

**TITLE VII  
HEALTH AND SANITATION**

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## CHAPTER 7-1: EATING AND DRINKING ESTABLISHMENTS

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#### **7-1-1: DEFINITIONS:**

A "public eating or drinking place", as defined in this Chapter, shall mean and include every restaurant, lunchroom, tearoom, soda fountain, buffet, grillroom, lunch counter, sandwich stand, dining room, hotel coffee shop, club and every other place where food or drinks are sold, to be consumed on the premises, and all kitchens, commissaries and other rooms appurtenant thereto or connected therewith. (Ord. 345, 10-13-36)

#### **7-1-2: HEALTH EXAMINATIONS:**

Every person connected with a public eating or drinking establishment or any person whose work brings him in contact with the handling, distribution or sale of food or food products, drinks, utensils, containers or equipment shall, prior to such contact, and each twelve (12) months thereafter, have passed a medical examination, including a chest x-ray made by the Health Officer, or by a licensed physician approved by the Health Officer. The cost of this examination including such chest x-ray, shall be four dollars (\$4.00), or actual cost, whichever is greater, which shall be paid at the time of the examination, and shall entitle the food handler to a health certificate, provided the health examination proves satisfactory to the Health Officer. At his discretion, the Health Officer may accept the report of a chest x-ray from a competent radiologist which is not over six (6) months old, and the charge for this examination shall be one dollar (\$1.00). (Ord. 878, 1-27-69)

#### **7-1-3: EMPLOYERS:**

It shall be unlawful for any person to use or employ any food or drink handler who does not have a valid health certificate signed by the Health Officer. The employer using or employing any food or drink handler shall be required to have at all times available for inspection by any duly authorized officer of the Health Department a valid health certificate for each employee of his establishment.

It shall be unlawful for any food or drink handler who becomes afflicted with any communicable disease while employed in a public eating or drinking place to continue such employment knowing that he is so diseased. (Ord. 345, 10-13-36)

**7-1-4: RIGHT OF ENTRY:**

The Health Officer, or any duly authorized officer of the Health Department, shall have the right, at all reasonable times, to visit public eating or drinking establishments or other places where food or food products are handled, distributed or sold, to inspect the same and determine whether or not the provisions of this Chapter are being complied with. (Ord. 878, 1-27-69)

**7-1-5: APPLICABILITY OF STATE LAW:**

The provisions of this Chapter shall be in addition to all provisions contained in Title 36, Arizona Revised Statutes, and to all rules and regulations promulgated by the Arizona State Board of Health pursuant to said Title 36, as said provisions and rules and regulations pertain to the persons and establishments subject to this Chapter. (Ord. 757, 4-66)

**7-1-6: CIVIL VIOLATION:**

Violation of any provision of this Chapter shall be a civil violation and shall be subject to the provisions of Section 1-3-2 for each day that the violation continues. (Ord. 2102, 8-8-89)

**CHAPTER 7-2: MANDATORY SANITATION SERVICE**

**See Title II, Chapter of this code  
(Rep. by Ord. 4451, 1-25-2005)**

## CHAPTER 7-3: REGULATION OF SMOKING

### SECTIONS:

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- 7-3-3: PROHIBITION AND REGULATION OF SMOKING IN CITY OWNED FACILITIES:
- 7-3-4: PROHIBITION OF SMOKING IN ENCLOSED PLACES:
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- 7-3-6: EMPLOYEES:
- 7-3-7: POSTING REQUIREMENTS:
- 7-3-8: ENFORCEMENT AND PENALTIES:
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#### **7-3-1: PURPOSE:**

Since the smoking of tobacco or any plant is a positive danger to the health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces, and in order to serve the public health, safety and welfare, the declared purpose of this chapter is to restrict the smoking of tobacco or any plant within enclosed places, in particular, public places and places of employment. (Proposition 200, 11-12-2003)

#### **7-3-2: DEFINITIONS:**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**BAR:** An area devoted primarily to alcoholic beverage service to which food service is only incidental.

**DESIGNATED SMOKING AREA:** Any area outdoors, which is outside of any enclosed public place and removed from building entrances and exits. Any designated smoking area must be so situated as to allow nonsmoking individuals to conduct normal activity in a smoke free environment.

**EMPLOYEE:** Any person who is employed by any employer for direct or indirect monetary wages or profit.

**EMPLOYEE WORK AREA:** Any areas within a place of employment, which share a common ventilation, heating or air conditioning system.

EMPLOYER: Any person or entity employing the services of an employee.

ENCLOSED PUBLIC PLACE: Any area closed in by a roof and walls with openings for ingress and egress that is available to and customarily used by the public. Enclosed public places governed by this chapter shall include, but not be limited to, public areas of grocery stores, waiting rooms, public and private schools, doctors' office buildings, community centers, childcare centers, public restrooms, all indoor facilities, restaurants, cafeterias, bars, sports bars, bowling alleys, billiard halls and other places currently used by the public. A private residence is not a "public place".

PLACE OF EMPLOYMENT: Any enclosed area under the control of a private or public employer. A private residence is not a "place of employment".

