

ORDINANCE NO.

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 42 OFFENSES AND ABATEMENT OF PUBLIC NUISANCES, BY AMENDING ARTICLE VIII ABATEMENT OF PUBLIC NUISANCES, SECTION 42-307 ABATEMENT IN LIEU OF OR IN ADDITION TO CIVIL OR CRIMINAL COMPLAINT AND BY ADOPTING A NEW DIVISION 2 TITLED “COMMUNITY PRESERVATION ORDINANCE” RELATING TO ESTABLISHING MINIMUM STANDARDS FOR THE MAINTENANCE OF RESIDENTIAL AND NONRESIDENTIAL BUILDINGS, STRUCTURES, AND VACANT AND IMPROVED LAND WITHIN THE TOWN; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; ESTABLISHING STANDARDS; ADOPTING NOTIFICATION AND DISCLOSURE REQUIREMENTS; ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, A.R.S. § 9-240 gives the Common Council of the Town exclusive authority to define, abate and remove nuisances; and

WHEREAS, it is essential to protect the health, safety, and well-being of the community; and

WHEREAS, public nuisances can significantly impact the comfortable enjoyment of life and property of an entire community or neighborhood; and

WHEREAS, providing clear and reasonable expectations and duties of the Town and property owners will result in maintained communities and neighborhoods and allow for resources to be identified that may provide assistance for those with challenges.

WHEREAS, the requirements of this Community Preservation Ordinance are in addition to and intended to complement any requirements of Arizona state law as well as any requirements established by a homeowner’s association governing property maintenance.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General

The Code of Gilbert, Arizona, Chapter 42 Offenses and Abatement of Public Nuisances, Article VIII Abatement of Public Nuisances, is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Article VIII. Abatement of Public Nuisances AND COMMUNITY PRESERVATION ORDINANCE

The Code of Gilbert, Arizona, Chapter 42 Offenses and Abatement of Public Nuisances, Article VIII Abatement of Public Nuisances, Section 42-307 Abatement in Lieu of or in Addition to Civil or Criminal Complaint, to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 42-307. Abatement in lieu of or in addition to civil or criminal complaint.

In addition to or in lieu of filing a civil or criminal complaint, the town may file notice to abate any violation of nuisance as defined in this chapter. Such abatement shall proceed independently of any civil or criminal violation filed pursuant to section 42-306. The DIRECTOR OF DEVELOPMENT SERVICES OR DESIGNEE, ~~Town Code Compliance Manager~~, Town ATTORNEY ~~Prosecutor~~ and Town ~~Attorney~~ PROSECUTOR are authorized to file civil or criminal complaints to abate a public nuisance.

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The Code of Gilbert, Arizona, Chapter 42 Offenses and Abatement of Public Nuisances, Article VIII Abatement of Public Nuisances is hereby amended by the addition of Division 2. Community Preservation Ordinance (additions in ALL CAPS; deletions in ~~strikeout~~):

DIVISION 2. COMMUNITY PRESERVATION ORDINANCE

PART 1. GENERAL PROVISIONS

SEC. 42-312. – TITLE.

THIS DIVISION SHALL BE KNOWN AS THE "COMMUNITY PRESERVATION ORDINANCE OF THE TOWN OF GILBERT". IT MAY ALSO BE REFERRED TO AS THE "TOWN OF GILBERT PRESERVATION ORDINANCE" AND WILL BE REFERRED TO HEREINAFTER AS THE "ORDINANCE."

SEC. 42-313. PURPOSE AND APPLICABILITY

- a. THE PURPOSE OF THIS ORDINANCE IS TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF GILBERT, AND TO PROTECT THE COMMUNITY AGAINST HAZARDOUS, BLIGHTING OR DETERIORATING INFLUENCES OR CONDITIONS AS THESE CONDITIONS CONTRIBUTE TO THE DOWNGRADING OF PROPERTY VALUES. THIS ORDINANCE SHALL ESTABLISH MINIMUM STANDARDS FOR THE CONDITION OF THE EXTERIOR OF BUILDINGS AND ESTABLISH REQUIREMENTS FOR MAINTENANCE OF ALL RESIDENTIAL AND NONRESIDENTIAL BUILDINGS, STRUCTURES, AND VACANT AND IMPROVED LAND.
- b. UNLESS OTHERWISE STATED, THIS ORDINANCE SHALL APPLY TO ALL BUILDINGS, STRUCTURES, AND LANDS WITHIN THE TOWN OF GILBERT WITHOUT REGARD TO THE USE, THE DATE OF CONSTRUCTION, IMPROVEMENT, OR ALTERATION.
- c. THIS ORDINANCE SHALL BE FAIRLY, SENSIBLY, AND REASONABLY APPLIED TO PROMOTE THE MAINTENANCE OF ALL EXISTING BUILDINGS, STRUCTURES, AND LAND IN THE TOWN OF GILBERT. THE INTENT IS TO ENSURE THAT INDIVIDUALS AND FAMILIES DO NOT SUFFER UNDUE HARDSHIP.
- d. THE INTENT OF THIS COUNCIL IS THAT THE PRIMARY METHOD OF ADDRESSING NUISANCES AND BLIGHT FOR ANY BUILDING, STRUCTURE, AND LAND GOVERNED BY COMMUNITY DOCUMENTS AS PART OF AN ASSOCIATION, AS DEFINED IN A.R.S. 33-1802, IS THROUGH ITS GOVERNING BOARD.
- e. THIS ORDINANCE SHALL NOT REQUIRE CHANGES IN EXISTING BUILDINGS AND UTILITIES WHEN ALTERATIONS WERE INSTALLED AND HAVE BEEN MAINTAINED IN ACCORDANCE WITH THE TOWN REQUIREMENTS IN EFFECT AT THE TIME OF CONSTRUCTION OR ALTERATION OF THE SUBJECT

BUILDING OR UTILITIES. THIS SUBSECTION DOES NOT APPLY WHEN THE BUILDING HAS BEEN DETERMINED TO BE AN IMMINENT HAZARD, UNSAFE, UNHEALTHY, BLIGHTED, OR DETERIORATED, WHEN THE BUILDING HAS BEEN MOVED TO ANOTHER LOCATION, OR AS SET FORTH IN THE GILBERT MUNICIPAL CODE, CHAPTER 10.

SEC. 42-314. ENFORCEMENT AUTHORITY

- a. THE DIRECTOR OF DEVELOPMENT SERVICES IS DELEGATED THE AUTHORITY TO EXERCISE THE POWERS AND PERFORM THE DUTIES SET FORTH IN THIS DIVISION AND TO ADMINISTER AND ENFORCE PROVISIONS OF THIS DIVISION. THE DIRECTOR OF DEVELOPMENT SERVICES MAY DESIGNATE OTHER EMPLOYEES TO EXERCISE SUCH POWERS AND PERFORM SUCH DUTIES.
- b. BUILDING EXTERIORS AND UNSCREENED LAND MAY BE INSPECTED AT ANY TIME WITH OR WITHOUT THE PRESENCE OF THE OWNER OR OCCUPANT IN CONFORMANCE WITH LEGAL REQUIREMENTS GOVERNING ADMINISTRATIVE INSPECTIONS OF BUILDINGS AND LAND.
- c. EXCEPT IN A SITUATION PRESENTING AN IMMINENT HAZARD TO LIFE, HEALTH OR PUBLIC SAFETY, BUILDING INTERIORS AND SCREENED LAND SHALL BE INSPECTED DURING THE NORMAL BUSINESS HOURS OF THE TOWN, UNLESS OTHERWISE ARRANGED, UPON:
 - (1) THE OWNER'S OR OCCUPANT'S CONSENT, OR
 - (2) ANY ADMINISTRATIVE OR COURT ORDER.

SEC. 42-315. DEFINITIONS

ABANDONED VEHICLE MEANS THE SAME AS A.R.S § 28-4801, AS AMENDED.

ABATEMENT SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

ACCUMULATION OF INOPERABLE VEHICLES MEANS TWO OR MORE INOPERABLE VEHICLES UPON A RESIDENTIAL LOT, OR UPON A COMMERCIAL OR INDUSTRIAL LOT WHERE THE PRIMARY BUSINESS DOES NOT INVOLVE THE SERVICE OF VEHICLES OR THE STORAGE OF INOPERABLE VEHICLES.

APPLIANCE MEANS A DEVICE OR APPARATUS THAT IS MANUFACTURED AND DESIGNED TO UTILIZE ENERGY AND FOR WHICH THIS ORDINANCE PROVIDES SPECIFIC REQUIREMENTS INCLUDING BUT NOT LIMITED TO ANY STOVE, COOKTOP, RANGE, OVEN, REFRIGERATOR, CLOTHING WASHER, CLOTHING DRYER, DISHWASHER, SWIMMING POOL FILTER, AND TELEVISION.

ARCHITECTURAL POOL MEANS A CONSTRUCTED OR EXCAVATED EXTERIOR AREA DESIGNED TO CONTAIN A REGULAR SUPPLY OF WATER, OTHER THAN A SWIMMING POOL.

BLIGHT OR BLIGHTED MEANS UNSIGHTLY CONDITIONS INCLUDING, BUT NOT LIMITED TO, ACCUMULATION OF DEBRIS; FENCES CHARACTERIZED BY HOLES, BREAKS, ROT, CRUMBLING, CRACKING, PEELING OR RUSTING; LANDSCAPING THAT IS DEAD, CHARACTERIZED BY UNCONTROLLED GROWTH OR LACK OF MAINTENANCE, OR IS DAMAGED; ANY OTHER SIMILAR CONDITIONS OF DISREPAIR AND DETERIORATION; AND THE EXTERIOR VISIBLE USE OR DISPLAY OF TARPS, PLASTIC SHEETING, OR OTHER SIMILAR MATERIALS AS FLEXIBLE OR INFLEXIBLE SCREENING, FENCING, OR WALL COVERING UPON A RESIDENTIAL LOT REGARDLESS OF THE CONDITION OF OTHER PROPERTIES IN THE NEIGHBORHOOD.

