

Chapter 105 – BUILDING AND BUILDING REGULATIONS

ARTICLE 1 – IN GENERAL

105-1 Removal of rubbish, trash, weeds, filth, debris and dilapidated structures.

- A. The *owner*, lessee or occupant of property shall remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated *structures* which constitute a hazard to public health and safety from *buildings, grounds, lots, contiguous sidewalks, streets* and *alleys*.
- B. Upon failure to comply with a violation notice by the city, the responsible party shall correct the violation. In the event the violation is not corrected, the violation is considered a public nuisance that may be abated. This remedy is in addition to any other remedy.

105-2 - 105-18 Reserved.

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ARTICLE 2 – TECHNICAL CODES

DIVISION 1 GENERALLY

105-19 Construction codes. The following codes and appendices as published by the International Code Council, and the *amendments* to those codes, as adopted by ordinance, are hereby adopted as amended and declared to be public records. At least three copies of each code and its corresponding *amendments*, if any, shall be filed in the city clerk's *office* and kept available for public *use* and inspection.

- A. 2012 International *Building Code*.
- B. 2012 International Residential Code.
- C. 2012 International Electrical Code.
- D. 2012 International Mechanical Code.
- E. 2012 International Plumbing Code.
- F. 2012 International Fuel Gas Code.
- G. 2012 International Energy Conservation Code.
- H. 2006 International Property Maintenance Code.
- I. 2012 International Existing *Building Code*.
- J. 2012 International Fire Code.

A certain public record entitled "2016 *Amendments* to the 2012 International Codes," dated September 20, 2016, specifically amends the 2012 *building code*, residential code, mechanical code, plumbing code, fuel gas code, energy conservation code, existing *building code*, and fire code.

State Law reference — Adoption by reference, A.R.S. § 9-801 et seq.; state plumbing code, A.R.S. § 41-619.

105-20 Interpretation of language.

Wherever the word "city" or "town" is *used* in any code adopted by this article, such word shall be held to refer to the city.

105-21 Code references.

All references to the International *Zoning Code* are hereby deleted in all of the codes adopted by this article.

105-22 Copies on file.

At least three copies of each code adopted by reference in section 105-19, including three copies of any revisions or *amendments* thereto, shall be filed in the *office* of the city clerk and shall be available for public *use* and inspection.

105-23 Administration and enforcement; conflict of laws.

The administrative authority for enforcement of this article shall be vested in the city manager or such delegate as the city manager may authorize or appoint. This article shall be construed and enforced in conjunction with chapter 125. In the event there is a conflict between the provisions of this article or the codes adopted by this article and any other provision of this Code, then the provisions of this article or the codes adopted by this article shall prevail.

105-24 Extensions and improvements.

Extensions and improvements shall be in accordance with the city's specifications and standards and approved by the city.

105-25 Penalties for violations.

Any person who violates any provision of this article or any provision of any code adopted by this article; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents or directive of the *building* official, or of a permit or certificate issued under the provisions of any code adopted by this article, shall be guilty of a civil or criminal violation.

105-26 – 105-53 Reserved.

DIVISION 2 RESERVED

105-54 – 105-89 Reserved.

ARTICLE 3 – RENTAL ACCOUNTABILITY

105-90 General provisions

This article shall be known as the "Surprise Rental Accountability *Ordinance*" and may be cited as such.

105-91 Purpose and scope

The purpose of this article is to promote the health, safety, and welfare of the citizens of Surprise, Arizona, by providing for accountability of property *owners* for slum conditions and criminal conduct. This article shall apply to all *buildings* and *structures* within the City of Surprise without regard to their *use* or date of construction or *alteration*.

105-92 Definitions. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them in this section:

"Managing agent" means a *person*, corporation, partnership or limited liability company that is authorized by the *owner* to operate and manage the property.