SMOKE OR SMOKING: As defined in this chapter, includes the:

- (A) Carrying or placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in one's mouth for the purpose of inhaling and exhaling smoke or blowing smoke rings;
- (B) Placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in an ashtray or other receptacle, and allowing smoke to diffuse in the air; or
- (C) Carrying or placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in one's hands or any appendage or devices and allowing smoke to diffuse in the air. (Proposition 200, 11-12-2003)

**7-3-3: PROHIBITION AND REGULATION OF SMOKING IN CITY OWNED FACILITIES:**

- (A) All enclosed public places, places of employment and employee work areas owned, leased or operated by the city shall be subject to this chapter.
- (B) Smoking is prohibited in all shared vehicles and enclosed public places, places of employment and employee work areas owned, leased or operated by the city. (Proposition 200, 11-12-2003)

**7-3-4: PROHIBITION OF SMOKING IN ENCLOSED PLACES:**

No person shall smoke in any enclosed public place or place of employment except outdoors in designated smoking areas. (Proposition 200, 11-12-2003)

### **7-3-5: WHERE SMOKING IS NOT REGULATED:**

Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

- (A) Private residences.
- (B) Bars (exempt for 2 years from the effective date of this chapter).
- (C) Hotel and motel rooms rented to guests, which are on a separately partitioned ventilation system.
- (D) Retail stores that deal primarily in the sale of tobacco products and smoking paraphernalia.
- (E) On stage smoking as part of stage production, ballet or similar exhibition.
- (F) Conference/meeting rooms and private meeting rooms while these places are being used exclusively for private functions.
- (G) Private clubs and recreation facilities that do not serve the public or charge the public for services. (Proposition 200, 11-12-2003)

### **7-3-6: EMPLOYEES:**

- (A) Current and newly hired employees must sign an "Informed Employee...Smoking in the Workplace" document (addendum attached to proposition 200).
- (B) Ads seeking new employees must state the smoking policy: (SE) for smoking establishment and (NSE) for nonsmoking establishment.
- (C) No employee shall be terminated or subject to disciplinary action solely as a result of his complaint about smoking or nonsmoking in the workplace. (Proposition 200, 11-12-2003)

### **7-3-7: POSTING REQUIREMENTS:**

A "smoking" symbol shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person in control in every workplace or designated outdoor area where smoking is allowed under this chapter. (Proposition 200, 11-12-2003)

### **7-3-8: ENFORCEMENT AND PENALTIES:**

- (A) Citations may be issued for violation of this chapter.

- (B) Any person violating any of the provisions of this chapter shall be liable for the imposition of a civil sanction not to exceed twenty five dollars (\$25.00) for the first offense and not to exceed fifty dollars (\$50.00) for each successive offense. Each day a violation of this chapter continues after a citation for the violation has been issued constitutes a separate violation.
- (C) The city shall provide for payment by mail of civil sanctions under this chapter.
- (D) Any owner, manager, operator or employer of any establishment controlled by this chapter shall, upon either observing or being advised of a violation of this chapter, have the obligation to inform the violator of the appropriate requirements of this law and then request immediate compliance.
- (E) Any person or employer who owns, manages, operates or otherwise controls the use of any premises subject to this chapter has the responsibility to:
  - 1. Properly identify all indoor (for exceptions only, see section 7-3-5 of this chapter) and designated outdoor smoking areas; and
  - 2. Properly post signs required hereunder; and
  - 3. Take the action required by this subsection when observing or being advised of a violation.
- (F) Any employer who knowingly and intentionally violates this chapter may be liable for a civil penalty not to exceed five hundred dollars (\$500.00). Each day such violation is committed or permitted to continue shall constitute and be punished as a separate offense.
- (G) By enforcing this chapter, the city undertakes only to promote the general welfare and health of the community. It does not assume, nor does it impose on its officers and employees, an obligation for breach of which it is liable in money damages to any person claiming injury from such breach. (Proposition 200, 11-12-2003)

**7-3-9: EFFECTIVE DATE:**

- (A) Within ninety (90) days of the effective date of this chapter, each employer in each place of employment within the city (except bars) shall adopt, implement and maintain a smoking policy that is consistent with this chapter.

- (B) Within two (2) years of the effective date of this chapter, each bar within the city shall adopt, implement and maintain a smoking policy that is consistent with this chapter. (Proposition 200, 11-12-2003)

## CHAPTER 7-4: SANITARY LANDFILL

### SECTIONS:

- 7-4-1: DEFINITIONS:
- 7-4-2: DISPOSAL OF PRESCOTT PERSONAL HOUSEHOLD GARBAGE:
- 7-4-3: COMMERCIAL HAULERS:
- 7-4-4: CITY SANITATION VEHICLES:
- 7-4-5: RATES AND CHARGES:
- 7-4-6: PENALTIES:
- 7-4-7: SEVERABILITY:

### 7-4-1: DEFINITIONS:

For the purpose of this chapter, the following definitions shall apply:

**COMMERCIAL HAULERS:** All individuals or businesses that collect, haul or dispose of garbage, refuse or waste for or on behalf of another for a fee.

**INERT DEBRIS:** Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil, and metal if used as a reinforcement in concrete, but does not include special waste, hazardous waste, glass, or other metal.

**SANITARY LANDFILL:** The city of Prescott landfill located on Sundog Ranch Road or such other city sanitary landfill as may be operated in the future at another site.

**THRIFT SHOPS:** A nonprofit entity, that collects refuse and large appliances for rehabilitation and resale to the public for a charitable cause, which is physically located within the city limits and which has an active commercial account with the city of Prescott for solid waste collection, or which is physically located in the unincorporated area of Yavapai County. Thrift shops shall include, but are not limited to, the Salvation Army, West Yavapai County Guidance Thrift Shop, Veterans DAV Thrift Shop, St. Vincent DePaul Thrift Shop and other similar entities.

