniature equines, miniature bovines, miniature sheep, and miniature goats, which at full maturity meet the national miniature animal standards, may be kept on any lot as person pets such as a cat or dog, provided no more than two (2) such miniature equine, miniature bovines, miniature sheep, or miniature goats, or combination thereof, are kept on one (1) parcel of land. The maximum number of miniature equines, miniature bovines, miniature sheep or miniature goats that may be kept on lots in excess of 35,000 square feet shall be based on paragraphs (B) and (C) of this section. (4968)
- (M) Apiaries shall be limited to locations within agricultural and/or rural areas of the City, zoned AG or R1-43. (4845, 4968)

8-6-22: PREMISES TO BE SANITARY; INSPECTION OF PREMISES

The premises upon which fowl, rodents, cattle, horses, mules, sheep, or goats are kept shall always be sanitary and subject to inspection and regulations by the City Manager or designee. (4845, 4968)

8-6-23: SANITARY REGULATIONS FOR THE KEEPING OF FOWL AND RODENTS

- (A) The droppings of chickens or other fowl or rodents must be removed from the enclosure as frequently as necessary to prevent the breeding of flies, but in no case less than a minimum of twice weekly. (4845, 4968)
- (B) Adequate fly-tight containers approved by the City Manager or designee for the storage of fowl or rodent excreta must be provided and shall always be kept sanitary in a manner to prevent the breeding of flies. (4845, 4968)
- (C) Water and feed troughs must be provided, and shall always be kept sanitary to prevent the breeding of flies, mosquitoes or other vectors. (4845, 4968)
- (D) Feeding vegetable or meat waste or garbage shall be exclusively in containers that shall be kept sanitary in a manner to prevent the breeding of flies, mosquitoes or other vectors, and on an impervious platform. (4845, 4968)

8-6-24: SANITARY REGULATIONS FOR THE KEEPING OF LIVESTOCK

- (A) Manure shall be removed from stalls, paddocks, arenas, corrals and other livestock keeping areas on a regular basis, and at a minimum of no less than once a week. Manure run-off which discharges onto adjacent property, onto city streets or into flood control channels is prohibited, and allowing such to occur, intentionally or negligently, shall be in violation of this article. (4845, 4968)
- (B) Adequate containers approved by the City Manager or designee must be provided for the storage of manure in a manner to prevent the breeding of flies and shall be kept sanitary unless it is completely removed from the premises at least twice weekly. All such containers shall be equipped with working lids to minimize water accumulating within the container. (4845, 4968)
- (C) Mound storage of animal droppings or manure will be permitted only on an impervious slab with adequate provisions to prevent the breeding of flies or migration of the fly larvae (maggots) into the surrounding soil. Each installation of the latter type must be approved by the City Manager or designee. (4845, 4968)
- (D) Drinking troughs or tanks must be maintained in a manner to prevent the breeding of flies, mosquitoes or other vectors, and shall be provided with adequate overflow drainage to prevent saturation of the surrounding soil. (4845, 4968)
- (E) Feeding shall require adequate containers or feed troughs of size, kind, and number to eliminate scatter and unsanitary surroundings. Such containers shall always be kept sanitary. It is a violation of this article to feed at random upon the surface of the ground. (4845, 4968)
- (F) Spillage and leftovers from animal feedings, including grains, hay, and vegetable foods, etc., must be either removed or otherwise disposed of in such manner as to prevent fly propagation or the creation of odors. (4845)

8-6-25: CONDITIONS UNDER WHICH FLIES BREED PROHIBITED

No owner, tenant, or occupant of any premises within the City shall suffer, permit, or have upon such premises any cesspool, vault, pit, or like place; animal manure; garbage; trash; litter; rags; or any other thing in which flies may breed or multiply, unless the same shall be protected as to prevent the attraction, breeding, and multiplying of flies. (4845)

8-6-26: OFFENSIVE OR NOXIOUS GASES OR ODORS PROHIBITED

Every owner, tenant, or occupant of any premises within the City in or upon which are kept any animals governed by the requirements of this chapter shall at all times keep and maintain such premises so covered, enclosed, protected, cleaned, drained, and disinfected that no offensive or noxious gases or odors may or shall arise therefrom, and any such premises which are not at all times kept and maintained so covered, closed, protected, cleaned, drained, and disinfected as to prevent any and all offensive noxious gases and odors arising therefrom or which are allowed or suffered to become a breeding place for flies and insects or to become offensive or noxious to the residents in the immediate neighborhood are hereby declared to be nuisances and subject to summary abatement. (4845, 4968)

8-6-27: OBSTRUCTING OFFICERS

It shall be a violation of this article for any person to resist, delay, or obstruct any public officer in the discharge or attempt to discharge of any duty of his office. (4845, 4968)

8-6-28: UNSANITARY PREMISES UNLAWFUL

It shall be a violation of this article for any person to permit any premises, building, yard, pasture, enclosure, or place owned, leased, or occupied by him to become unsanitary or to permit the same to become offensive to sight or smell. (4845, 4968)