"Residential rental property" means property that is *used* solely as leased or rented property for residential purposes. If the property is a space rental *mobile home park* or a *recreational vehicle park*, "residential rental property" includes the rental space that is leased or rented by the *owner* of that rental space but does not include the *mobile home* or *recreational vehicle* that serves as the actual *dwelling*, if the *dwelling* is owned and occupied by the tenant of the rental space and not by the *owner* of the rental space.

"Responsible party" means an *owner*, occupant, lessor, lessee, manager, licensee or other person having control over a *structure* or *parcel* of land; and in the case where the demolition of a *structure* is proposed as a means of abatement, any lien holder whose interest is recorded in the official records of the Maricopa County Recorder's Office.

"Slum property" means residential rental property that has deteriorated or is in a state of disrepair and that manifests one (1) or more of the following conditions that are a danger to the health or safety of the public:

- (1) Hazardous electrical systems or gas connections.
- (2) Lack of safe, rapid egress.
- (3) Accumulations of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

- (4) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings.
- (5) Lack of potable water, adequate sanitation facilities, and adequate water or waste pipe connections.

105-93 Community development director—Duties, appeals

- A. It shall be the duty and responsibility of the community development director to administer the provisions of this article; and, pursuant to this duty, the community development director is authorized to make safe any *structure* in whole or in part, which in the opinion of the community development director, is an imminent threat to the health or safety of any person or *persons* due to the conditions of such *structure*, or to abate any nuisance established herein.
- B. No person shall, by threat or *use* of violence or physical force or by any other act that can be reasonably anticipated to cause physical harm to any person, including the perpetrator, intentionally obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this article.
- C. Appeals of designation of slum property:
 - (1) An appeal to a civil hearing officer may be made by filing a written request at the *office* of the code enforcement division within 35 days from the date of the notice of violation.
 - (2) Appeal application form. Appeals to a civil hearing officer shall be made on an application form supplied by the city. The application for appeal shall contain the grounds for appeal, the relief sought and the appellant's mailing address.

State Law reference— A.R.S. § 33-1905.

105-94 Rules and regulations

The community development director is authorized to make rules and regulations necessary to carry out the provisions of this article.

105-95 Authority and inspections

- A. The city is authorized to make inspections of property to determine compliance with the provisions of this article as allowable by law.

- B. An inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. If upon inspection, one (1) or more violations of the city's adopted property maintenance code exist, the *owner* or responsible party will be required to correct all violations within a reasonable amount of time.
 - (1) In the event that the *building, dwelling or dwelling unit* is unoccupied or becomes unoccupied, future occupancy will be prohibited until a compliance letter is issued by the city. Upon receipt of a written request by the *owner* or responsible party, the city will re-inspect for the purpose of re-occupancy within a reasonable time.

State Law reference— A.R.S. §§ 33-1904, 9-1302 & 1303.

105-96 Specified unlawful activities—General penalty

Wherever in this article an act is prohibited or declared unlawful, and wherever in this article the doing of any act is required or the failure to do any act is declared unlawful, the violation of any such provisions of this article is a misdemeanor, punishable by a fine or imprisonment. Officers of any corporation or partners of any firm who is the responsible party pursuant to this article, which is found to have violated any provision of this article, shall be individually subject to fine and/or imprisonment.

105-97 Jurisdiction of court

- A. Jurisdiction of all proceedings to enforce the provisions of this article shall be in the Municipal Court of the City of Surprise.
- B. Civil actions to enforce this article may be adjudicated by a judge or court hearing officer.
- C. The Municipal Court of the City of Surprise shall have jurisdiction to issue orders permitting the city to abate conditions that constitute a violation of the provisions of this article.

105-98 Prosecution of civil or criminal action

The provisions of §§ 2-233 through 2-237 of the Surprise Municipal Code shall apply to this article.

