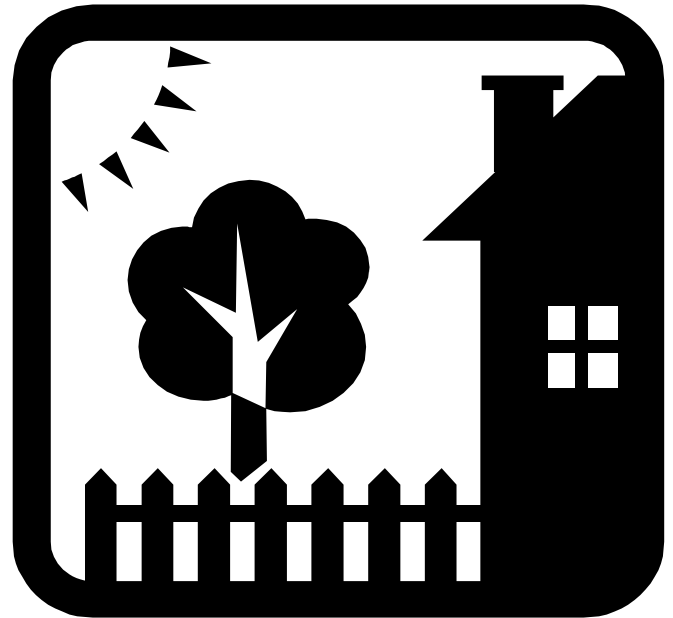




City of Phoenix
Neighborhood Services Department

NEIGHBORHOOD PRESERVATION ORDINANCE

The goal of the Neighborhood Preservation Ordinance is to promote the health, safety and welfare of residents by protecting neighborhoods from blight and deterioration. Enforcing the ordinance is not the only tool used to eliminate blight: the Neighborhood Services Department also offers education, support for neighborhood associations clean-ups, and home improvement and tool lending programs.



Neighborhood Services Department:
A dynamic, committed partner in building vibrant neighborhoods

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CHAPTER 39 Neighborhood Preservation Ordinance

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ARTICLE 1. General Provisions.

Sec. 39-1. Title

This chapter shall be known as the "Neighborhood Preservation Ordinance of the City of Phoenix," may be cited as such, and will be referred to hereinafter as "Ordinance." (Ord. No. G-3859, § 3.)

Sec. 39-2. Purpose and Scope

- A. The purpose of this Ordinance is to promote the health, safety and welfare of the citizens of Phoenix, Arizona, and to protect neighborhoods against hazardous, blighting and deteriorating influences or conditions that contribute to the downgrading of neighborhood property values by establishing minimum standards for the condition of the interior of residential buildings and by establishing requirements for maintenance of all residential and nonresidential buildings, structures of whatever kind, and vacant and improved land.
- B. The Ordinance shall apply to all buildings, structures and lands within the City of Phoenix without regard to the use, the date of construction, improvement or alteration.
- C. The Ordinance shall be fairly, sensibly, and reasonably applied to promote the maintenance of all existing buildings and land in the City of Phoenix. The intent is to insure that individuals and families do not suffer undue hardship.
- D. The Ordinance shall not require changes in existing buildings and utilities when alterations were installed and have been maintained in accordance with the City of Phoenix Construction Code 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 in connection with the requirements of Section 39-5, subsections B, C, and D.
- E. Interior inspections will be done with approval of the owner or responsible party, or by a court order. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 1, passed 3/18/98, eff. 4/18/98.)

Sec. 39-3. Definitions

Acceptable Evidence of Majority -- Acceptable Evidence of Majority means:

1. An unexpired driver's license issued by any state, provided such license includes a picture of the licensee;
2. An identification license issued pursuant to Section 28-421.01, Arizona Revised Statutes;
3. An armed forces identification card; or
4. A valid unexpired passport which is issued by a government and which contains a photograph of the person and the date of birth.

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Accumulation of Inoperable Vehicles -- 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.

Agent -- A natural person residing within Maricopa County authorized to make or order repairs, service to units and receive notices.

Architectural Pool -- A constructed or excavated exterior area designed to contain a regular supply of water.