BUILDING MEANS A STRUCTURE HAVING A ROOF SUPPORTED BY COLUMNS OR WALLS TO FORM A STRUCTURE FOR THE SHELTER OF PERSONS, ANIMALS OR PROPERTY, INCLUDING MOBILE HOMES, MANUFACTURED HOMES, FACTORY-BUILT BUILDINGS, AND LIKE PROPERTY.

BULK TRASH MEANS ALL MANMADE MATERIALS THAT ARE BULKY OR CUMBERSOME SUCH AS WASHERS, HOT WATER HEATERS AND OTHER APPLIANCES, SOFAS, TABLES, BEDS AND OTHER LARGE HOUSEHOLD FURNITURE, YARD WASTE AND OTHER REFUSE ITEMS WHICH BY SIZE, SHAPE, OR QUANTITY WILL NOT FIT INTO A RESIDENTIAL ROLL-OUT CONTAINER.

CURB LINE MEANS THE EDGE OF A ROADWAY WHETHER MARKED BY A CURB OR NOT.

DAYS MEANS CALENDAR DAYS UNLESS OTHERWISE INDICATED.

DEBRIS MEANS SUBSTANCE OF LITTLE OR NO APPARENT ECONOMIC VALUE, WHICH MAY BE PRESENT IN ACCUMULATIONS INCLUDING BUT NOT LIMITED TO DETERIORATED LUMBER, OLD NEWSPAPERS, FURNITURE PARTS, STOVES, SINKS, CABINETS, HOUSEHOLD FIXTURES, REFRIGERATORS, CAR PARTS, ABANDONED, BROKEN OR NEGLECTED EQUIPMENT, OR THE SCATTERED REMAINS OF ITEMS.

DETERIORATION MEANS A LOWERING IN QUALITY OF THE 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 OR NEGLECT OR EXCESSIVE USE OR LACK OF MAINTENANCE.

DUSTPROOF MEANS A LOT OR AREA MAINTAINED BY PAVING WITH ONE OF THE FOLLOWING METHODS: ASPHALTIC CONCRETE, OR A CEMENT CONCRETE LOT IS ALSO DUSTPROOF IF COVERED BY A SMOOTH LAYER OF CRUSHED ROCK OR GRAVEL WITHIN A PERMANENT BORDER OR BY AN ALTERNATIVE SURFACE TREATMENT AS APPROVED BY THE ZONING ADMINISTRATOR THAT WILL EQUAL OR EXCEED THE DUSTPROOF CHARACTERISTICS OF THE ABOVE LISTED ALTERNATIVES.

DWELLING MEANS ANY BUILDING OR A PORTION THEREOF WHICH IS INTENDED, OR DESIGNATED TO BE BUILT, USED, RENTED, LEASED, LET, OR HIRED OUT FOR HUMAN OCCUPANCY, OR WHICH IS OCCUPIED BY A HUMAN BEING.

DWELLING UNIT MEANS A SINGLE UNIT PROVIDING INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING AND SANITATION.

EXCAVATION MEANS A SHAFT, TEST HOLE, WELL, PIT, TRENCH, OR OTHER CONDITION RESULTING FROM THE REMOVAL OR ABSENCE OF EARTHEN MATERIAL RESULTING IN A CAVITY OR OPENING THAT IS MORE THAN SIX INCHES IN ANY LATERAL DIMENSION AND MORE THAN EIGHTEEN INCHES IN DEPTH, EXCLUDING ACTIVE SAND OR GRAVEL MINES BEING OPERATED IN COMPLIANCE WITH TOWN AND STATE LAWS.

EXTERIOR OPENING MEANS AN OPENABLE WINDOW, DOOR, OR PASSAGE BETWEEN INTERIOR AND EXTERIOR SPACES.

FENCES AND SCREEN WALLS MEANS AN OPEN, SEMI-OPAQUE OR SOLID BARRIER, RAILING, OR OTHER UPRIGHT STRUCTURE, INCLUDING GATES, TYPICALLY CONSTRUCTED OF WOOD, METAL, WIRE, MASONRY, STONE OR OTHER MANUFACTURED MATERIAL ENCLOSING AN AREA TO MARK A BOUNDARY, CONTROL ACCESS OR PREVENT ESCAPE.

GARBAGE MEANS ALL PUTRESCIBLE WASTES, EXCEPT SEWER AND BODY WASTES, INCLUDING ALL ORGANIC WASTES PREPARED FOR OR INTENDED TO BE

USED AS FOOD OR WHICH HAVE RESULTED FROM THE PREPARATION OF FOOD, INCLUDING ALL SUCH SUBSTANCES FROM PUBLIC AND PRIVATE ESTABLISHMENTS AND RESIDENCES. "GARBAGE" ALSO MEANS ANY HUMAN-MADE OR HUMAN-USED WASTE WHICH, IF DEPOSITED WITHIN THE TOWN OTHER THAN IN A GARBAGE RECEPTACLE, DOES CREATE OR TENDS TO CREATE A DANGER TO PUBLIC HEALTH, SAFETY, AND WELFARE OR TO IMPAIR THE ENVIRONMENT OF THE PEOPLE OF THE TOWN AND INCLUDES, BY ILLUSTRATION ONLY, ANY LITTER, TRASH, REFUSE, CONFETTI, DEBRIS, RUBBISH, EXCREMENT, URINE, OFFAL COMPOSED OF ANIMAL MATTER OR VEGETABLE MATTER, OR BOTH, OR ANY NOXIOUS OR OFFENSIVE MATTER.

HAZARD MEANS ANY CONDITIONS THAT PRESENTS A RISK TO THE SAFETY OF ANY PERSON OR ADVERSELY AFFECTS OR JEOPARDIZES THE HEALTH OR WELL-BEING OF ANY PERSON OR ENDANGERS PROPERTY. SUCH CONDITIONS INCLUDE, BUT ARE NOT LIMITED TO, ACCUMULATION OF HUMAN OR ANIMAL WASTE, PRESENCE OF MEDICAL OR BIOLOGICAL WASTE, SHARPS, GASEOUS OR COMBUSTIBLE MATERIALS, RADIOACTIVE WASTE, DANGEROUS OR CORROSIVE CHEMICALS OR LIQUIDS, FLAMMABLE OR EXPLOSIVE MATERIALS, FRIABLE ASBESTOS, OFFAL OR DECAY MATTER.

HAZARDOUS WASTE MEANS ANY DISCARDED MATERIAL HAZARDOUS BY REASON OF ITS PATHOLOGICAL, EXPLOSIVE, FLAMMABLE, RADIOLOGICAL, CORROSIVE, REACTIVE, OR TOXIC NATURE. "HAZARDOUS WASTE" ALSO MEANS ANY MATERIAL THAT CAN CAUSE DAMAGE OR INJURY TO PROPERTY OR PERSONS. HAZARDOUS WASTE INCLUDES BUT IS NOT LIMITED TO ANY CHEMICAL, COMPOUND, MIXTURE, SUBSTANCE, PRODUCT OR OTHER MATERIAL WHICH IS A HAZARDOUS WASTE PURSUANT TO ARIZONA REVISED STATUTES, TITLE 49, CHAPTER 4, ARTICLE 2 AND OR CODE OF FEDERAL REGULATIONS PART 261 AND POLY-CHLORINATED BIPHENYLS (PCBs).

IMMINENT HAZARD MEANS A HAZARD OR CONDITION OF REAL PROPERTY THAT CREATES AN IMMEDIATE OR UNREASONABLE RISK OF DEATH OR SERIOUS INJURY TO ANY PERSON OR AN IMMEDIATE OR UNREASONABLE RISK OF LOSS OF OR DAMAGE TO PROPERTY.

INFESTATION MEANS THE APPARENT PRESENCE OF UNPLEASANT, DAMAGING, OR UNHEALTHFUL INSECTS, RODENTS, REPTILES OR PESTS.

INSPECTION MEANS AN OFFICIAL EXAMINATION OR VISIT TO A BUILDING OR PROPERTY CONDUCTED PURSUANT TO THIS CHAPTER.

INOPERABLE VEHICLE MEANS ANY VEHICLE INCAPABLE OF BEING LEGALLY DRIVEN OR A VEHICLE THAT CANNOT BE STARTED AND MOVED UNDER ITS OWN POWER.

LAND SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

LITTER MEANS DECAYING OR NON-DECAYING SOLID AND SEMI-SOLID WASTES, INCLUDING BUT NOT LIMITED TO BOTH COMBUSTIBLE AND NONCOMBUSTIBLE WASTES, SUCH AS PAPER, TRASH, CARDBOARD, WASTE MATERIAL, CANS, YARD CLIPPINGS, WOOD, GLASS, BEDDING, DEBRIS, SCRAP PAVING MATERIAL, DISCARDED APPLIANCES, DISCARDED FURNITURE, DRY VEGETATION, WEEDS, DEAD TREES AND BRANCHES, VEGETATION AND TREES WHICH MAY HARBOR INSECT OR RODENT INFESTATIONS OR MAY BECOME A FIRE HAZARD, PILES OF EARTH MIXED WITH ANY OF THE ABOVE OR ANY FOREIGN OBJECTS, INCLUDING INOPERABLE VEHICLES. BULK TRASH PROPERLY PREPARED AND PLACED FOR PICKUP IN COMPLIANCE WITH CHAPTER 66 OF THIS CODE IS NOT LITTER.

MOBILE HOME SHALL HAVE THE SAME MEANING AS DEFINED IN A.R.S § 33-1409(14), AS AMENDED.

OCCUPANT SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

OUTDOOR STORAGE MEANS THE KEEPING OF PERSONAL OR BUSINESS PROPERTY, MATERIAL, GOODS, INOPERABLE VEHICLES, OR EQUIPMENT OUTSIDE OF A BUILDING NOT FOR IMMEDIATE USE, SALE OR DISPLAY.