105-99 Registration of residential rental property

- A. An *owner* of residential rental property shall maintain with the Maricopa County Assessor information required by this section in a manner to be determined by the Maricopa County Assessor.
- B. An *owner* of residential rental property who lives outside this state shall designate and record with the assessor a statutory agent who lives in this state and who will accept legal service on behalf of the *owner*. The *owner* shall designate the agent in a manner to be determined by the Maricopa County Assessor.
- C. Residential rental property shall not be occupied if the information required by this section is not on file with the Maricopa County Assessor.
- D. All records, files and documents that are required by this section are public records.
- E. A *person* who fails to comply with any provision of this subsection is responsible for a civil infraction and shall be assessed a civil penalty.
- F. Notwithstanding subsection (e) of this section, if a *person* complies within ten days after receiving the complaint that notices the violation, the court shall dismiss the complaint and shall not impose a civil penalty.
- G. Nothing in this section shall be construed to prohibit criminal prosecution of the violations of this section in addition to enforcement of any civil penalties.

State Law reference — A.R.S. § 33-1902.

105-100 Abatement of slum property

All *buildings* or portions thereof which are determined after inspection by the community development director to be slum properties as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures allowable by law.

105-101 Designation of slum property; recordation

- A. A residential rental property may be designated as a slum property if it meets all of the following:
 - (1) The definition of slum property, and
 - (2) Has three or more of the conditions or defects described in the city's adopted Property Maintenance Code at the time of the inspection, and

- (3) The conditions or defects set forth in a notice of violation provided per the city's adopted Property Maintenance Code have not been remedied within the time set forth in the notice of violation, and
 - (4) No proper and timely appeal of the notice of violation has been filed.
- B. Where designation of a property as a slum is appropriate pursuant to subsection (a), the community development director shall designate a slum property by filing in the Office of the Maricopa County Recorder a certificate describing the property and certifying that the property is a slum property and that the *owner* has been so notified. Whenever the corrections ordered thereafter have been completed or the *building* demolished so that it no longer exists as a slum property, the community development director shall file a new certificate with the Maricopa County Recorder certifying that all required corrections have been made and that the property is no longer a slum property.

105-102 Notice of designation

In addition to any notice provided pursuant to this article, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of Title 33, Chapter 17, of the Arizona Revised Statutes providing for penalties, the appointment of a temporary receiver, annual inspections and payment of costs for inspections.

State Law reference — A.R.S. §§ 33-1903 & 1904.

105-103 Appointment of temporary receiver, property management firm and recovery of costs

In addition to other remedies provided in the Surprise Municipal Code for the abatement of slum property, the community development director is authorized to seek the appointment of a temporary receiver, require hiring of a property management firm and recovery of costs. Recovery of costs may be collected through any legally permissible means, including fees for inspections, the placement of a lien or assessment on the property.

State Law reference — A.R.S. §§ 33-1903, 1906 & 9-1305.

105-104 – 105-106 Reserved.

105-107 Penalties for violations.

Any person who violates any provision of this article or any provision of any code adopted by this article shall be guilty of a civil or criminal violation.

105-108 Suspension or revocation of business license; hearing; appeal

Pursuant to Chapter 26 of the Surprise Municipal Code a *business* license may be denied, suspended or revoked for fraud, misrepresentation, or false statement in the application for license or in the course of conducting *business*; or by conducting a *business* in violation of any city or county ordinance or state law. All such denials, suspensions or revocations of any *business* license shall be administered under Chapter 26 of the Surprise Municipal Code.

105-109 Preferred rental property program

- A. Rental properties in the city that meet the requirements of this chapter, and that satisfy three of the following criteria, shall be eligible for the preferred rental property program:
- (1) *Owner*, manager, or leasing agent, at least once every three years, attends: a crime free training program offered in any Arizona political jurisdictions; or landlord tenant training offered by a non-profit organization or an Arizona Department of Real Estate Certified real estate *school*;
 - (2) Use the crime free lease or lease addendum for all tenants;
 - (3) Conducts background checks on all prospective tenants;
 - (4) Is a certified crime free or Arizona Multihousing Association Five Star program property or the American Rental Property *Owners* and Landlords Association (ARPOLA) Crime-Free Program;
 - (5) The residential rental property is located in a home *owners* association or *apartment* community that participates in the Surprise Neighborhood Watch Program.