Blight or Blighted -- Unsightly conditions including 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.

Broad-tipped Indelible Marker -- Any felt-tip marker, or similar implement, which contains a fluid which is not water soluble and which has a flat or angled writing surface one-half inch or greater.

Building -- Any structure designed for occupancy including mobile homes, manufactured homes, factory built buildings, and like property for which taxes may be assessed.

Debris -- Substance of little or no apparent economic value, which may be present in accumulations in excess of six inches in height and ten inches in diameter, 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 -- 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.

Dwelling -- 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 -- A dwelling unit is:

1. A single unit providing independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
2. One or more rooms within a building arranged, designed, or used for residential purposes for one family and containing independent sanitary and cooking facilities. The presence of cooking facilities conclusively establishes the intent to use for residential purposes.

Etching Implement -- Tool, instrument, product, solution or substance capable of being used to etch a surface.

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Etching Solution – Any product or compound manufactured for the purpose of permanently altering a glass or other surface.

Etch – To permanently alter a surface by use of an etching solution or implement.

Excavation -- Walls, shafts, basements, cesspools, septic tanks, swimming pools, fish ponds, and other like or similar conditions more than six inches in diameter and three feet in depth.

Exterior opening -- An open or closed window, door, or passage between interior and exterior spaces.

Facilities/Building Service and Equipment -- 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.

Fences, screen walls and/or retaining walls -- Self-standing structures designed to provide semi-privacy, security or bank retention between grade separations.

Garbage -- Swill, offal, and any accumulation of spoiled, partially or fully decomposed, rotting or discarded animal, vegetable or other matter that attends the preparation, handling, consumption, storage or decay of plant and animal matter including meats, fish, fowl, buds, fruits, vegetable or dairy products and their waste wrappers or containers.

Graffiti -- Initials, slogans, designs or drawings, written, spray-painted, etched or sketched on a sidewalk, wall, building, fence, sign, or any other structure or surface without consent of the owner and visible from a public right of way.

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 C.F.R. Sections 261.1 through 261.33, except that, for purposes of this Ordinance hazardous waste shall include household waste as defined in 40 C.F.R. 261.4 B.1.

Health Hazard -- The presence of any item(s) or condition(s) which adversely impact or jeopardize the well being or health of an individual. Such items or conditions include, but are not limited to, evidence of occupancy without adequate water and sanitation facilities, or may be inclusive of human or animal waste, medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal and decay matter.

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.

Incipient Hazard -- Condition of real property that can become an imminent or health hazard if further deterioration occurs that can cause unreasonable risk of death or severe personal injury.

Infestation -- The apparent presence of unpleasant, damaging, or unhealthful insects, rodents, reptiles

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or pests.

Inoperable vehicle -- A vehicle physically incapable of operation or a vehicle which exhibits one or more of the following conditions: wrecked, partially or fully dismantled, abandoned, stripped, substantially damaged, inoperative, scrapped, having the status of a hulk or shell, discarded, or unable to be safely operated.

Litter -- Decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible 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.

Major Appliances -- Any stove, cooktop, range, oven, refrigerator, clothing washer, clothing dryer, dishwasher, swimming pool filter, or any device which is designed to utilize natural gas from a public utility or to utilize a 220 volt electrical circuit.

Occupant -- A person, persons or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property.

Owner -- A person, persons or legal entity listed as current title holder as recorded in the official records of Maricopa County Recorder's Office.

Owner's Agent -- A statutory agent designated pursuant to ARS § 33-1902.

Physical Force -- Force used upon or directed toward the body of another person and may include confinement.

Pond -- An inground body of water that is at least eighteen inches deep and eight feet or greater in any dimension. This does not apply to City-approved retention basins or other like conditions.

Residential Rental Property -- Property that is used solely as leased or rented property for residential purposes. If the property is a space rental mobile home park, 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 -- An 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 lienholder whose lien interest is recorded in the official records of the Maricopa County Recorder's Office.

Rubble -- Broken solid surface fragments usually 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 non-flexible device to completely

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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 in height that is made from solid wood, brick or chain link with opaque slats.

Single Room Occupancy -- A unit for occupancy by a single individual capable of independent living which does not contain installed sanitary facilities or food preparation capabilities.