**TRANSFER STATION:** The joint city of Prescott/Yavapai County transfer station located on Sundog Ranch Road in Prescott, or such other transfer station as may be designated by the city of Prescott in the future. (Ord. 2068, eff. 4-17-1989; amd. Ord. 2084, 5-23-1989; Ord. 2257, eff. 7-1-1991; Ord. 3680, eff. 11-27-1997; Ord. 4435, 11-23-2004; Ord. 4442, 12-21-2004)

**7-4-2: DISPOSAL OF PRESCOTT PERSONAL HOUSEHOLD GARBAGE:**

(Rep. by Ord. 2257, eff. 7-1-1991)

**7-4-3: COMMERCIAL HAULERS:**

All commercial haulers must obtain a permit from the city public services department in order to make use of the sanitary landfill and transfer station. Each vehicle used by the commercial hauler will be identified, numbered and categorized as to volume. Each time a commercial hauler's vehicle enters the transfer station or landfill, it will be weighed and charged a rate per ton as set forth in this chapter. If for any reason the vehicle cannot be weighed, the vehicle will be charged for a full load based on the volume of the vehicle (compacted or loose cubic yards). (Ord. 2257, eff. 7-1-1991)

**7-4-4: CITY SANITATION VEHICLES:**

(Rep. by Ord. 2257, eff. 7-1-1991)

**7-4-5: RATES AND CHARGES:**

Disposal of all garbage, refuse and waste shall be subject to the following rates and charges:

Thrift shops

75 percent of the charges provided for in this section

All vehicles which can be weighed shall be charged as provided for herein; otherwise the fee will be \$15.00 per compacted cubic yard or \$6.00 per loose cubic yard. In no event shall any vehicle be charged less than \$5.00 per trip

The city council shall, by resolution, set a fee not to exceed \$75.00 per ton

All charges as set forth in this section are due and shall be paid at the time that the sanitary landfill or transfer station is utilized, with the exception of commercial haulers duly permitted by the city pursuant to section 7-4-3 of this chapter. All charges incurred by commercial haulers permitted pursuant to section 7-4-3 of this chapter shall be due in full on the date of billing, and a penalty of one and one-half percent (1.5%) per month of the unpaid balance due will be imposed on bills not paid within thirty (30) days after the billing date.

The following rates and charges are in addition to the load, weight or volume charge:

\$3.00 per major appliance

1.00 per cat or dog or similar sized animal

All other animals shall be charged in accordance with the rates adopted pursuant to this section based on their weight.

All charges will be based on the weight as measured by the transfer station scales or, where that is not possible, by estimates of volume made by sanitary landfill or transfer station personnel, which estimates shall be binding for purposes of assessing the charges set forth in this section. (Ord. 4435, 11-23-2004, eff. 1-1-2005)

**7-4-6: PENALTIES:**

It shall be unlawful and a misdemeanor for any person to violate any of the requirements or provisions contained in this chapter. Any person convicted of a violation of any section of this chapter shall be punished as provided in section 1-3-1 of this code. Each day that a violation continues to exist constitutes a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.

The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the city may institute any other remedies available, including, but not limited to, a civil action to recover any and all monies due the city. (Ord. 2362, eff. 5-14-1992)

**7-4-7: SEVERABILITY:**

If any section, subsection, sentence, clause, phrase or portion of this chapter, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof, it being the intent of the council that the remaining portions remain in effect. (Ord. 2068, eff. 4-17-1989)

## CHAPTER 7-5: PROPERTY MAINTENANCE

### SECTIONS:

<u>7-5-1:</u>	<u>PURPOSE AND SCOPE:</u>
<u>7-5-2:</u>	<u>DEFINITIONS:</u>
<u>7-5-3:</u>	<u>BUILDING EXTERIOR:</u>
<u>7-5-4:</u>	<u>EXTERIOR PREMISES:</u>
<u>7-5-5:</u>	<u>AUTHORITY TO ADMINISTER STANDARDS:</u>
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<u>7-5-10:</u>	<u>RESERVED:</u>
<u>7-5-11:</u>	<u>APPEAL:</u>
<u>7-5-12:</u>	<u>MINOR VARIANCES:</u>
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<u>7-5-21:</u>	<u>CONFLICT OF ORDINANCES; EFFECT OF PARTIAL INVALIDITY:</u>
<u>7-5-22:</u>	<u>ENFORCEMENT INDEPENDENT OF OTHER OFFICIALS:</u>
<u>7-5-23:</u>	<u>SEVERABILITY:</u>

### **7-5-1: PURPOSE AND SCOPE:**

- (A) The purpose of this chapter is to promote the health, safety and welfare of the citizens of Prescott, and to protect neighborhoods against blighting and deteriorating influences by establishing minimum standards for the exterior condition of buildings by establishing requirements for maintenance of all exterior premises and vacant land.
- (B) This chapter shall apply to all buildings, structures and lands within the city without regard to the use, the date of construction or alteration. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

## **7-5-2: DEFINITIONS:**

**ABANDONED REFRIGERATORS:** To leave in any place accessible to children, any abandoned, unattended or discarded refrigerator, icebox, or other container which has an airtight door, lid or other locking device, which may not be released from the inside.