8-6-29: NUISANCES; ABATEMENT

The causing of, producing, bringing about, making, leaving, or permitting of any condition or conditions implicitly or expressly prohibited by or forbidden or declared a violation of this article by this Chapter shall constitute a nuisance, and such nuisance may be abated as provided for by the laws of the City at the cost and expense of any person chargeable therewith. The costs of abating any such nuisance may be recovered by civil action in a court of competent jurisdiction. (4845, 4968)

8-6-30: FECAL MATTER

Any person owning, possessing, harboring, or having the care, charge, control, or custody of any dog, or other animal governed by this Chapter, shall immediately remove and thereafter dispose of any fecal matter deposited by the dog, or other animal governed by this Chapter, on public or private property unless the owner of the property has given prior approval to use said property for this purpose. This Section shall not apply to disabled individuals who, due to their disability, are unable to comply. (4845, 4968)

8-6-31: NONHUMAN PRIMATES

It shall be a violation of this article for any person to possess, keep, harbor, control, or maintain a nonhuman primate within the corporate limits except in the manner and upon the conditions herein set forth: (4968)

(A) Any person possessing, keeping, harboring, controlling, or maintaining a nonhuman primate must comply with all federal and state laws and the rules of the Arizona Administrative Code - Title 12, Chapter 4 entitled Wildlife Rules. (4845)

(B) Three is the maximum number of nonhuman primates allowed per residence. (4845)

- (C) If a nonhuman primate is kept outside of the owner's residence, the following restrictions apply:
1. All nonhuman primates must be kept in an enclosure which has a secured top, sides, and bottom. (4845)
 2. The enclosure must be kept securely locked with a device that cannot be opened by the nonhuman primate. (4845)
 3. All enclosures, coops, stalls, hutches, or structures used to house any nonhuman primate must be at least seventy-five feet (75') from any neighbor's residence. (4845)
- (D) All nonhuman primates shall be contained within the confines of the owner's private property with the following exceptions:
1. When in transport to or from a licensed veterinarian;
 2. Transport into or out of Arizona for lawful purposes. (4845)
- (E) Anytime a nonhuman primate is removed from the owner's residence or lawful enclosure, it must be securely restrained by a leash, chain, rope, or cord of not more than six feet (6') in length and of sufficient strength to control the primate; or the primate must be securely contained in an animal carrier of sufficient size and strength. (4845)
- (F) The owner shall be responsible for compliance with all other City Code sections pertaining to unsanitary premises, breeding of flies, noise, et cetera, found elsewhere within the City Code. (4845)

8-6-32: LIVESTOCK LICENSE

- (A) Any person desiring to obtain a livestock license shall apply to the licensing office. On a form established by the City Manager or designee, the application shall include, but not limited to, the following: (4968)
1. Full legal name and current residence address of the applicant; (4968)
 2. The address for which the livestock license shall apply and its lot size; (4968)
 3. Documentation that the land referenced in (2) above is owned by the applicant (such documentation may be satisfied by a copy of the deed, a property tax bill, or other document showing legal ownership); (4968)
 4. A list of other properties within the city limits owned by applicant and for which a livestock license is currently issued or had been issued within the previous five (5) years; and (4968)
 5. An acknowledgement that, as the owner, the applicant shall remain in compliance with all applicable livestock ordinances and Code sections, that the owner understands that the City may inspect the property for which the license pertains, and that the license is revocable as permitted under this section. (4968)
 6. An acknowledgement that the owner agrees to manage and maintain the animal(s) in a humane and healthful manner that is consistent with the recommended practices adopted for the animal by the FFA or similar nationally recognized organization related to the care and management of animals. (4968)

- (B) Each application shall be accompanied by the fee required in accordance with the current Schedule of Fees and Charges, as adopted by resolution by the City Council. The license shall be issued if no citation for an applicable livestock ordinance has been issued in connection with the licensed property within the last twelve (12) months. The licensing office is authorized to obtain necessary information to update the original license application and to determine whether the license should be issued. (4968)
- (C) Within twelve (12) months of the issue date for the previously effective license, all licensees under this Chapter wishing to remain licensed shall apply for renewal of the license on a form established by the City Manager or designee. The renewal form must be submitted with the applicable renewal license fee. The licensing office is authorized to obtain necessary information to update the original license application and to determine whether the license should be renewed. The license shall be renewed if the original applicant (or an inter vivos trust of the applicant) continues to be the legal owner of the licensed property; and no citation for an applicable livestock ordinance has been issued in connection with the licensed property within the previous twelve (12) months. (4968)
- (D) The licensee shall apply for renewal of their license within thirty (30) calendar days of the renewal deadline. Failure to renew the license within forty five (45) calendar days of the renewal deadline shall cause the license to become null and void. Licensees who fail to apply to renew their license yet who wish to keep animal counts assessed under Table 8.6-B as opposed to Table 8.6-A for their properties must file a new application for license. (4968)
- (E) All fees under this Section are nonrefundable and are not prorated. (4968)
- (F) No livestock license shall be issued or renewed if the applicant(s) have been prosecuted as a habitual offender in accordance with Article III of this Title and found guilty of any offense listed in Article IV of this Title within the previous thirty-six (36) months. (4968)
- (G) All license applicants and all licensees under this Section shall permit representatives of the City Manager or designees or any city, county, state, or federal department, division, or agency that enforces codes, regulations, or statutes relating to human health, safety, welfare, or structural safety inspect the licensed property to ensure compliance with the applicable law. (4968)
- (H) Livestock licenses are not transferable to other persons or entities. Upon the sale or transfer of the licensed property, the license shall become null and void. A new application may be made by any subsequent owner, if desired. (4968)
- (I) It shall be the duty and responsibility of the City Manager or designee to administer the provisions of this Chapter. Pursuant to this duty, the City Manager or designee shall issue, renew, deny, suspend, or revoke licenses in accordance with this Chapter. Any party aggrieved by a decision of the City Manager or designee under this Section shall appeal within ten (10) calendar days after being sent by registered or certified mail notice of such decision. As to such mailed notice, the City Manager or designee shall send the notice to the applicant's address as shown by the license application. The appeal shall be in writing, shall state the grounds for the appeal, and shall be sent to the licensing office. The licensing office or designee shall schedule a hearing within thirty (30) calendar days of receipt of the appeal and render a decision within sixty (60) calendar days of the hearing. (4968)