Smoke Detector -- An approved detector which senses visible or invisible particles of combustion. The detector shall bear a label or other identification issued by an approved testing agency having a service for inspection of workmanship and material at the factory during fabrication and assembly.

Sound Condition -- Able to support itself under reasonable loading or weather conditions, free from decay or defect.

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 or wading.

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. No. G-3859, § 3; Ord. No. G-4079, § 2, passed 3/18/98, eff. 4/18/98; Ord. No. G-4266, § 1, passed 5/3/00, eff. 6/2/00; Ord. No. G4370, § 1, passed 6/27/01, eff. 7/27/01; Ord. No. G-4390, § 1, passed 10/3/01, eff. 11/2/01; Ord. No G-4446, § 1 & 2, passed 6/26/02, eff. 7/26/02; Ord. No. G-4514 § 3, 6/4/03, eff. 7/4/03)

ARTICLE 2. Maintenance Standards.

Sec. 39-4. Scope

This Article is separated into three sections. Unless otherwise provided, the “Electrical, Plumbing and Mechanical Systems; Health and Safety Conditions” section applies to all residential dwellings and dwelling units, except Nursing Homes. The "Building and Structure Exteriors" section applies to all structures and buildings in the City. The "Exterior Premises and Vacant Land" section applies to all land, vacant or improved, in the City. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 3, passed 3/18/98, eff. 4/18/98; Ord. No. G-4266, § 2, passed 5/3/00, eff. 6/2/00.)

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Sec. 39-5. Electrical, Plumbing, and Mechanical Systems; Health and Safety Conditions.

- A. *Fire Safety:* Existing buildings must comply with the Fire Code of the City of Phoenix. The presence and operations of window openings, size and condition of exits, bars, grills, grates covering windows and openings shall allow for safe and rapid egress in emergency situations. At least one window and all doors in living/sleeping rooms in dwelling units must have operable release mechanism that allows safe and rapid egress. Smoke detectors in good operating condition are required in all dwellings. All hazardous material shall be stored in a safe manner. No hazardous material shall be stored in bulk.
- B. *Heating, Cooling and Ventilation Systems:*
1. Heating, cooling and ventilation systems in any building or structure are to be maintained hazard free, operational and in a state of good repair. Heating and cooling systems shall be free from health hazards associated with ventilation, equipment status, mounting, electrical connections and other potential defects.
 2. Heating systems in dwellings or dwelling units shall not be removed except for immediate repair or replacement.
 3. Where a heating system has previously existed in a dwelling or dwelling unit but has been removed, such dwelling or dwelling unit shall not be occupied unless a heating system is installed.
 4. Ducted cooling systems, including refrigerant based systems and evaporative cooling systems in dwellings or dwelling units shall not be removed except for immediate repair or replacement.
 5. Where a ducted refrigerant based cooling system has previously existed in a dwelling or dwelling unit but has been removed, such dwelling or dwelling unit shall not be occupied unless a ducted refrigerant based cooling system is installed or unless prior to the effective date of this ordinance, a ducted evaporative cooling system has been installed.
 6. Where a ducted evaporative cooling system has previously existed in a dwelling or dwelling unit but has been removed, such dwelling or dwelling unit shall not be occupied unless a ducted evaporative cooling system or a ducted refrigerant based cooling system is installed.
 7. Non-ducted cooling units, including refrigerant based cooling units and evaporative cooling units, shall not be removed except for immediate repair or immediate replacement or unless a ducted refrigerant based cooling system or a ducted evaporative cooling system is available to provide cooling to the dwelling unit.
 8. Where a non-ducted cooling unit has previously existed in a dwelling or dwelling unit but has been removed, such dwelling or dwelling unit shall not be occupied unless a non-ducted refrigerant based cooling unit, a non-ducted evaporative cooling unit, a ducted refrigerant based cooling system, or ducted evaporative cooling system is installed.
- C. *Electrical Systems:* All dwellings and dwelling units shall be provided with electrical service. Electrical facilities connected to or in any building or structure are to be maintained hazard-free and in a state of good repair. The electrical system shall be free from such

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hazards as bare wiring, poor connections, overloaded circuits, feeders or services, equipment not properly grounded, over-fused circuits, misuse of wiring, wiring not properly supported, non-approved wiring and wiring exposed to extreme heat, moisture, gases or other harmful vapors or liquids.