OWNER SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

OWNER'S AGENT MEANS:

- 1) A NATURAL PERSON AUTHORIZED TO MAKE OR ORDER REPAIRS, SERVICE TO UNITS AND RECEIVE NOTICES; OR
- 2) IF A BUSINESS ENTITY, THEN SHALL HAVE THE SAME MEANING AS THE STATUTORY AGENT DESIGNATED PURSUANT TO A.R.S. § 33-1902(B), AS AMENDED.

PERSON IN CONTROL SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

POND. SEE WATER FEATURE.

PROPERTY SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

PROPERTY, PRIVATE SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

PROPERTY, PUBLIC SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42.-303, AS AMENDED.

PUBLIC NUISANCE SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 42-303, AS AMENDED.

REFUSE SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 66-261, AS AMENDED.

RESPONSIBLE PARTY MEANS AN OCCUPANT, LESSOR, MANAGER, LICENSEE, OR OTHER PERSON HAVING CONTROL OVER A STRUCTURE, BUILDING, OR PARCEL OF LAND; AND IN THE CASE WHERE THE DEMOLITION OF A STRUCTURE IS PROPOSED AS A MEANS OF ABATEMENT, ANY LIENHOLDER WHOSE LIEN INTEREST IS RECORDED IN THE OFFICIAL RECORDS OF THE MARICOPA COUNTY RECORDER'S OFFICE.

RETAINING WALL MEANS A STRUCTURE OR A BARRIER DESIGNED TO PROVIDE BANK RETENTION BETWEEN GRADE SEPARATIONS.

RUBBISH MEANS MISCELLANEOUS WASTE MATERIAL RESULTING FROM HOUSEKEEPING, MERCANTILE ENTERPRISES, TRADES, MANUFACTURING AND OFFICES WHETHER COMBUSTIBLE OR NON-COMBUSTIBLE, INCLUDING OTHER WASTE MATTER SUCH AS SLAG, STONE, BROKEN CONCRETE, FLY ASH, ASHES, TIN CANS, GLASS, SCRAP METAL, RUBBER, PAPER, RAGS, CHEMICALS OR ANY SIMILAR OR RELATED COMBINATIONS THEREOF.

RUBBLE MEANS BROKEN SOLID SURFACE FRAGMENTS USUALLY RESULTING FROM THE DECAY OR DETERIORATION OF A BUILDING OR STRUCTURE; MISCELLANEOUS MASS OF BROKEN OR APPARENTLY WORTHLESS MATERIALS.

SOUND MEANS ABLE TO SUPPORT ITSELF UNDER REASONABLE LOADING OR WEATHER CONDITIONS, FREE FROM DECAY OR DEFECT.

STRUCTURE MEANS THAT WHICH IS BUILT, CONSTRUCTED OR ERECTED.

SWIMMING POOL MEANS A PORTABLE OR PERMANENT STRUCTURE INTENDED FOR SWIMMING OR FULL OR PARTIAL IMMERSION. THIS DEFINITION EXCLUDES ORNAMENTAL POOLS, WATER FEATURES OR FISHPONDS.

UNSAFE MEANS ANY STRUCTURE OR BUILDING THAT IS OR HEREAFTER BECOME UNSAFE, UNSANITARY OR DEFICIENT BECAUSE OF INADEQUATE MEANS OF EGRESS FACILITIES, INADEQUATE LIGHT AND VENTILATION, OR THAT CONSTITUTE A FIRE HAZARD, OR ARE OTHERWISE DANGEROUS TO HUMAN LIFE OR THE PUBLIC WELFARE, OR INADEQUATE MAINTENANCE.

UNSCREENED MEANS VISIBLE FROM A PLACE REASONABLY ACCESSIBLE TO THE GENERAL PUBLIC OR TO A PERSON STANDING ON ADJACENT LAND.

UNSECURED MEANS ANY STRUCTURE, BUILDING OR EXCAVATION WITH A DAMAGED OR OPEN DOOR, WINDOW, OR OTHER OPENING NOT SECURED IN ACCORDANCE WITH TOWN STANDARDS TO PREVENT UNAUTHORIZED ENTRY.

VACANT LAND OR VACANT PROPERTY MEANS A LOT OR PARCEL OF LAND THAT IS NOT ACTIVELY USED FOR ANY PURPOSE AND EITHER NO IMPROVEMENT, OR LIMITED IMPROVEMENTS, HAVE BEEN CONSTRUCTED.

VACANT STRUCTURE MEANS AN UNOCCUPIED OR AN ILLEGALLY OCCUPIED STRUCTURE OR AN OCCUPIED STRUCTURE WITHOUT ADEQUATE FACILITIES/UTILITIES.

VEGETATION MEANS PLANT LIFE OF ANY KIND.

WATER FEATURE SHALL HAVE THE SAME MEANING AS DEFINED IN GILBERT MUNICIPAL CODE SEC. 66-351, AS AMENDED.

WEEDS MEANS ANY NON-CULTIVATED PLANT MATERIAL GROWN TO A HEIGHT OF OVER TEN INCHES, EXCEPT IN A PROPERLY CULTIVATED PASTURE OR AGRICULTURAL FIELD.

YARD MEANS A SPACE ON ANY LOT, UNOCCUPIED BY A FULLY ENCLOSED STRUCTURE, INCLUDING BUT NOT LIMITED TO CARPORTS AND PORCHES.

PART 2. MAINTENANCE STANDARDS

SEC. 42-316. BUILDING AND STRUCTURE EXTERIORS

a. *SCOPE.* UNLESS OTHERWISE PROVIDED, THIS SECTION APPLIES TO ALL STRUCTURES AND BUILDINGS IN THE TOWN.

b. *EXTERIOR SURFACES.* ALL EXPOSED EXTERIOR SURFACES, WINDOWS AND DOORS SHALL BE MAINTAINED SO AS TO BE FREE OF DETERIORATION THAT IS A THREAT TO HEALTH AND SAFETY, IMPERVIOUS TO MOISTURE AND WEATHER ELEMENTS, OR SHALL NOT OTHERWISE PRESENT A DETERIORATED OR BLIGHTED APPEARANCE. WINDOWS, DOORS, LOCKS ON DOORS, AND HINGES MUST BE PRESENT AND INSTALLED PROPERLY. THESE ITEMS MUST BE FREE FROM DETERIORATION OR BLIGHTING CONDITIONS. ANY TEMPORARY ABATEMENT OF VACANT STRUCTURES MUST BE DONE IN ACCORDANCE WITH TOWN ABATEMENT SPECIFICATIONS. EXAMPLES OF SUCH DETERIORATION AND BLIGHT INCLUDE BUT ARE NOT LIMITED TO:

- 1) IMPROPERLY ANCHORED CANOPIES, METAL AWNINGS, STAIRWAYS, EXHAUST DUCTS, AND OVERHEAD EXTENSIONS;
- 2) CHIMNEYS THAT ARE STRUCTURALLY UNSAFE;
- 3) BROKEN OR CRACKED EXTERIOR WINDOWS AND DOORS THAT ARE NOT FITTED SECURELY IN THEIR FRAMES AND ARE NOT SUBSTANTIALLY WEATHERTIGHT OR HAVE INOPERABLE LOCKS;
- 4) PAINT THAT IS DETERIORATED, INDICATED BY PEELING, FLAKING, CRACKED, BLISTERING OR MILDEW, RESULTING IN EXPOSED, BARE UNPROTECTED SURFACES;
- 5) WINDOW SCREENING, IF PRESENT, SHALL BE MAINTAINED IN GOOD CONDITION;
- 6) BOARDED WINDOW OR DOOR OPENINGS ON AN OCCUPIED STRUCTURE;
- 7) SECURED WINDOW OR DOOR OPENINGS ON AN ABANDONED STRUCTURE OR OTHER STRUCTURE THAT IS UNOCCUPIED FOR MORE THAN 90 DAYS REQUIRES POLYCARBONATE MATERIAL SECUREMENT SPECIFICATIONS ON ALL OPENINGS VISIBLE FROM THE STREET.

c. *FENCES, SCREEN WALLS, AND RETAINING WALLS.* ALL FENCES, SCREEN WALLS, AND RETAINING WALLS ON THE PREMISES SHALL BE SAFE,

STRUCTURALLY SOUND, AND MAINTAINED SO THAT THEY DO NOT CONSTITUTE A HAZARD, BLIGHT OR CONDITION OF DISREPAIR. EACH CONTINUOUS RUN (or rung) SHALL BE UNIFORM OR COMPATIBLE IN MATERIAL. EXAMPLES OF HAZARDS, BLIGHT OR CONDITIONS OF DISREPAIR INCLUDE BUT ARE NOT LIMITED TO, FENCES OR WALLS THAT ARE LEANING, MISSING SLATS OR BLOCKS, THAT EXHIBIT ROT, DAMAGE, GRAFFITI, PEELING PAINT, OR DETERIORATION OF PAINT OR MATERIALS.

d. *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 RABBITS, BEES OR OTHER INSECTS AND ANIMALS WHERE SUCH ACTIVITY IS NOT A DANGER OR NUISANCE TO ANY RESIDENT OF THE AREA, AND WHERE OTHER APPLICABLE LEGAL REQUIREMENTS ARE MET.

e. *DRAINAGE.* ALL PREMISES SHALL BE MAINTAINED SO AS TO PREVENT THE ACCUMULATION OF STAGNANT WATER WHEN SUCH WATER CAUSES A HAZARDOUS OR UNHEALTHY CONDITION, BECOMES A BREEDING AREA FOR INSECTS, OR WHICH IS CAUSING SOIL EROSION OR DAMAGE TO FOUNDATION WALLS. THIS DOES NOT APPLY TO TOWN-APPROVED DRAINAGE BASINS, RETENTION BASINS OR OTHER SIMILAR CONDITIONS. THIS EXEMPTION IS NOT OPERABLE WHEN ACTUAL AND PROBABLE DANGER EXISTS DUE TO NEGLIGENCE.

f. *FOUNDATIONS, EXTERIOR WALLS AND ROOFS.* EVERY FOUNDATION, EXTERIOR WALL, ROOF AND ALL OTHER EXTERIOR SURFACES SHALL BE MAINTAINED IN A STRUCTURALLY SOUND, SAFE, AND WEATHERTIGHT CONDITION. THE FOUNDATION ELEMENTS SHALL ADEQUATELY SUPPORT THE BUILDING AT ALL POINTS AND SHALL BE FREE FROM DETERIORATION.