**ABANDONED VEHICLE:** Any vehicle, other than one falling within the categories enumerated by Arizona Revised Statutes sections 28-2482 et seq. and 28-4832 et seq. (i.e., horseless carriages, classic cars, historic vehicles, or street rod vehicles), which is without current license plates or tabs, or is inoperable, stripped, unclaimed, junked or discarded. This shall also mean vehicles, other than those categories enumerated above, being repaired, when such repairs take ninety (90) days or more. For purposes of this chapter, the term "abandoned vehicle" may also refer to trailers, and/or dismantled and/or partially dismantled motor vehicles which by reason of dismantling, disrepair, or other causes, are incapable of being propelled under their own power, in addition to the definition herein, except for those categories of motor vehicles specifically exempted herein.

**ACCUMULATION OF FILTH:** Littered, trash covered areas, including debris, weeds, garbage, rubbish, rubble or refuse on premises.

**BLIGHTED EXTERIORS:** Exterior surfaces deteriorated, so as to be a threat to health, safety or otherwise deteriorated or blighted appearance.

**BLIGHTED OR BLIGHTING:** Unsightly conditions including the accumulation of filth or debris; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead or damaged through the natural elements; and any other similar conditions of disrepair and deterioration.

**BUILDING:** A structure, having a roof for support, housing, shelter and/or enclosure of any person, animal or tangible goods; and when any portion thereof is separated from every other portion thereof by a masonry wall, without openings, extending from the ground through the upper surface of the roof, then such portion may be deemed a separate building.

**DEBRIS:** Substance of little or no apparent economic value, which may be present in a state of apparent unpremeditated disarray, including, but not limited to, leftover, superfluous, or unwanted materials including abandoned vehicles or parts.

**DESIGNATED AGENT:** Refers to property manager or other responsible person.

**DETERIORATION:** A lowering in quality in the condition or appearance of a building or parts thereof characterized by holes, breaks, rot, crumbling, cracking,

peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance.

**EXCAVATION:** Wells, shafts, basements, cesspools, septic tanks, fish ponds, and other like or similar conditions more than six inches (6") in diameter and three feet (3') in depth.

**EXTERIOR OPENING:** An open or closed window or passage between interior and exterior spaces.

**FACILITIES/BUILDING SERVICE, EQUIPMENT AND UTILITIES:** Plumbing, piping and/or fixtures that convey or dispose of liquid or waste, electric wiring, components or fixtures, mechanical heat/cooling equipment, ductwork or fixtures.

**GARBAGE:** Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**HAZARDOUS WASTE:** Any chemical, compound, mixture, substance or article which is identified or listed by the United States environmental protection agency or appropriate agency of the state to be "hazardous waste" as defined in 40 CFR sections 261.1 through 261.33, except that, for purposes of this chapter, hazardous waste shall include household waste as defined in 40 CFR 261.4 B1.

**HEALTH HAZARD:** The presence of any item(s) which adversely impact or jeopardize the well-being or health of an individual. Such items may provide evidence of occupancy without adequate facilities or may be inclusive of human/animal waste, medical or biological waste, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals/liquids, flammable and/or explosive materials, friable asbestos, offal and decay/matter. Such items constitute an imminent hazard.

**IMMINENT HAZARD:** Condition of real property that places a person's life, health, or property in high risk of peril when such condition is immediate, impending, on the point of happening, and menacing.

**INFESTATION:** The apparent presence of unpleasant, damaging, or unhealthful insects, rodents or reptiles.

**LITTER:** "Refuse" or "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

**OCCUPANT:** A legal entity that, through rights of ownership or rental, has the use and enjoyment of the subject real property for residential or commercial purposes.

**OWNER:** A legal entity listed as current or rightful owner as recorded in the official records of the Yavapai County recorder's office.

**PREMISES:** Including land, building exteriors, or the exterior of other structures or parts thereof. Premises shall include adjacent sidewalks, street parkway and driveway culverts.

**PROPERTY MANAGER:** A legal entity with the authority and ability to make emergency repairs and with the responsibility to oversee the maintenance and protection of the property, and to represent the owner's interests.

**RECREATIONAL/ARCHITECTURAL POOL:** A constructed or excavated exterior area designed to contain a regular supply of water.

**REFUSE:** All putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

**RESPONSIBLE PERSON:** An owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land.

**RUBBISH:** Nonputrescible solid waste consisting of both combustible and noncombustible waste such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, weeds, brush, wood, glass, bedding, crockery, or other accumulation of filth or debris.

**RUBBLE:** Broken fragments resulting from the decay or deterioration of a building; miscellaneous mass of broken or apparently worthless materials.

**SCREENED AREA - EXTERIOR:** An area separated by a permanent nonflexible device to completely conceal one element of a property from other elements or from adjacent or contiguous property. Examples include, but are not limited to, fencing six feet (6') or greater in height that is made of solid wood, brick or chainlink with opaque slats.

**SOUND CONDITION:** Able to support itself under reasonable loading or weather conditions, free from decay or defect.

**STREET PARKWAYS:** That area of city right of way lying between the adjacent edge of the improved roadway and where the city right-of-way line adjoins private property, excluding sidewalk.

**STRUCTURAL NUISANCE:** A vacant or unsecured structure or portion thereof of any description which is presently open or has been open or unsecured on one or more than one occasion; or which is left open and unsecured after expiration of a notice of violation to comply by the city; or a structure left standing in a

secured condition without visible occupation and use for a period of twelve (12) months or longer; or wells, shafts, basements, cesspools, septic tanks, unsound fences, swimming pools, ponds, and other like or similar conditions where it appears that such are unattended or abandoned.