All alterations to existing electrical systems shall conform to the City of Phoenix Construction Code. The capacity of all electrical systems shall be able to safely supply power to the existing appliances, fixtures, and facilities in the building or structure. For the purpose of this provision an alteration shall not be considered to extend to the remainder of the pre-existing wiring or electrical system.

- D. *Plumbing Systems:* All premises containing dwellings or dwelling units shall be provided with one or more bathrooms equipped with a toilet, sink, and either a bathtub or shower. Where occupants of more than two dwellings or dwelling units share a bathroom, the premises shall contain at least two separate bathroom facilities which are conspicuously identified for male or female use, each of which shall be equipped with at least one toilet, sink and either a bathtub or shower. Additional bathrooms shall be provided for each gender at the rate of one for every additional ten persons of each gender. All indoor cooking areas must be provided with a sink separate and apart from any bathroom sink or lavatory. Each sink, lavatory, bathtub or shower shall be equipped with hot and cold running water necessary for its normal operation. All plumbing systems are to be maintained safe and hazard free and in a state of good repair. Every dwelling or dwelling unit shall have an adequate potable water supply. Every plumbing fixture, water and waste-pipe, and gas connection shall be properly installed in accordance with the applicable City of Phoenix Construction Code and maintained in good and sanitary working condition so as to prevent structural deterioration or health hazards and are to be free from defects, leaks, and obstruction.

When a structure is equipped with a gas supply system, it must be maintained in a safe, hazard-free condition.

- E. *Space and Occupancy Standards:* The maximum occupancy of any dwelling unit shall not exceed the following requirement:
For the first two occupants, there shall be at least two hundred fifty square feet of floor space and there shall be at least one hundred fifty square feet of floor space for every additional occupant thereafter, the floor space to be calculated on the basis of gross dwelling unit area. Children under the age of thirteen years shall not be counted for the purpose of determining compliance with this provision.
- F. *Interior Surfaces and Features:* Every interior wall, door, cabinet, appurtenance, ceiling and floor shall be maintained in a safe and structurally sound condition, and every existing floor covering shall be maintained in safe condition. When paint is applied to interior surfaces, it must be lead free.

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- G. *Interior Sanitation:* The interior of every building or structure shall be maintained free from any unsafe or unsanitary accumulation of garbage, food waste, waste or material generally considered useless, trash, rubbish, refuse or litter.
- H. *Interior Insect and Rodent Control:* All buildings and structures shall be kept free from insect and rodent infestation. Such buildings and structures shall be free from the presence or apparent evidence of insects and rodent infestation, other noxious pests, nesting places, and any other unsightly or unsanitary accumulation which harbors rodents, insects, or any poison or germ carriers within the building or structure that present a hazard to people.
- I. All major appliances are to be maintained hazard free. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 4, passed 3/18/98, eff. 4/18/98; Ord. No. G-4107, § 1, passed 7/1/98, eff. 7/31/98; Ord. No. G-4266, § 3, passed 5/3/00, eff. 6/2/00; Ord. No. G-4446, § 3, passed 6/26/02, Eff. 7/26/02)

Sec. 39-6. Building and Structure Exteriors

- A. *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, hinges must be present and installed properly. These items must be free from deterioration or blighting conditions.

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. exterior windows and doors that are not fitted securely in their frames and are not substantially weather tight 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. boarded window or door openings on an unoccupied structure for three hundred sixty-six (366) days in any two-year period.
- B. *Fences, screen walls, and retaining walls:* all fences, screen walls, and retaining walls on the premises shall be safe, structurally sound and uniform or compatible in color and structure; they shall be maintained so that they do not constitute a hazard, blight or condition of disrepair. Examples of hazards, blight or conditions of disrepair are inclusive of, but not limited to leaning fences, fences that are missing slats or blocks, graffiti, peeling paint, deterioration of paint or materials, rotting or damaged.
- C. *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

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where such activity is not a danger or nuisance to any resident or residents of the area, and where other applicable legal requirements are met.