- 1) *FOUNDATION.* THE BUILDING FOUNDATION SHALL BE MAINTAINED IN A SAFE CONDITION AND BE CAPABLE OF SUPPORTING THE LOAD THAT NORMAL USE MAY PLACE THEREON.
- 2) *EXTERIOR WALLS AND SURFACES.* THE EXTERIOR WALLS SHALL BE SUBSTANTIALLY WEATHERTIGHT, WEATHERPROOF, FREE FROM DRY ROT AND MILDEW, AND SHALL BE MAINTAINED IN SOUND CONDITION AND GOOD REPAIR SO AS TO PREVENT INFESTATION. ALL EXTERIOR SURFACES, OTHER THAN DECAY-RESISTANT MATERIALS, SHALL BE PROTECTED FROM THE ELEMENTS BY PAINTING OR OTHER PROTECTIVE COVERING ACCORDING TO MANUFACTURER'S SPECIFICATIONS.

3) *ROOFS*. ROOFS SHALL BE MAINTAINED IN A SAFE CONDITION AND HAVE NO DEFECTS WHICH MIGHT ADMIT RAIN OR CAUSE DAMPNESS IN THE WALLS OR INTERIOR PORTION OF THE BUILDING. ROOFS SHALL BE FREE FROM CONDITIONS THAT CONTRIBUTE TO THE DETERIORATION OF THE STRUCTURE OR OTHERWISE PRESENT A DETERIORATED OR BLIGHTED APPEARANCE.

g. *COOLERS AND THEIR APPARATUS*. COOLERS AND THEIR MOUNTING APPARATUS SHALL BE MAINTAINED IN A CONDITION FREE FROM EXCESSIVE ACCUMULATION OF SCALE, RUST, CORROSION OR MINERAL DEPOSITS. COOLER STANDS OR MOUNTS SHALL BE STRUCTURALLY SOUND. UNUSED, DETERIORATING, AND UNATTACHED EVAPORATIVE COOLERS MUST BE REMOVED FROM THE STRUCTURE.

h. *OUTDOOR STAIRS, PORCHES, RAILINGS*. ALL OUTDOOR STAIRS, PORCHES, AND HAND RAILINGS SHALL BE ADEQUATE FOR SAFETY AND SHALL COMPLY WITH CHAPTER 10, SECTIONS 10-31 AND 10-37 OF THE GILBERT MUNICIPAL CODE. EVERY STAIR AND PORCH 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. EVERY STAIRWAY, STAIR, PORCH, AND ANY APPENDAGE THERETO SHALL BE MAINTAINED IN SAFE CONDITION AND CAPABLE OF SUPPORTING A LOAD THAT NORMAL USE MAY PLACE THEREON. REQUIRED PROTECTIVE RAILING SHALL BE LOCATED AND MAINTAINED IN THE MANNER PRESCRIBED BY THE CHAPTER 10, ARTICLE II.

i. APPROVED ADDRESS NUMBERS SHALL BE MAINTAINED IN SUCH A MANNER AS TO BE PLAINLY VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY.

SEC. 42-317. EXTERIOR PREMISES AND VACANT LAND

a. *SCOPE*. UNLESS OTHERWISE PROVIDED, THIS SECTION APPLIES TO ALL LAND, VACANT OR IMPROVED, IN THE TOWN.

b. *GENERAL*. ALL LAND INCLUDING EXTERIOR PREMISES AND VACANT LAND, WHETHER IMPROVED OR UNIMPROVED, SHALL BE MAINTAINED FREE FROM ANY HAZARD OR ACCUMULATION OF GARBAGE, DEBRIS, RUBBLE, HAZARDOUS WASTE, LITTER, REFUSE, WASTE MATERIAL, OR BLIGHT. THIS INCLUDES, BUT IS NOT LIMITED TO, GRAFFITI ON WALLS, FENCES, MAIL BOXES, ETC., ORGANIC OR INORGANIC MATERIAL; THE EXTERIOR VISIBLE USE OR DISPLAY OF TARPS, PLASTIC SHEETING, OR OTHER SIMILAR MATERIALS AS FLEXIBLE OR

INFLEXIBLE SCREENING, FENCING OR WALL COVERING UPON A RESIDENTIAL LOT; AN ACCUMULATION OF INOPERABLE OR ABANDONED VEHICLES, DISCARDED, BROKEN, OR INOPERABLE APPLIANCES, DISCARDED OR BROKEN FURNITURE, BROKEN GLASS, DISCARDED, BROKEN OR INOPERABLE EQUIPMENT, DISCARDED OR BROKEN BICYCLES, AN ACCUMULATION OF INOPERABLE OR ABANDONED VEHICLES, BICYCLE OR APPLIANCE PARTS, PILES OF MIXED MATERIALS, DRY VEGETATION, RAGS, EMPTY BARRELS, BOXES, CRATES, PACKING CASES, MATTRESSES, BEDDING, LOOSE OR OTHER PACKING MATERIAL; LUMBER NOT NEATLY PILED, LUMBER STORED IN FRONT YARDS, SCRAP IRON, TIN AND OTHER METAL NOT NEATLY PILED OR ANYTHING WHATSOEVER IN WHICH INSECTS, RODENTS, SNAKES OR OTHER HARMFUL PESTS MAY LIVE, BREED OR MULTIPLY OR WHICH MAY OTHERWISE CREATE A FIRE HAZARD. THIS DOES NOT INCLUDE BULK TRASH PROPERLY PREPARED AND PLACED FOR PICKUP IN COMPLIANCE WITH CHAPTER 66 OF THIS CODE. A SINGLE INOPERABLE VEHICLE IN COMBINATION WITH ANY OF THE ABOVE-DESCRIBED CONDITIONS SHALL BE DEEMED A VIOLATION OF THIS SUBSECTION. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF THIS SUBSECTION BASED ON THE PRESENCE OF AN INOPERABLE VEHICLE THAT THE VEHICLE WAS REGISTERED TO A RESIDENT OF THE PROPERTY, THAT THE VEHICLE WAS UNDERGOING REPAIR, AND THAT THE TOTAL PERIOD DURING WHICH THE VEHICLE WAS INOPERABLE DID NOT EXCEED FIFTEEN DAYS. THIS AFFIRMATIVE DEFENSE MAY NOT BE RAISED MORE THAN THREE TIMES IN ANY COMBINATION OF CIVIL OR CRIMINAL PROCEEDINGS IN ANY ONE CALENDAR YEAR.

c. *STREETS, ALLEYS, EASEMENTS, AND SIDEWALKS ABUTTING LAND.* THE OWNER AND ANY RESPONSIBLE PARTY IN CONTROL OF ANY LAND ABUTTING A SIDEWALK, ALLEY, EASEMENT OR STREET SHALL MAINTAIN THE FOLLOWING AREAS FREE OF ANY RUBBISH, TRASH, WEEDS OR OTHER ACCUMULATION OF FILTH, DEBRIS:

- 1) ANY PORTION OF A STREET, WHICH HAS BEEN OPENED FOR PUBLIC USE, BETWEEN THE CURBLINE AND THE ABUTTING PROPERTY LINE.
- 2) ONE-HALF OF THE WIDTH OF ABUTTING PUBLIC ALLEYS FROM THE PROPERTY LINE TO THE CENTERLINE OF THE ALLEY.
- 3). ANY PORTION OF A STREET ABUTTING THE BOUNDARIES OF A PARCEL OF LAND, WHICH STREET HAS NOT BEEN OPENED FOR PUBLIC USE, SHALL BE MAINTAINED BY THOSE PERSONS WHO DEDICATED THE STREET OR THEIR SUCCESSORS IN INTEREST, INCLUDING LESSEES AND OTHER PERSONS IN CONTROL OF THE LAND ABUTTING THE STREET; PROVIDED, THAT IF THE ABUTTING LAND ON EITHER SIDE OF SUCH STREET IS OWNED BY DIFFERENT PERSONS AND EACH PERSON HAS AN OBLIGATION TO MAINTAIN THE STREET

HEREUNDER, THEN THE OWNER, LESSEE OR OTHER PERSON IN CONTROL OF THE LAND SHALL ONLY BE REQUIRED TO MAINTAIN ONE-HALF OF THE WIDTH OF THE STREET ABUTTING THEIR LAND.

d. *MAINTENANCE OF PONDS, SWIMMING POOLS, AND ARCHITECTURAL POOLS.* ALL PONDS, 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, OR TO BECOME STALE OR FOUL THROUGH LACK OF CIRCULATION. THE WATER SHALL BE SUFFICIENTLY CLEAR SO THAT THE MAIN DRAIN OUTLET IS CLEARLY VISIBLE TO AN ADULT STANDING ON THE POOL DECK. FENCING OR OTHER BARRIERS REQUIRED FOR SWIMMING POOL AND SPA ENCLOSURES SHALL BE MAINTAINED AS OUTLINED IN SECTION 5.2.7 OF THE LAND DEVELOPMENT CODE, AS AMENDED.

e. *WEEDS, BUSHES, TREES AND OTHER VEGETATION.*

1) 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 MAY LIKELY BECOME A FIRE HAZARD OR RESULT IN A CONDITION THAT MAY THREATEN THE HEALTH AND SAFETY OR THE ECONOMIC WELFARE OF ADJACENT PROPERTY OWNERS OR OCCUPANTS.