**STRUCTURE:** That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

**SWIMMING POOL:** Artificial basin, chamber, or tank constructed and used, or designed to be used, for swimming, diving or bathing.

**UNSECURED STRUCTURE:** Any structure that is vacant with a damaged or open door, window, or other opening not secured in accordance with city standards to prevent unauthorized entry.

**VACANT STRUCTURE:** An unoccupied or an illegally occupied structure or an occupied structure without adequate facilities/utilities.

**VEGETATION:** Plant life of any kind.

**WEEDS:** A useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth. (Ord. 2199, 7-24-1990, eff. 10-22-1990; amd. Ord. 2272, eff. 7-25-1991; Ord. 3315, eff. 3-16-1995; Ord. 4076, 1-23-2001)

**7-5-3: BUILDING EXTERIOR:**

- (A) **Exterior Surfaces:** All exposed exterior surfaces and openings shall be maintained so as to be free of deterioration that is a threat to health and safety or shall not otherwise present a deteriorated or blighted condition.
- (B) **Foundations, Walls And Roofs:** Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in structurally sound and weathertight condition. The foundation elements shall adequately support the building at all points in accordance with applicable city codes, and also shall be free from deterioration.
- (C) **Outdoor Stairs, Porches, Railings:** All outdoor stairs, porches and handrailings shall be adequate for safety and shall be maintained so as to be safe and in structurally sound condition. The support for railings, stairs, and porches shall be structurally sound and adequate and shall be maintained in safe condition and capable of supporting a load that normal use may place thereon. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

#### **7-5-4: EXTERIOR PREMISES:**

- (A) General: All land, whether improved or unimproved, shall be maintained free from any structural nuisance, accumulation of filth, garbage or blighting condition, which includes, but is not limited to, graffiti on walls, fences, mailboxes, etc., accumulation of litter, rubbish, refuse, waste material, bottles, papers, glass, cans, organic or inorganic materials, abandoned vehicles, discarded appliances, discarded furniture, broken glass, piles of mixed material, dry vegetation, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, packing hay or other packing material, lumber not neatly piled, lumber stored in front yards, hazardous wastes, scrap iron, tin and other metal not neatly piled or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents, snakes, or other harmful pests or which may otherwise create a fire hazard, or health hazard.
- (B) Maintenance Of Recreational And Architectural Pools: All recreational swimming and architectural pools and spas shall be properly maintained so as not to create a safety hazard, or harbor insect infestation, or create a visible deteriorated or blighted appearance. Water shall not be allowed to stagnate. Security fencing is required as set forth in subsection 3-4-1(A) of this code. Fencing or other barriers required for swimming pool and spa enclosures shall be properly maintained. The premises shall be free from safety hazards inclusive of, but not limited to, lack of security, water stagnation, or abandoned pools, regardless of whether or not there is water in the pools. All pools shall be free from visible deterioration or blighted appearance. (Ord. 2259, eff. 6-28-1991)
- (C) Weeds, Bushes, Trees And Other Vegetation: All exterior property areas shall be kept free from dry vegetation, tumbleweeds, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or which is or may likely become a fire hazard or otherwise threaten the health and safety or the economic welfare of adjacent property owners or occupants. It is the responsibility of the owner or occupant to cut or remove grass and weeds in excess of twelve inches (12") high throughout the property, unless the community development director, in consultation with the Prescott fire chief or his designee, determines that it is not practical to do so on some or all of the property. (Ord. 4370, 1-27-2004)
- (D) Fences, Screen Walls And Retaining Walls: All fences, screen walls and retaining walls on the premises shall be safe and structurally sound. They shall be maintained so that they do not constitute a blighting, or deteriorated condition.

- (E) Exterior Insect, Rodent And Animal Control: All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural or cultivated activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any resident or residence of the area, and where other applicable legal requirements are met. (Ord. 2199, 7-24-1990, eff. 10-22-1990)
- (F) Abandoned Vehicles And Refrigerators: All exterior premises shall be maintained free of all abandoned vehicles and refrigerators; provided, however, that this shall not prohibit the storage or location of not more than one abandoned vehicle on a parcel of property, provided that said vehicle is located and screened in accordance with subsection (H) of this section. (Ord. 4076, 1-23-2001)
- (G) Sidewalks: All persons owning any building, lot or premises within the city are hereby required to maintain and repair all sidewalks, driveway culverts and street parkways adjacent to said building, lot or premises in a safe and sound condition, free of decay and defect, as more specifically set forth in title VIII, chapter 1 of this code. (Ord. 2272, eff. 7-25-1991)
- (H) Storage And Maintenance Of Motor Vehicles: Motor vehicles which are inoperable or dismantled may be stored, maintained, and kept on residential private property provided that such vehicles are not stored, maintained, or kept within the front yard portion of the residential lot and are adequately screened from public view by employment of one or more of those types of screening permitted by this chapter. (Ord. 3315, eff. 3-16-1995)

For purposes of this subsection, the term "front yard" means that historic vehicles, owned by the occupants of the principal building on a residential lot, shall be stored and maintained only in locations permissible for accessory buildings, except such vehicles may be stored or maintained within the front one-half (1/2) of the lot provided they are located no nearer the front lot line than the required minimum front yard setback, which may be further reduced in accordance with section 2.7.3(D)(7) of the Prescott land development code.