- D. *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 City approved retention basins or other similar conditions. This exemption is not operable when actual and probable danger exists due to neglect.
- E. *Foundations, Walls and Roofs*: Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in structurally sound and weather tight condition. The foundation elements shall adequately support the building at all points and shall also be free from deterioration.
1. *Foundation* - The building foundation shall be maintained in a safe condition and be capable of supporting the load which normal use may place thereon.
 2. *Exterior Walls* - The exterior walls shall be substantially weather tight, 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. No lead-based paint shall be used on any surface of any structure.
 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.
 4. *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 are to be removed from the structure.
- F. *Outdoor Stairs, Porches, Railings*: All outdoor stairs, porches and hand railings shall be adequate for safety. 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 in the manner prescribed by the City of Phoenix Construction Code. Such handrails (or protective railings) shall be maintained in good condition and be capable of bearing normally imposed loads. (Ord. No. G-3859, § 3; Ord. No. G-4266, § 4, passed 5/3/00, eff. 6/2/00.)

Sec. 39-7. Exterior Premises and Vacant Land

- A. *General*: All land including exterior premises and vacant land, whether improved or unimproved, shall be maintained free from any accumulation of garbage, debris, rubble,

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hazardous waste, litter, rubbish, refuse, waste material, or blight, which includes, but is not limited to, graffiti on walls, fences, mail boxes, etc., bottles, papers, glass, cans, 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 vehicles, discarded broken, or inoperable appliances, discarded or broken furniture, broken glass, discarded broken or inoperable equipment, discarded or broken bicycles, an accumulation of vehicle, bicycle or appliance parts, piles of mixed materials, 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, 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. 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.

- B. *Streets, Alleys and Sidewalks:* The owner and any responsible party in control of any land abutting a sidewalk, alley or street shall maintain the sidewalk, alley or street in the same manner as provided in subsections A and D of this section. The areas required to be maintained pursuant to this subsection are as follows:
1. Any portion of a street, which has been opened for public use, between the curb line and the abutting property line including sidewalks; provided that the owner, lessee, or other person in control of any land utilized for single-family or multi-family dwelling(s) shall only be required to maintain areas not within major streets as shown on the minimum right-of-way standards map and which are within twenty five feet of the abutting property line.
 2. One half of the width of abutting alleys from the property line to the center line 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.
- C. *Maintenance of Swimming and Architectural Pools:* All 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. Fencing or

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other barriers required for swimming pool and spa enclosures shall be maintained as outlined in the Phoenix Construction Code. 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 will also be free from visible deterioration or blighted appearance.

- D. *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 and dry vegetation, or which may likely become a fire hazard or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.

The premises shall be free from visual blight, potential fire hazards, dead trees and branches, 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 six inches, tumbleweeds or weeds higher than six inches tall.

- E. *Dumping:* Vacant lots or lands which 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; placing four foot high posts at four foot intervals; and other equally effective methods. Signs stating “no dumping” shall be erected in accordance with applicable laws on vacant lots or lands which have been subject to dumping on more than one occasion.
- F. *Excavations:* Excavations and other like or similar conditions must be filled with clean fill. On a temporary basis, excavations shall be maintained in a secure manner so as to prevent a hazard to public health and safety. An excavation is considered secure when:
1. The excavation is protected by a permanent and complete five foot minimum height enclosure that surrounds the excavation or property.
 2. A well, pit, abandoned swimming pool, or similar excavation is completely and permanently covered, fenced securely or protected in an equivalent manner.
- G. *Parking areas:* Motor vehicles or trailers shall not be parked or stored upon a lot or area within the City which is not dustproof.
1. “Dustproof” shall mean that a lot or area is maintained by paving with one of the following methods: asphaltic concrete, cement concrete, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, or the equivalent as approved by the Zoning Administrator.
 2. An area which encompasses all or part of a residential lot which contains one single family or duplex residential unit is also dustproof if covered by a smooth layer of crushed rock or gravel no smaller than one quarter (1/4) inch and no longer than three quarters (3/4) inch maintained to a minimum depth of two (2) inches and contained within a permanent border or by an alternative surface treatment as approved by the Development Services Department that will equal

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or exceed the dustproof characteristic of the above listed alternatives.