2) THE PREMISES SHALL BE FREE FROM VISUAL BLIGHT; POTENTIAL FIRE HAZARDS; DEAD TREES AND BRANCHES; DEAD PALM FRONDS WITHIN TEN FEET OF THE GROUND, A STRUCTURE, A FENCE OR WALL, OR OF ANY COMBUSTIBLE OTHER THAN THE TREE FROM WHICH THE FRONDS HAVE GROWN; LAWN GRASS HIGHER THAN 10 INCHES; TUMBLEWEEDS; OR WEEDS HIGHER THAN 10 INCHES TALL.

f. *DUMPING.* VACANT LOTS OR LANDS THAT HAVE BEEN SUBJECT TO DUMPING ON MORE THAN ONE OCCASION SHALL BE SECURED TO PREVENT FUTURE OCCURRENCES OF DUMPING. METHODS OF SECURING VACANT LOTS OR LANDS MAY INCLUDE THE FOLLOWING: PERMANENT FENCING; DITCH AND BERM; AND OTHER EQUALLY EFFECTIVE METHODS AT THE DISCRETION OF THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE. SHOULD THE PROPERTY OWNER OF A VACANT LOT OR LAND POST A VISIBLE SIGN THAT STATES, "NO

DUMPING". THE POSTING OF SUCH A SIGN SHALL SERVE AS THE PROPERTY OWNER'S AFFIRMATIVE DEFENSE TO AN ILLEGAL DUMPING CITATION.

g. *EXCAVATIONS.* EXCAVATIONS AND OTHER LIKE OR SIMILAR CONDITIONS MUST BE FILLED WITH CLEAN FILL. ON A TEMPORARY BASIS, NO LONGER THAN 180 DAYS, EXCAVATIONS SHALL BE MAINTAINED IN A SECURE MANNER AS REQUIRED IN SECT. 54-6 OF THE GILBERT MUNICIPAL CODE.

h. *PARKING AREAS.* MOTOR VEHICLES OR TRAILERS SHALL NOT BE PARKED, MANEUVERED OR STORED UPON A LOT OR AREA WITHIN THE TOWN THAT IS NOT DUSTPROOF.

- 1) THIS SUBSECTION SHALL NOT BE APPLICABLE TO VEHICLES OR TRAILERS PARKED IN THE REAR YARD OF A RESIDENTIAL LOT THAT CONTAINS ONE SINGLE FAMILY OR DUPLEX RESIDENTIAL UNIT.
- 2) IT SHALL BE AN AFFIRMATIVE DEFENSE TO A VIOLATION OF THIS SUBSECTION THAT THE CONDITION OF THE LOT IS IN COMPLIANCE WITH THE CONDITIONS AND REQUIREMENTS FOR TEMPORARY PARKING IN A SPECIAL EVENT PERMIT

i. THE FOLLOWING OUTDOOR STORAGE ON RESIDENTIAL PROPERTIES, WHICH IS VISIBLE FROM BEYOND THE BOUNDARIES OF THE LOT, IS PROHIBITED:

- 1) ANY BUILDING OR LANDSCAPING MATERIALS NOT ASSOCIATED WITH A CURRENT ACTIVE PROJECT;
- 2) ANY MACHINERY, APPLIANCES OR PARTS;
- 3) ANY STORAGE WITHIN THE YARD OF PERSONAL PROPERTY, INCLUDING BUT NOT LIMITED TO ANY HOUSEHOLD GOODS, BOXES, OR FURNITURE WHICH IS NOT PLACED FOR OUTDOOR USE, WHICH IS VISIBLE BEYOND THE BOUNDARIES OF THE PROPERTY.

SEC. 42-318. BUILDINGS, STRUCTURES, EXCAVATIONS CONSTITUTING A NUISANCE; VIOLATION; ABATEMENT

- a. ALL BUILDINGS, STRUCTURES AND EXCAVATIONS SHALL BE MAINTAINED IN A MANNER CONSISTENT WITH THE REQUIREMENTS CONTAINED IN GILBERT MUNICIPAL CODE SECTIONS 42-108 AND 42-109.
- b. MAINTENANCE OF A BUILDING, STRUCTURE OR EXCAVATION THAT MEETS ANY OF THE FOLLOWING CONDITIONS IS A NUISANCE AND CONSTITUTES A VIOLATION OF THIS ORDINANCE AND SUBJECTS THE BUILDING, STRUCTURE OR EXCAVATION TO DEMOLITION OR OTHER ABATEMENT MEASURES UPON EXPIRATION OF REQUIRED NOTICE:
 - 1) THE BUILDING OR STRUCTURE HAS BEEN VACANT AND UNSECURED FOR MORE THAN FORTY-EIGHT HOURS ON MORE THAN ONE OCCASION DURING A TWELVE-MONTH PERIOD.
 - 2) THE EXCAVATION HAS BEEN UNSECURED FOR MORE THAN FORTY-EIGHT HOURS ON MORE THAN ONE OCCASION DURING A TWELVE-MONTH PERIOD.
 - 3) THE BUILDING, STRUCTURE OR EXCAVATION OR THEIR CONTENT PRESENTS AN IMMINENT HAZARD.
- c. A BUILDING OR STRUCTURE OR EXCAVATION IN GOOD REPAIR OR SECURED OR WHICH IS ACTIVELY BEING OFFERED FOR SALE OR RENT OR IS INVOLVED IN LEGAL PROCEEDINGS PROHIBITING REPAIR, SALE OR LEASE MAY BE EXEMPTED BY THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE IF THE PROPERTY OWNER DEMONSTRATES THAT THE BUILDING OR STRUCTURE OR EXCAVATION DOES NOT POSE A THREAT TO THE HEALTH OR SAFETY OF ANY PERSON.

SEC. 42-319. DISCHARGE OF WATER INTO TOWN DRAINAGE BASINS

IT SHALL BE UNLAWFUL FOR ANY PERSON TO DISCHARGE, OR PERMIT TO BE DISCHARGED, WATER FROM A SWIMMING POOL OR SIMILAR FACILITY INTO A DRAINAGE BASIN OF THE TOWN IN A MANNER THAT VIOLATES THE PROVISIONS OF CHAPTER 30, ARTICLE III OF THE GILBERT MUNICIPAL CODE.

PART 3. ADMINISTRATION AND ENFORCEMENT

SEC. 42-320. AUTHORITY TO ENFORCE STANDARDS

- a. IN ADDITION TO THE AUTHORITY GRANTED TO THE DEVELOPMENT SERVICES DIRECTOR PURSUANT TO 42-314 OF THIS CODE, THE TOWN MANAGER OR DESIGNEE IS AUTHORIZED TO TAKE ABATEMENT MEASURES AS SET FORTH

IN CHAPTER 42, ARTICLE VIII OF THE GILBERT MUNICIPAL CODE, IN WHOLE OR PART, WHICH IN THE OPINION OF THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE, IS AN IMMINENT HAZARD TO THE HEALTH OR SAFETY OF ANY PERSON OR PERSONS DUE TO THE CONDITIONS OF SUCH STRUCTURE.

b. NO PERSON SHALL INTERFERE OR ATTEMPT TO INTERFERE WITH A TOWN AGENT INVESTIGATING OR ABATING A VIOLATION OF THIS DIVISION.

c. NO PERSON SHALL KNOWINGLY MAKE A FALSE STATEMENT OR KNOWINGLY MISLEAD A TOWN AGENT INVESTIGATING OR ABATING A VIOLATION OF THIS DIVISION.

d. NO PERSON SHALL WILLFULLY MAKE A FALSE, FRAUDULENT, MISLEADING OR UNFOUNDED REPORT OR STATEMENT, OR WILLFULLY MISREPRESENT ANY FACT FOR THE PURPOSE OF INTERFERING OR MISLEADING ANY TOWN AGENT INVESTIGATING A VIOLATION OF THIS DIVISION.

SEC. 42-321. AUTHORITY; INSPECTIONS

a. THE TOWN MAY INSPECT PROPERTY TO DETERMINE COMPLIANCE WITH THIS ORDINANCE.

b. AN INSPECTOR MAY EXPAND THE SCOPE OF ANY INSPECTION TO INCLUDE OTHER VIOLATIONS OF THIS CHAPTER NOTED DURING INSPECTION.

c. EXCEPT FOR PROPERTY OWNED BY THE TOWN OF GILBERT, EXEMPTED FROM THE OPERATION OF THIS ORDINANCE IS PROPERTY USED FOR GOVERNMENTAL PURPOSES AS WELL AS INDUSTRIALLY AND COMMERCIAL ZONED AREAS, TO THE EXTENT ZONING PERMITS STORAGE OF MATERIAL ORDINARILY PROHIBITED BY THIS ORDINANCE. THIS EXEMPTION IS NOT OPERABLE WHEN ACTUAL AND PROBABLE DANGER EXISTS

d. ALL INSPECTIONS SHALL BE CONDUCTED IN COMPLIANCE WITH THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF ARIZONA.