For purposes of this subsection, adequate screening consists of fences, walls, and hedges located in yard areas, which generally surround and/or screen a parked or stored historic vehicle from public view, provided, such does not exceed six feet (6') in height and, provided further, that if located in any front yard, such shall not exceed four feet (4') in height, or violate the provisions of section 6.3.10 of the Prescott land development code. No fence, wall, or hedge over four feet (4') in height used to screen a parked or stored historic vehicle may be erected on a corner lot so as to encroach

within a triangular area formed by the property lines and a line connecting points thirty feet (30') from the intersection of the right of way lines. Adequate screening for purposes of this subsection may also consist of natural topographical features, trees, or like vegetation which generally screen parked or stored historic vehicles from public view. (Ord. 4449, 1-11-2005)

- (I) Nuisance Trees: All exterior premises shall be kept free of trees which constitute a nuisance, or which may present a danger to persons, property and other vegetation. For the purposes of this subsection, a tree shall be deemed a nuisance and be deemed detrimental to the public health and safety if:
1. It appears dead, dangerous or likely to fall; or
  2. It is not pruned to a height of fourteen feet (14') above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks; or
  3. It is not pruned to a height of at least eight feet (8') above the sidewalk; or
  4. It obstructs a curb, gutter, street or sidewalk; or
  5. It interferes with any underground or aboveground utilities; or
  6. It is in dangerous proximity with a public utility; or
  7. It interferes with a planned public improvement; or
  8. It appears to be infected with infectious diseases, parasites or insects. (Ord. 4202, 2-26-2002)

**7-5-5: AUTHORITY TO ADMINISTER STANDARDS:**

The community development director or his designee shall administer the provisions of this chapter. (Ord. 4076, 1-23-2001)

**7-5-6: AUTHORITY AND INSPECTIONS:**

- (A) The community development director or his designee upon his own initiative or upon receipt of a complaint from any person, is authorized and directed to make inspections of property, to determine compliance with this chapter.

- (B) An inspector may expand the scope of any inspection beyond the original complaint to include other violations, noted during inspection of the subject property. (Ord. 4076, 1-23-2001)
- (C) Unscreened exterior areas may be inspected at any time with or without the involvement of the owner, occupant, or designated agent in accordance with legal requirements.
- (D) Screened exterior areas shall be inspected only during the normal business hours of the city unless otherwise arranged, upon invitation or with the concurrence of the owner, occupant, or designated agent, or when ordered by a court when probable cause exists to believe that conditions may be detrimental to health and safety. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

**7-5-7: EXCEPTIONS:**

- (A) Exempt from the provisions of subsection 7-5-4(H) of this chapter is any person or entity who is duly licensed to store dismantled, partially dismantled or inoperable motor vehicles or parts where such activity is permitted or allowed under the applicable Prescott land development code for that particular property. (Ord. 4449, 1-11-2005)
- (B) Exempt from the provisions of subsection 7-5-4(C) of this chapter is any person or entity who owns or has possession of large, remote acreage greater than two (2) acres, not accessible by a public street, unimproved road, private street or driveway, and in a natural state evidenced by native vegetation and undisturbed soils; or acreage impossible to service with large machinery due to its terrain. This exemption is not operable when actual and probable danger exists. (Ord. 4076, 1-23-2001)

**7-5-8: NOTICE OF VIOLATION:**

Except in cases of alleged imminent hazards, the community development director or his designee shall attempt to provide written notice to the responsible person or persons in an attempt to obtain voluntary compliance with the provisions of this chapter prior to any formal legal action being taken. Said notice shall be served upon the owner, the owner's authorized agent or the owner's statutory agent and to the occupant or lessee. Said notice shall be served either by personal service or by certified mail. If served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent, and to the address to which the tax bill for the property was last mailed. Said notice shall be given not less than thirty (30) days before the day set for compliance, and shall include the legal description of the property and the cost of such removal to the city if the owner, occupant or lessee does not comply. The owner shall be given not less than thirty (30) days to

comply. The city may record the notice in the Yavapai County recorder's office. If the notice is recorded and compliance with the notice is subsequently satisfied, the city shall record a release of the notice. (Ord. 4076, 1-23-2001)

**7-5-9: PLACING RUBBISH, TRASH, FILTH OR DEBRIS UPON THE PROPERTY OF ANOTHER:**

Any person, firm or corporation that places any rubbish, trash, filth or debris upon any private or public property not owned or under the control of that person, firm or corporation is guilty of a civil violation and, in addition to any sanction or penalty which may be imposed, is also liable for all costs which may be assessed pursuant to section 7-5-14 of this chapter for removing, abating or enjoining the rubbish, trash, filth or debris. (Ord. 4076, 1-23-2001)

**7-5-10: RESERVED:**  
(Ord. 3315, eff. 3-16-1995)

**7-5-11: APPEAL:**

Unless the abatement is ordered by a court, an aggrieved party may appeal the notice provided for in this chapter and any assessments levied against the property pursuant to this chapter in the following manner:

- (A) An appeal must be in writing to the community development director no later than ten (10) days from date of notice of violation or the date of levying of an assessment, setting forth with particularity the bases of that appeal. The appeal shall be heard by the board of adjustment.
- (B) The board of adjustment shall schedule a hearing on the appeal within thirty (30) days of its receipt of the appeal, and advise all parties in writing of the date, time and place of the hearing.
- (C) The hearing on the appeal is an informal procedure. If the person pursuing an appeal elects to be represented by an attorney, that person shall so notify the Prescott city attorney no later than ten (10) days prior to the date set for the hearing.
- (D) The decision on appeal shall be rendered in writing, and mailed to all affected parties. (Ord. 4076, 1-23-2001)