3. Subsection shall not be applicable to vehicles or trailers parked in the rear yard of a residential lot which contains one single family or duplex residential unit.
4. It shall be an affirmative defense to a violation of this subsection that the condition of the lot was in compliance with a stipulation made by the Zoning Administrator permitting temporary parking for civic events and that the vehicle was parked by or on behalf of an attendee of such an event. (Ord. No. G4370, § 1, passed 6/27/01, Eff. 7/27/01; Ord. No G-4446, § 4 & 5, passed 6/26/02, Eff. 7/26/02.)

Sec. 39-8. Buildings and Structures Constituting a Nuisance

- A. There are or may in the future be buildings or structures that are so deteriorated, damaged, in such need of repair or left vacant and unsecured so as to present a threat to the health, safety and welfare of the community and constitute a nuisance.
- B. All buildings and structures are to be maintained so as not to pose a threat to the health and safety of any person or persons. The maintenance of a building or structure that meets any or all of the following is a nuisance, a violation of this ordinance, and subjects the building or structure to demolition upon expiration of required notice:
 1. The building or structure's interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
 2. The building or structure, exclusive of the foundation, has thirty-three percent or more damage or deterioration to the supporting member or members or structural assembly, or fifty percent damage or deterioration to the non-supporting enclosing or outside walls or covering.
 3. The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.
 4. The building or structure exhibits conditions that present actual hazards or dangers.
 5. 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.
 6. The building or structure or their contents represents an imminent health or fire hazard.
- C. A building or structure which has been vacant and unsecured for more than forty-eight hours is a violation of this ordinance.
- D. A building or structure 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 City Manager or designee if the property owner demonstrates that the building or structure does not pose a threat to the health or safety of any person. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 6, passed 3/18/98, eff. 4/18/98; Ord. No. G-4266, § 6, passed 5/3/00, eff. 6/2/00.)

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Sec. 39-9. Airborne Pollens

- A. Male mulberry trees (*morus alba*) and olive trees (*olea europea*) produce large amounts of allergenic, airborne pollens which are noxious and contribute to human disease and health problems.
- B. No male mulberry tree (*morus alba*) or olive tree (*olea europea*) shall be sold or planted in the City of Phoenix.
- C. The sale or planting of male mulberry trees (*morus alba*) or olive trees (*olea europea*) shall constitute a public nuisance.
- D. The prohibitions set forth in this section shall specifically exclude pollenless varieties of olive and male mulberry trees. (Ord. No. G-3859, § 3.)

Sec. 39-10. Graffiti Prevention, Prohibition and Removal

- A. Purpose and intent. It is the purpose and intent of this section to provide a procedure for the prevention, prohibition and removal of graffiti from walls, structures or surfaces on public and private property in order to reduce blight and deterioration within the City and to protect the public health and safety.

Pursuant to Chapter 4, § 2(3) of the Phoenix City Charter, the City finds and determines that graffiti is obnoxious, contributes to neighborhood deterioration, provides a communication system for gangs and other vandals, damages property, and constitutes a public nuisance, and must be abated immediately to avoid the detrimental impact of such graffiti on the City and its residents, to disrupt the communication system for gangs and other vandals, and prevent the further spread of graffiti.

- B. Graffiti prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.
 1. Notice of violation. Notwithstanding the procedures set forth in Section 39-26 of this Ordinance, if it is determined by the City that graffiti exists on property in violation of this Ordinance, the City shall, in writing, notify the owner of the property or responsible party through the issuance of a Notice of Violation providing a maximum of ten days to abate the graffiti, which notice may be served by certified mail, personal service, or by posting the subject property and publishing the notice in the official City newspaper.
 2. Notice of Violation - contents. The Notice of Violation shall identify the property in violation, shall generally describe the location of the graffiti, and direct that the graffiti shall be abated within ten days of receipt of the notice. The notice shall state that in the event the owner or responsible party fails to abate the graffiti within the time period specified in the Notice of Violation, the City shall abate the graffiti and bill the owner or responsible party for the costs thereof. The notice shall state that the owner or responsible party may appeal the notice as provided in Article VI of this ordinance.
 3. In the event that the owner or responsible party fails to abate the graffiti as required by the Notice of Violation, the City may proceed to abate the graffiti,

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and bill the owner or responsible party for the costs thereof. In the event that the bill is not paid, a statement of the account shall be certified to the City Treasurer who shall collect the same due, together with interest at the rate established by law. The City or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section. The City Police Department shall assist in the enforcement of this Ordinance.