- (J) A livestock license or application may be denied, revoked, suspended, or denied renewal upon any one or more of the following grounds: (4968)
1. The licensee has violated any of the provisions of this Chapter and such violation has remained uncured or was not cured within thirty (30) calendar days; (4968)
 2. The licensee is not the owner of the property to be licensed; (4968)
 3. The licensee has had a prior livestock license revoked or renewal denied due to failure to timely cure a violation of this Chapter or due to the frequency of citations; or (4968)
 4. The licensee has demonstrated a failure to cure, in a timely manner, prior violations of this Chapter under the application of the animal points assessed under Table 8.6-A, or has had frequent violations that do not justify raising the animal count under Table 8.6-B for the applicant. (4968)
- (K) The licensee may not apply for a livestock license within twelve (12) months from the denial, suspension or revocation of any such license. (4968)

8-6-33: DEFINITIONS:

As used in Article IV, unless the context otherwise indicates, the following terms shall have the meanings herein ascribed to them: (4968)

ANIMAL: Any mammal, bird, reptile or amphibian. (4968)

AT LARGE: On or off premises of owner and not under control of owner or other persons acting for the owner. (4968)

ENCLOSURE: Any fencing, corral, or barrier of sufficient strength and height to prevent an animal from escaping its primary confines. (4968)

ENFORCEMENT AGENT: That person or persons designated by the City who is responsible for the enforcement of this Chapter and any regulations promulgated thereunder. (4968)

FECAL MATTER: Solid animal droppings including excreta, feces and manure. (4968)

FOWL: Any domesticated bird including but not limited to chickens, ducks, geese, guineas, peacocks, pheasants, and turkeys. (4968)

IMPOUND: The act of taking or receiving into custody by the enforcement agent any dog or other animal for the purpose of confinement in an authorized pound or appropriate facility in accordance with the provisions of this Chapter. (4968)

LARGE ANIMAL: Terrestrial animals commonly considered too large to be kept indoors within a human household. The term includes domestic and working animals, but does not include small animals such as dogs, cats, rodents, birds, or fish kept as pets. (4968)

LIVESTOCK: Domestic animals, such as bovines including cattle, oxen, bison, etc., camelids including llamas, alpacas, etc., equines including horses, donkeys, burros, mules, ponies, etc., goats, sheep, swine, or ratites including ostriches, rheas, emus cassowaries, kiwis, etc., raised for home use or for profit. (4968)

NONHUMAN PRIMATE: Any mammal of the order primate not including man; including all monkeys and apes. (4968)

OWNER: Any person or legal entity having a possessory property right in an animal or land or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them. (4968)

PERSON: Any corporation, company, partnership, firm, association, organization, joint venture, business trust, proprietor, agent, or society as well as a natural person. (4968)

PIGEON: Any domesticated bird of the family Columbidae including fancy, show, and homing (racing) pigeons. (4968)

POUND: Any establishment authorized for the confinement, maintenance, safekeeping, and control of dogs and other animals that come into custody of the enforcement agent in the performance of official duties. (4968)

RODENT: Any herbivorous mammal including rabbits, hares or lagomorphs. (4968)

VECTOR: Any insect or other organism that can transmit a pathogenic fungus, virus, bacterium, etc. (4968)

VETERINARIAN: Unless otherwise indicated, veterinarian means licensed to practice in this state or any veterinarian employed in this state by a governmental agency. (4968)

8-6-34: VIOLATIONS AND CITATIONS:

Any violations and/or citations issued under this article shall be in accordance with and pursuant to Article III of this Title. (4968)

8-6-35: CIVIL PENALTIES:

The penalty for a violation or violations of this Article shall be in accordance with and pursuant to Article III of this Title. (4968)

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