SEC. 42-322. NOTICE OF VIOLATION

a. UPON INSPECTION, IF THE TOWN FINDS A VIOLATION OF THIS ORDINANCE, THE TOWN MAY NOTIFY THE OWNER, OWNER'S AGENT, OR RESPONSIBLE PARTY THROUGH THE ISSUANCE OF A NOTICE OF VIOLATION. IF A NOTICE OF VIOLATION IS ISSUED, IT SHALL INCLUDE:

- 1) IDENTIFICATION OF PROPERTY IN VIOLATION;

- 2) STATEMENT OF VIOLATIONS IN SUFFICIENT DETAIL TO ALLOW AN OWNER OR RESPONSIBLE PARTY TO IDENTIFY AND CORRECT THE PROBLEM;
- 3) REINSPECTION DATE;
- 4) ADDRESS AND PHONE NUMBER OF A TOWN REPRESENTATIVE TO CONTACT;
- 5) AVAILABILITY, IF ANY, OF FINANCIAL ASSISTANCE FOR HARDSHIP;
- 6) TOWN'S AUTHORITY TO ABATE SHOULD OWNER OR RESPONSIBLE PARTY NOT CORRECT THE VIOLATION WITHIN THIRTY (30) DAYS, AND TO ASSESS A LIEN AGAINST THE PROPERTY FOR THE COSTS OF ABATEMENT;
- 7) APPEAL PROCEDURES; AND
- 8) IF THE NOTICE IS ISSUED PURSUANT TO SECTION 42-311, ALL REQUIREMENTS PURSUANT TO THAT SECTION.

b. ANY NOTICE GIVEN FOR ANY PURPOSE UNDER THIS CHAPTER SHALL BE DEEMED EFFECTIVE ON THE DATE WHEN WRITTEN NOTICE IS SERVED PERSONALLY, OR BY CERTIFIED MAIL. IF THE NOTICE IS SERVED BY CERTIFIED MAIL, THE NOTICE SHALL BE MAILED TO THE LAST KNOWN ADDRESS OF THE OWNER, THE OWNER'S AUTHORIZED AGENT, OR TO THE OWNER'S STATUTORY AGENT AND TO THE ADDRESS TO WHICH THE TAX BILL FOR THE PROPERTY WAS LAST MAILED AND TO THE OCCUPANT OR LESSEE. IF PERSONAL SERVICE OR CERTIFIED MAIL SERVICE IS NOT PRACTICABLE, SERVICE OF NOTICE SHALL ALSO BE DEEMED EFFECTIVE UPON NOTIFICATION THROUGH ONE-TIME PUBLIC NOTICE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION AND BY POSTING THE PROPERTY FOR A PERIOD OF 30 DAYS. NOTHING HEREIN SHALL PRECLUDE THE TOWN FROM GIVING ADDITIONAL VERBAL OR WRITTEN NOTICE AT ITS DISCRETION.

c. NOTHING IN THIS SECTION SHALL REQUIRE THE ISSUANCE OF A NOTICE OF VIOLATION PRIOR TO THE COMMENCEMENT OF CIVIL VIOLATION PROCEEDINGS.

d. THIRTY CALENDAR DAYS AFTER SERVICE OF THE NOTICE AS PROVIDED HEREIN, THE OWNER OR RESPONSIBLE PARTY SHALL BE JOINTLY AND

SEVERALLY LIABLE FOR ANY AND ALL REASONABLE CHARGES INCURRED BY REASON OF THE FIRE DEPARTMENT BEING REQUIRED TO RESPOND TO THE PROPERTY NOT ABATED AS REQUIRED BY THE NOTICE. WHEN INCURRED, SUCH CHARGES SHALL BE TREATED IN THE SAME MANNER AND BE SUBJECT TO THE SAME RIGHTS OF APPEAL AS CHARGES INCURRED IN BRINGING THE PROPERTY INTO COMPLIANCE.

e. ANY PERSON THAT RECKLESSLY PLACES OR CAUSES TO BE PLACED ANY RUBBISH, TRASH, FILTH OR DEBRIS ON ANY PROPERTY NOT OWNED OR UNDER THE CONTROL OF THAT PERSON IS GUILTY OF A CLASS 1 MISDEMEANOR OR A CIVIL VIOLATION UNLESS THAT PERSON IMMEDIATELY REMOVES OR CAUSES TO BE REMOVED THE RUBBISH, TRASH, FILTH OR DEBRIS FROM THAT PROPERTY.

f. ONE HUNDRED PERCENT OF ANY ASSESSED FINE OR CIVIL PENALTY SHALL BE DEPOSITED IN THE GENERAL FUND OF THE CITY OR TOWN IN WHICH THE FINE OR CIVIL PENALTY WAS ASSESSED. AT LEAST FIFTY PERCENT OF THE FINE OR CIVIL PENALTY SHALL BE USED BY THE CITY OR TOWN FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP.

g. IN ADDITION TO ANY FINE OR PENALTY IMPOSED FOR A VIOLATION OF THIS SECTION, THE OWNER OR RESPONSIBLE PARTY IS LIABLE FOR ALL COSTS THAT MAY BE ASSESSED PURSUANT TO THIS SECTION FOR REMOVING, ABATING OR ENJOINING THE RUBBISH, TRASH, FILTH OR DEBRIS AND FOR ALL COSTS INCURRED BY THE OWNER, LESSEE, OCCUPANT OR LIENHOLDER OF THE PROPERTY IN THE REMOVAL AND DISPOSAL OF THE RUBBISH, TRASH, FILTH OR DEBRIS.

h. IF REQUIRED TO REMOVE ANY RUBBISH, TRASH, FILTH OR DEBRIS PURSUANT TO THIS SECTION, THE OWNER OR RESPONSIBLE PARTY SHALL PROVIDE THE TOWN WITH A RECEIPT FROM A DISPOSAL FACILITY OR OTHER DOCUMENTATION EVIDENCING LAWFUL DISPOSAL OF THE RUBBISH, TRASH, FILTH OR DEBRIS.

SEC. 42-223. APPEAL TO THE HEARING OFFICER.

WITHIN 15-CALENDAR DAYS FROM THE SERVICE OF THE NOTICE OF VIOLATION, THE OWNER OR PERSON CONTROLLING SUCH PROPERTY MAY APPEAL IN WRITING TO THE HEARING OFFICER FROM THE DEMAND OF THE CODE COMPLIANCE OFFICER. THE DECISION OF THE HEARING OFFICER IS FINAL.

SECT. 42-224. HEARING OFFICER.

a. *HEARING OFFICER — CREATION AND PURPOSE.* THE HEARING OFFICER SHALL BE APPOINTED BY THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE.

b. *HEARING OFFICER — DUTIES AND POWERS.* THE HEARING OFFICER SHALL HAVE THE DUTY TO CARRY OUT THE PROVISIONS OF THIS CODE. THE HEARING OFFICER SHALL HAVE THE POWER TO HOLD A PUBLIC HEARING TO REVIEW AND APPROVE, CONTINUE, DENY, OR APPROVE WITH CONDITIONS ANY VIOLATIONS OF THIS CODE. THE HEARING OFFICER MAY IN CONNECTION WITH ANY APPLICATION, IMPOSE CONDITIONS DEEMED NECESSARY IN ORDER TO FULLY CARRY OUT THE PROVISIONS AND INTENT OF THIS CODE. VIOLATION OF ANY HEARING OFFICER CONDITION SHALL BE A VIOLATION OF THIS CODE.

c. *HEARING OFFICER — PROCEDURE.* PUBLIC HEARINGS CONDUCTED BY THE HEARING OFFICER SHALL BE OPEN TO THE PUBLIC AND CONDUCTED IN ACCORDANCE WITH THE PUBLIC HEARING PROCEDURES OF THE GILBERT LAND DEVELOPMENT CODE SECTION 6.2.7 AS AMENDED. THE PUBLIC SHALL BE GIVEN AN OPPORTUNITY TO TESTIFY ORALLY OR IN WRITING. THE MINUTES OF ITS PROCEEDINGS IN ACCORDANCE WITH SECTION 1-88 OF THE GILBERT MUNICIPAL CODE.

SEC. 42-325. RECORDING A NOTICE OF VIOLATION

THE DIRECTOR OF DEVELOPMENT SERVICES OR DESIGNEE MAY RECORD A NOTICE OF VIOLATION WITH THE MARICOPA COUNTY RECORDER. A RECORDED NOTICE OF VIOLATION SHALL RUN WITH THE LAND AND SHALL CONSTITUTE NOTICE, FOR ALL PURPOSES OF THIS ORDINANCE, TO ALL PERSONS OR ENTITIES THEREAFTER ACQUIRING AN INTEREST IN THE PROPERTY. FAILURE TO RECORD A NOTICE OF VIOLATION SHALL NOT AFFECT THE VALIDITY OF THE NOTICE AS TO PERSONS WHO RECEIVE THE NOTICE. WHEN THE PROPERTY IS BROUGHT INTO COMPLIANCE, IF A NOTICE OF VIOLATION WAS RECORDED, A SATISFACTION OF NOTICE OF VIOLATION SHALL BE RECORDED.

SEC. 42-326. ENFORCEMENT INDEPENDENT OF OTHER OFFICIALS

THE AUTHORITY OF THE TOWN TO ENFORCE THE PROVISIONS OF THIS ORDINANCE IS INDEPENDENT OF AND IN ADDITION TO THE AUTHORITY OF OTHER TOWN OFFICIALS TO ENFORCE THE PROVISIONS OF ANY OTHER TOWN REGULATION, INCLUDING THE GILBERT MUNICIPAL CODE AND LAND DEVELOPMENT CODE.

SEC. 42-327. COOPERATION OF OTHER DEPARTMENTS

UPON REQUEST OF THE DIRECTOR OF DEVELOPMENT SERVICES OR DESIGNEE, THE POLICE DEPARTMENT AND ANY OTHER DEPARTMENT OF THE TOWN HAS AUTHORITY TO ASSIST AND COOPERATE IN THE PERFORMANCE OF DUTIES UNDER THIS ORDINANCE. THIS COOPERATION MAY INCLUDE ASSISTANCE IN ENFORCEMENT OR ABATEMENT ACTIONS.

SEC. 42-328. VIOLATIONS OF ARTICLE AND PENALTIES, ACTIONS OR ABATEMENT PROCEDURES NOT EXCLUSIVE

VIOLATIONS OF THIS ARTICLE ARE IN ADDITION TO ANY OTHER VIOLATION ENUMERATED WITHIN THIS CODE, AND IN NO WAY LIMITS THE PENALTIES, ACTIONS OR ABATEMENT PROCEDURES WHICH MAY BE TAKEN BY THE TOWN FOR ANY VIOLATION OF ANY OTHER ORDINANCE OF THE TOWN OR STATE STATUTE.