**7-5-12: MINOR VARIANCES:**

The community development director or his designee may grant a minor variance to this chapter when there exists an unusual or unreasonable hardship resulting from a literal interpretation of this chapter, provided that the method of work or repair offered conforms to the intent of this chapter. (Ord. 3703, eff. 1-15-1998)

### **7-5-13: EMERGENCY ABATEMENT:**

If a situation presents an imminent hazard to life or public safety, the city may issue an order directing the owner, occupant and/or designated agent to take such action as is appropriate to correct or abate the emergency. In addition, the city may act to correct or abate the emergency. The owner, occupant and/or designated agent shall be entitled to an appeal pursuant to section 7-5-11 of this chapter as soon as practicable, but such appeal shall not stay the abatement or correction of such emergency. (Ord. 3653, eff. 8-21-1997; amd. Ord. 3703, eff. 1-15-1998)

### **7-5-14: ABATEMENT AND ASSESSMENT FOR COST OF REMOVAL:**

- (A) In the event that the owner, lienholder, lessee, occupant or any other person with an interest in the property, after notice as required by section 7-5-8 of this chapter, does not remove such rubbish, trash, weeds, filth, debris or dilapidated structures and abate the condition which constitutes a violation of this chapter, the city may remove, abate, enjoin or cause their removal.
- (B) The actual cost of removal, abatement or injunction of any rubbish, trash, weeds, filth, debris or dilapidated structures from any lot or tract of land, the actual costs of any additional inspections and other incidental connected costs, and associated legal costs for abatement or injunctions, shall be assessed on the property from which the rubbish, trash, weeds, accumulations or dilapidated structures are removed, abated or enjoined. The city may record the assessment in the Yavapai County recorder's office, including the date and amount of the assessment and the legal description of the property. Any such assessment shall be prior and superior to all other liens, obligations, mortgages or other encumbrances (except liens for general taxes). If the city so elects, sale of the property to satisfy an assessment obtained pursuant to this section shall be made upon judgment of foreclosure and order of sale. All assessments shall run with the land, and shall be due and payable in accordance with Arizona Revised Statutes section 9-499(E). (Ord. 4076, 1-23-2001)

### **7-5-15: RECORDING AN ABATEMENT ORDER, STATEMENT OF COSTS, AND SATISFACTION OF ABATEMENT ORDER:**

(Rep. by Ord. 4076, 1-23-2001)

### **7-5-16: JURISDICTION OF CITY COURT:**

- (A) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in city court, except as otherwise provided in this chapter.

- (B) Civil actions to enforce this chapter shall be prosecuted in accord with the procedure set forth in title II, chapter 7 of this code.
- (C) Criminal actions to enforce the provisions of this chapter shall be brought in accord with applicable laws and rules of criminal procedure. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

**7-5-17: RESERVED:**

(Ord. 3315, eff. 3-16-1995)

**7-5-18: RESERVED:**

(Ord. 3315, eff. 3-16-1995)

**7-5-19: VIOLATIONS AND PENALTIES:**

- (A) The remedies herein are cumulative and the city may proceed under one or more such remedies.
- (B) The violation of any provision of this chapter shall constitute a public environmental nuisance.
- (C) Any owner, occupant, lessee, property manager, designated agent, or other person having lawful 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 subject to minimum civil sanction of not less than one hundred dollars (\$100.00), and a maximum civil sanction as set forth in section 1-3-2 of this code. Each day any violation of any provision of this chapter exists shall constitute a separate violation. (Ord. 2199, 7-24-1990, eff. 10-22-1990)
- (D) The owner of record, as recorded in the Yavapai County recorder's office, of the property upon which a violation of this chapter exists shall be presumed to be a person having lawful control over a structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons shall be jointly and severally presumed to be persons having lawful control over a structure or parcel of land. This presumption shall not prevent enforcement of the provisions of this chapter against any person specified in subsection (C) of this section. In the event that enforcement action is taken against a person or entity who is presumed to have lawful control pursuant to this subsection, then and in that event said person or entity shall only be subject to the civil sanctions provided for in this chapter (not to exceed \$100.00 per day) or the cost of remediation as provided for in section 7-5-14 of this chapter, whichever is more. (Ord. 4191, 1-15-2002)

- (E) Reserved. (Ord. 3315, eff. 3-16-1995)
- (F) 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. No criminal complaint shall be filed prior to the passage of thirty (30) days from the issuance of the notice of violation. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

**7-5-20: CIVIL ENFORCEMENT:**

- (A) Citation:
  - 1. Issuance Of Citation: An action to hear and determine a civil offense may be commenced by the issuance and filing of a citation. The citation shall be in a form similar to the uniform Arizona traffic ticket and complaint form and shall cite the particular subsection of this code applicable to the alleged violation. Each subsection of this code cited in the complaint shall be deemed a separate offense. The citation shall contain the date and time of the alleged violation and shall direct the defendant to appear before the hearing officer at a specified time to enter a plea either admitting or denying the complaint. The citation will state that if the defendant fails to appear before the hearing officer on the date and time specified therein, a default judgment will be entered against the defendant and a civil sanction will be imposed.
  - 2. Authority To Issue Citation: Any peace officer, code enforcement officer or other duly authorized agent of the city as designated by the city manager who observes a violation of any provision of this chapter is empowered to issue a citation. Prior to issuing a citation, the officer, official or agent shall issue a written notice of violation allowing the violator thirty (30) days to remedy the violation. If the violation is not remedied in thirty (30) days, a citation may be issued. A copy of the notice of violation shall also be served with the citation.
  - 3. Service Of Citation: The citation shall be served by delivering a copy to the defendant as follows:
    - (a) The citation may be signed by the defendant with his/her promise to appear on the date and time specified on the citation.