SEC. 42-329. COLLECTION OF FINES; LIEN; ABATEMENT

ANY JUDGMENT FOR A CIVIL FINE AND/OR PENALTY IMPOSED PURSUANT TO THIS ARTICLE SHALL CONSTITUTE A LIEN AGAINST THE REAL PROPERTY OF THE DEFENDANT WHICH MAY BE PERFECTED BY RECORDING A COPY OF THE JUDGMENT UNDER SEAL OF THE TOWN WITH THE COUNTY RECORDER. ANY JUDGMENT FOR CIVIL FINES OR PENALTIES TAKEN PURSUANT TO THIS ARTICLE MAY BE COLLECTED AS ANY OTHER CIVIL JUDGMENT. IF THE DEFENDANT FAILS TO CORRECT THE VIOLATION CHARGED WITHIN 30 DAYS OF THE ISSUANCE OF THE FIRST CITATION, THE TOWN ATTORNEY MAY PROCEED WITHOUT FURTHER NOTICE TO COMMENCE AN INJUNCTIVE ACTION FOR ABATEMENT OF THE VIOLATION. ANY ACTION TAKEN UNDER THIS ARTICLE SHALL BE IN ADDITION TO ANY OTHER REMEDIES PROVIDED FOR IN THIS CODE.

SEC. 42-330. VIOLATIONS AND CITATIONS

a. IF A VIOLATION OF THIS ORDINANCE CONTINUES PAST THE TIME FOR CORRECTION SET FORTH IN THE NOTICE OF VIOLATION, A CITATION SHALL BE ISSUED BY ANY PERSON SO AUTHORIZED BY THIS ORDINANCE TO THE OWNER OF RECORD AND OCCUPANT OF THE PROPERTY WHERE THE VIOLATION HAS OCCURRED.

b. CITATIONS MAY BE ISSUED BY THE CODE COMPLIANCE MANAGER, A CODE COMPLIANCE OFFICER, OR A TOWN OF GILBERT POLICE OFFICER.

c. *CITATION; TYPE.* THE CITATION WILL BE SUBSTANTIALLY IN THE SAME FORM AS THE STATE TRAFFIC CITATION FORM CURRENTLY IN USE AND SHALL DIRECT THE DEFENDANT TO APPEAR IN MUNICIPAL COURT OR PAY THE FINE IMPOSED WITHIN TEN DAYS AFTER ISSUANCE OF THE CITATION.

d. *CITATION; DELIVERY.* THE CITATION MAY BE SIGNED BY THE RESIDENT/OCCUPANT OR OWNER OF RECORD WITH HIS PROMISE TO APPEAR OR PAY THE FINE IMPOSED WITHIN TEN DAYS OF THE ISSUANCE OF THE CITATION. IF THE OCCUPANT OR OWNER IS UNAVAILABLE AT THE TIME THE VIOLATION IS NOTED 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 HAS OCCURRED BY POSTING A COPY OF THE CITATION ON OR ABOUT AN ENTRANCE TO THE DWELLING UNIT.

(2) UPON THE OWNER OF RECORD OR THE RESIDENT/OCCUPANT IF THEY SHOULD REFUSE TO SIGN THE CITATION AS TO THEIR PROMISE TO APPEAR, THE DIRECTOR OR HIS DESIGNEE MAY LEAVE A COPY OF THE CITATION WITH THE DEFENDANT (HANDED TO HIM OR LEFT IN DEFENDANT'S PRESENCE) EXECUTED BY THE DIRECTOR OR DESIGNEE UNDER PENALTY OF PERJURY THAT A COPY OF THE CITATION WAS LEFT WITH THE DEFENDANT.

(3) UPON THE RESIDENT/OCCUPANT BY MAILING A COPY OF THE CITATION CERTIFIED MAIL, RETURN RECEIPT REQUESTED, RESTRICTED DELIVERY, TO THE DEFENDANT. THE RETURN RECEIPT WITH THE DEFENDANT'S SIGNATURE SHALL BE FILED WITH THE COURT.

(4) UPON THE OWNER OF RECORD BY MAILING A COPY OF THE CITATION BY FIRST CLASS MAIL, POSTAGE PREPAID, TO THE ADDRESS AND PERSON OR ENTITY INDICATED ON THE RECORDS OF THE COUNTY ASSESSOR. SERVICE IS COMPLETE UPON POSTING OR UPON DEPOSIT INTO THE MAIL, WHICHEVER IS APPLICABLE.

e. EACH DAY A VIOLATION CONTINUES, OR THE FAILURE TO PERFORM ANY ACT OR DUTY REQUIRED BY THE COMMUNITY PRESERVATION CODE OR BY THE TOWN OF GILBERT MUNICIPAL COURT CONTINUES, SHALL CONSTITUTE A SEPARATE CIVIL OFFENSE.

f. A CIVIL ACTION FOR VIOLATIONS SHALL BE COMMENCED BY FILING OF THE CITATION IN THE TOWN OF GILBERT MUNICIPAL COURT.

g. *APPEARANCE.* SHOULD THE DEFENDANT FAIL TO APPEAR WITHIN THE TIME SPECIFIED AND EITHER PAY THE FINE FOR THE VIOLATION OR REQUEST A HEARING, THE CITATION SHALL NOTIFY THE DEFENDANT THAT JUDGMENT BY DEFAULT WILL BE ENTERED IN THE AMOUNT OF THE FINE DESIGNATED ON THE CITATION FOR THE VIOLATION CHARGED, PLUS A PENALTY AMOUNT AS ESTABLISHED BY THIS DIVISION FOR THE DEFENDANT'S FAILURE TO APPEAR.

SEC. 42-331. APPEARANCE OR PAYMENT BY MAIL

a. THE DEFENDANT SHALL, WITHIN TEN DAYS OF THE ISSUANCE OF THE CITATION, APPEAR IN PERSON OR THROUGH THEIR ATTORNEY IN THE MUNICIPAL COURT AND SHALL EITHER ADMIT OR DENY THE ALLEGATIONS CONTAINED IN THE CITATION, OR THE DEFENDANT MAY PROCEED AS PROVIDED IN SUBSECTION (b) OF THIS SECTION. IF THE DEFENDANT ADMITS THE ALLEGATIONS, THE COURT SHALL IMMEDIATELY ENTER JUDGMENT AGAINST THE DEFENDANT IN THE AMOUNT OF THE FINE FOR THE VIOLATION CHARGED AS SET BY THIS ARTICLE. IF THE DEFENDANT DENIES THE ALLEGATIONS CONTAINED IN THE CITATION, THE COURT SHALL SET A HEARING DATE FOR TRIAL OF THE MATTER.

b. THE DEFENDANT MAY ADMIT THE ALLEGATION IN THE CITATION AND PAY THE FINE INDICATED BY MAILING THE CITATION, TOGETHER WITH A CHECK, FOR THE AMOUNT OF THE FINE TO AND MADE PAYABLE TO THE MUNICIPAL COURT.

SEC. 42-332. DEFAULT

IF THE DEFENDANT FAILS TO APPEAR AS DIRECTED ON THE CITATION, THE COURT, UPON REQUEST OF THE DIRECTOR OF DEPARTMENT SERVICES OR DESIGNEE, SHALL ENTER A DEFAULT JUDGMENT FOR THE AMOUNT OF THE FINE INDICATED FOR THE VIOLATION CHARGED, TOGETHER WITH A PENALTY FOR THE DEFENDANT'S FAILURE TO APPEAR AS ESTABLISHED BY THIS DIVISION. IF THE DEFENDANT FAILS TO APPEAR AT THE PREHEARING CONFERENCE, AS SET

BY THE COURT, THE COURT SHALL NONETHELESS SET THE MATTER FOR TRIAL. IF A DEFENDANT FAILS TO APPEAR AT A TRIAL, THE COURT MAY ENTER JUDGMENT AGAINST THE NONAPPEARING DEFENDANT FOR THE AMOUNT OF THE FINE, PLUS A PENALTY FOR FAILURE TO APPEAR, AS ESTABLISHED BY THIS DIVISION. NO JUDGMENT MAY BE ENTERED AGAINST A FICTITIOUSLY IDENTIFIED DEFENDANT.

SEC. 42-333. RULES OF PROCEDURE

THE STATE RULES OF COURT FOR CIVIL TRAFFIC VIOLATION CASES MAY BE FOLLOWED BY THE MUNICIPAL COURT FOR CITATIONS ISSUED PURSUANT TO THIS ARTICLE, EXCEPT AS MODIFIED OR WHERE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, OR AS MODIFIED OR ESTABLISHED FOR USE BY THE MUNICIPAL COURT OR THE STATE SUPREME COURT.

SEC. 42-334. PENALTIES

a. A CITATION ISSUED PURSUANT TO VIOLATIONS AND CITATIONS, AS SET FORTH ABOVE, SHALL DIRECT THE PERSON TO WHOM THE CITATION IS ISSUED TO PAY A FINE IN THE AMOUNT SET FORTH IN THE GILBERT MUNICIPAL COURT ADOPTED SCHEDULE OF FINES WITHIN TEN (10) DAYS OF THE ISSUANCE OF THE CITATION OR TO APPEAR BEFORE THE TOWN OF GILBERT MUNICIPAL COURT.

b. UPON A FINDING BY THE TOWN OF GILBERT MUNICIPAL COURT THAT A PERSON, CORPORATION, OR OTHER LEGAL ENTITY IS RESPONSIBLE FOR A CIVIL VIOLATION OF THIS ORDINANCE, THE TOWN OF GILBERT MUNICIPAL COURT SHALL IMPOSE A CIVIL FINE OF NOT MORE THAN \$500.00 FOR EACH VIOLATION.

c. ANY JUDGMENT FOR CIVIL FINES OR PENALTIES MAY BE COLLECTED AS ANY OTHER CIVIL JUDGMENT, AS PROVIDED FOR IN THE ARIZONA REVISED STATUTES.

d. *CIVIL PENALTIES.* THERE IS IMPOSED A CIVIL PENALTY, IN THE SAME AMOUNT AS THE FINE INDICATED ON THE CITATION, SHOULD THE DEFENDANT FAIL TO APPEAR AND ANSWER FOR A VIOLATION WITHIN THE TIME PERIOD STATED ON THE CITATIONS.

SEC. 42-335. HABITUAL OFFENDERS

a. ANY PERSON FOUND RESPONSIBLE BY THE TOWN OF GILBERT MUNICIPAL COURT FOR COMMITTING THREE (3) OR MORE CIVIL VIOLATIONS OF THE ORDINANCE WITHIN A 24-MONTH PERIOD, WHETHER BY ADMISSION, BY PAYMENT OF THE FINE, BY DEFAULT OR BY JUDGMENT SHALL, AFTER A

HEARING, BE DETERMINED TO BE A HABITUAL OFFENDER. FOR PURPOSES OF CALCULATING THE 24-MONTH PERIOD UNDER THIS PARAGRAPH, THE DATES OF THE COMMISSION OF THE OFFENSES ARE THE DETERMINING FACTOR.

b. A HABITUAL OFFENDER WHO SUBSEQUENTLY VIOLATES THIS ORDINANCE SHALL BE GUILTY OF A CLASS 1 MISDEMEANOR OFFENSE.

c. NOTWITHSTANDING THE ABOVE ELECTIVE PENALTY, UPON CONVICTION OF A HABITUAL OFFENDER OF A VIOLATION OF THIS ORDINANCE, THE COURT SHALL IMPOSE A FINE OF NOT LESS THAN \$500.00 FOR EACH COUNT UPON WHICH A CONVICTION IS OBTAINED.

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

SEC. 42-336. CUMULATIVE REMEDIES

THE REMEDIES HEREIN ARE CUMULATIVE AND IN ADDITION TO ANY OTHER REMEDIES TO WHICH THE TOWN MAY BE ENTITLED BY LAW OR EQUITY.

SEC. 42-337. OWNER OF RECORD

THE OWNER OF RECORD, AS RECORDED IN THE MARICOPA COUNTY RECORDER'S OFFICE RECORDS, OF THE PROPERTY UPON WHICH A VIOLATION OF THIS ORDINANCE EXISTS MAY BE PRESUMED TO BE A PERSON HAVING LAWFUL CONTROL OVER ANY BUILDING, STRUCTURE OR PARCEL OF LAND. IF MORE THAN ONE PERSON SHALL BE RECORDED AS THE OWNER OF THE PROPERTY, SAID PERSONS MAY BE JOINTLY AND SEVERALLY PRESUMED TO BE PERSONS HAVING LAWFUL CONTROL OVER THE BUILDING, STRUCTURE OR PARCEL OF LAND.

SEC. 42-338. COURT-ORDERED ABATEMENT

- a. IN ADDITION TO ANY OTHER ABATEMENT PROCEDURE PROVIDED IN THIS CHAPTER, THE DIRECTOR OF DEVELOPMENT SERVICES, THE DIRECTOR'S DESIGNEE OR THE TOWN ATTORNEY OR TOWN PROSECUTOR, IN THE NAME OF THE TOWN OF GILBERT, MAY APPLY TO THE MUNICIPAL COURT FOR AN ORDER PERMITTING THE TOWN TO ABATE ANY CONDITION THAT CONSTITUTES A VIOLATION OF THIS ORDINANCE.

- b. AFTER NOTICE TO THE OWNER AND ANY RESPONSIBLE PARTY, THE JUDGE OR COURT HEARING OFFICER SHALL CONDUCT A HEARING. THE HEARING SHALL BE INFORMAL AND OPEN TO THE PUBLIC. EVIDENCE MAY BE TAKEN FROM ANY INTERESTED PARTY AND CONSIDERED IN DETERMINING WHETHER A CONDITION IN VIOLATION OF THIS ORDINANCE EXISTS AND WHAT, IF ANY, ABATEMENT ACTION SHOULD BE PERMITTED. ANY PERSON WHO FAILS TO APPEAR AFTER NOTICE OF THE HEARING MAY BE DEEMED TO HAVE WAIVED ANY RIGHT TO INTRODUCE EVIDENCE. THE COURT'S DETERMINATION SHALL BE BASED ON THE PREPONDERANCE OF EVIDENCE.
- c. UPON FINDING THAT ABATEMENT IS APPROPRIATE, THE COURT MAY ORDER DEMOLITION, BOARD-UP, CLEANUP OR ANY OTHER ACTION THE COURT DEEMS REASONABLY NECESSARY TO CORRECT THE VIOLATION. A DEMOLITION SHALL ONLY BE PERMITTED AS PROVIDED IN SECTION 42-318.
- d. EXCEPT AS EXEMPTED PURSUANT TO A.R.S. 9-499, THE REASONABLE COSTS OF ANY ABATEMENT PERMITTED BY THE COURT'S ORDER SHALL BE THE RESPONSIBILITY OF THE OWNER AND MAY BE COLLECTED AS PROVIDED IN SECTION 42-311.

SEC. 42-339. JURISDICTION OF COURT

- a. A. JURISDICTION OF ALL JUDICIAL PROCEEDINGS TO ENFORCE THE PROVISIONS OF THIS ORDINANCE SHALL BE IN THE MUNICIPAL COURT OF THE TOWN OF GILBERT.
- b. CIVIL ACTIONS TO ENFORCE THIS ORDINANCE MAY BE ADJUDICATED BY A JUDGE OR A COURT HEARING OFFICER.
- c. THE MUNICIPAL COURT OF THE TOWN OF GILBERT MAY ORDER ABATEMENTS TO ENFORCE THIS CHAPTER EITHER UPON PETITION FROM THE TOWN ATTORNEY OR INCIDENTAL TO A HEARING ON A CIVIL OR CRIMINAL VIOLATION OF THIS CHAPTER WHEN REQUESTED BY THE TOWN.

SEC. 42-340. COMMENCEMENT OF CIVIL ACTION

ANY CIVIL ACTION TO ENFORCE THE PROVISIONS OF THE ORDINANCE SHALL BE COMMENCED, AND SUMMONS SHALL BE ISSUED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN ARIZONA REVISED STATUTES, TOWN ORDINANCE.

SEC. 42-341. ADMISSION OR DENIAL OF ALLEGATION; HEARING; FINDINGS OF COURT; CIVIL SANCTION

A PERSON SERVED WITH A CIVIL CITATION OR COMPLAINT SHALL APPEAR AT THE TIME AND PLACE STATED IN THE CITATION OR SUMMONS, OR MAY APPEAR PRIOR TO THE TIME AND ADMIT OR DENY THE ALLEGATIONS OF THE CIVIL CITATION OR COMPLAINT. ALLEGATIONS NOT DENIED AT THE TIME OF APPEARANCE ARE DEEMED ADMITTED.

- a. IF THE ALLEGATIONS ARE ADMITTED, THE COURT SHALL ENTER JUDGMENT FOR THE TOWN AND IMPOSE A CIVIL SANCTION.
- b. IF THE PERSON DENIES THE ALLEGATIONS, THE COURT SHALL SET THE MATTER FOR HEARING. CIVIL HEARINGS ARE INFORMAL AND HELD WITHOUT A JURY, AND THE TOWN IS REQUIRED TO PROVE THE VIOLATION CHARGED BY A PREPONDERANCE OF THE EVIDENCE. TECHNICAL RULES OF EVIDENCE DO NOT APPLY, EXCEPT FOR STATUTORY PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. IF THE PERSON ELECTS TO BE REPRESENTED BY COUNSEL, THE PERSON SHALL SO NOTIFY THE COURT AT LEAST TEN DAYS PRIOR TO THE HEARING DATE. HEARINGS MAY BE RECORDED. IF THE COURT FINDS IN FAVOR OF THE PERSON, THE COURT SHALL ENTER AN ORDER DISMISSING THE CITATION OR COMPLAINT. IF THE COURT FINDS IN FAVOR OF THE TOWN, THE COURT SHALL ENTER JUDGMENT FOR THE TOWN AND IMPOSE A CIVIL SANCTION.
- c. IF THE PERSON SERVED WITH A CIVIL CITATION OR COMPLAINT FAILS TO APPEAR ON OR BEFORE THE TIME DIRECTED TO APPEAR OR AT THE TIME SET FOR HEARING BY THE COURT, THE ALLEGATIONS SHALL BE DEEMED ADMITTED AND THE COURT SHALL ENTER JUDGMENT FOR THE TOWN AND IMPOSE A CIVIL SANCTION.

SEC. 42-342. APPEAL OF COURT DECISION

ANY PARTY MAY APPEAL THE JUDGMENT OF THE COURT TO THE SUPERIOR COURT. APPEALS FROM CIVIL PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE SUPERIOR COURT RULES OF APPELLATE PROCEDURE—CIVIL. APPEALS FROM CRIMINAL PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE SUPERIOR COURT RULES OF APPELLATE PROCEDURE—CRIMINAL. EXECUTION OF ANY JUDGMENT SHALL BE STAYED PENDING APPEAL WHEN THE DEFENDANT POSTS AN APPEAL BOND IN ACCORDANCE WITH THE ORDER OF THE TRIAL COURT, OR WHEN NO BOND IS FIXED AND A NOTICE OF APPEAL HAS BEEN FILED.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, 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.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a Class One misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

Section IV. Providing for Civil Sanctions.

Any person found responsible for violating this Ordinance shall be subject the civil sanctions and habitual offender provisions as set forth in Section 42-333 of the Gilbert Municipal Code. Each day a violation continues, or the failure the failure to perform any act or duty required by the Municipal Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this _____ day of _____, 20__, by the following vote:

AYES: _____

NAYS: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 20__.

Brigette Peterson, Mayor

ATTEST:

Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ____ DAY OF _____, 20__, WAS POSTED IN ONE PLACE ON THE ____ DAY OF _____, 20__.

Chaveli Herrera, Town Clerk

The following exhibits are attached hereto and incorporated herein:

1. _____
2. _____
3. _____
4. _____