- (b) If the defendant is unavailable at the time the citation is issued or refuses to sign the citation, service may be accomplished and will be deemed proper and complete by any of the following:
- (1) Upon the resident/occupant of the premises where the violation occurred by posting a copy of the citation on or about an entrance to the dwelling unit; or
  - (2) By hand delivering a copy of the citation to the owner of record or resident/occupant.
  - (3) By certified or registered mail, return receipt requested. Service by mail is deemed complete upon deposit in the U.S. mail.
  - (4) In the same manner prescribed for alternative methods of service by the Arizona rules of civil procedure.

(B) Appearance; Payment By Mail:

1. The defendant shall appear in person before the hearing officer on the date and time specified in the citation and shall either admit or deny the allegations contained in the citation. Or, the defendant may proceed as provided in subsection (B)2 of this section. If the defendant admits the allegations, the hearing officer shall immediately enter judgment against the defendant and shall impose the appropriate sanction. If the defendant denies the allegations contained in the citation, the hearing officer shall set a date for a hearing of the matter.
2. The defendant may admit the allegations in the citation and pay the default amount indicated by mailing the citation together with a check or money order made payable to the city of Prescott. If payment is not received by the appearance date indicated on the citation, a default judgment will be entered.
3. Any defendant appearing before the hearing officer and denying the allegations as provided in subsection (B)1 of this section shall be deemed to have waived any objection to service of the citation, unless such objection is affirmatively raised by the defendant at the time of the first appearance in relation to the citation.
4. At the conclusion of the hearing, if the hearing officer finds the defendant to be in violation of any provision in this chapter, the

hearing officer shall proceed in accordance with subsection 7-5-19(C) of this chapter.

(C) Default Judgment; Collection Of Judgments:

1. In the event of a default, the hearing officer shall assess a default sanction in the amount of two hundred fifty dollars (\$250.00) unless such default judgment is set aside under rule 23 of the rules of procedure in civil traffic violation cases.
2. The hearing officer may waive all or part of the default fee if the hearing officer expressly finds that payment thereof would cause a financial hardship for the defendant.
3. No judgment may be entered against a fictitiously identified defendant unless the citation is amended to reveal the true identity of the defendant who receives the citation.
4. The city may enforce collection of delinquent sanctions, fees and penalties as may be provided by law. Any judgment or civil sanction pursuant to this section may be collected as any other civil judgment, and if rendered against the owner of the real property in violation, shall constitute a lien against that property.

(D) Rules Of Procedure:

1. The Arizona rules of procedure in civil traffic violation cases shall govern hearings, appeals, default by defendant and rules of evidence in all actions to hear and determine civil offenses except as modified by or inconsistent with the provisions of this code.
2. All hearings pursuant to this section shall be electronically recorded.

(E) Nonexclusive Remedies:

1. The remedies herein are cumulative and nonexclusive. In the event a defendant fails to comply with any civil enforcement action commenced under this section, the city may file a criminal charge against the defendant. Notwithstanding the foregoing, a civil enforcement action shall not be a prerequisite to the filing of a criminal charge, and the city attorney may elect to file criminal charges at any time, request injunctive relief, or pursue such other relief as may be available.

2. Nothing contained in this section shall be construed to preclude the hearing officer from, in addition to imposing civil sanctions, ordering the abatement of any violation pursuant to Arizona Revised Statutes section 9-499 and related city code provisions.
- (F) Judicial Review: Judicial review of the final decisions of the hearing officer shall be a review of the record in the Prescott city court, provided that special action or appeal is filed within twenty (20) days of the date of the hearing officer's decision. (Ord. 4371, 1-27-2004)

**7-5-21: CONFLICT OF ORDINANCES; EFFECT OF PARTIAL INVALIDITY:**

- (A) In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or other code of the city existing on the effective date of this chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- (B) It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or with private restrictions placed upon property by covenant, deed, or other private agreement.
- (C) In cases where two (2) or more provisions of this code or chapter disagree, the most stringent or restrictive shall prevail. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

**7-5-22: ENFORCEMENT INDEPENDENT OF OTHER OFFICIALS:**

The authority of the city to enforce the provisions of this title is independent of and, in addition to, the authority of the city to enforce the provisions of any other title of this code, or the provisions of state or federal law. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

**7-5-23: SEVERABILITY:**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and to this end the provisions of this chapter are hereby declared to be severable. (Ord. 2199, 7-24-1990, eff. 10-22-1990)

## CHAPTER 7- 6: URINATING AND DEFECATING IN PUBLIC

### SECTIONS:

7-6-1: UNLAWFUL ACTS:

7-6-2: PENALTY:

#### 7-6-1: UNLAWFUL ACTS:

It shall be unlawful for any person to urinate or defecate in a public place, or in any place exposed to public view, except in an established lavatory or toilet. (Ord. No. 2302, eff. 10-8-91)

#### 7-6-2: PENALTY:

Any person who violates any provision of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-3-1 of Prescott City Code.