C. Prohibited Conduct.

1. No person may write, paint, draw, etch or otherwise apply any inscription, figure, or mark of any type on any public or private building or other real or personal property, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express permission of the owner or operator of the property has been obtained.
2. No person may possess an aerosol spray paint container, broad-tipped indelible marker or etching implement or solution with the intent to violate the provisions of subsection C(1).
3. No person may possess an aerosol spray paint container, broad-tipped indelible marker or etching solution on any private property unless the owner, agent, manager, or other person having control of the property consented to the presence of the aerosol spray paint container, broad-tipped indelible marker or etching solution.
4. No person under the age of eighteen years may possess an aerosol spray paint container, broad-tipped indelible marker or etching solution on any public property unless accompanied by a parent, guardian, employer, teacher or other adult in any similar relationship and such possession is for a lawful purpose.
5. No person or firm may sell, deliver or give or cause to be sold, delivered or given to any person under the age of eighteen years, and no person under the age of eighteen years may buy any aerosol spray paint container, broad-tipped indelible marker or etching solution. Evidence that a person, his or her employee, or agent demanded and was shown acceptable evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this subsection. This subsection does not apply to the transfer of an aerosol spray paint container, broad-tipped indelible marker or etching solution from a parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for a lawful purpose.
6. A person convicted of a violation of subsection C(1), (2), or (3) of this section is guilty of a class 1 misdemeanor punishable by a term of not less than forty-eight hours in jail and not less than eighty hours community service involving participation in the removal of graffiti from the defendant's neighborhood. In addition to any other punishment, the court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense, or to any person or entity including a political subdivision that has incurred expense to repair or abate such damage or loss to the victim's property, in an amount to be determined by the court. A person convicted of a violation of subsection C(5) of this section is guilty of a class 1 misdemeanor punishable by a fine of not less

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than five hundred dollars. A violation of subsection C(4) of this section is a class 1 misdemeanor and will be punished as provided for in Title 8, Arizona Revised Statutes. A judge shall not suspend any part or all of the imposition of any fine or jail term required by this section.

- D. Storage and display of aerosol spray paint containers, broad-tipped indelible markers or etching solution.
1. It shall be unlawful for any person who owns, conducts, operates or manages a business, where aerosol spray paint containers, broad-tipped indelible markers or etching solution are sold, or any person who sells or offers for sale aerosol spray paint containers, broad-tipped indelible markers or etching solution to store or display, or cause to be stored or displayed, such aerosol spray paint containers, broad-tipped indelible markers or etching solution in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.
 2. Nothing herein shall preclude the storage or display of aerosol spray paint containers, broad-tipped indelible markers or etching solution in an area viewable by the public so long as such items are not accessible to the public without employee assistance.
 3. A person who violates subsection D(l) of this section shall be subject to a civil sanction of not less than five hundred dollars. (Ord. No. G-3859, § 3.; Ord. No. G-4390, § 2, passed 10/3/01, eff. 11/2/01.)

ARTICLE 3. Administration and Enforcement.

Sec. 39-11. Authority to Enforce Standards

- A. The City Manager or designee shall enforce the provisions of this Ordinance. In addition, the City Manager or designee is authorized to make safe any structure, in whole or part, which in the opinion of the City Manager or designee, is an imminent threat to the health or safety of any person or persons due to the conditions of such structure.
- B. No person shall, by threat or use of violence or physical force, or by threatening to do or doing 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 chapter. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 7, passed 3/18/98, eff. 4/18/98.)

Sec. 39-12. Rules and Regulations

The City Manager or designee is authorized to make reasonable and necessary rules and regulations to carry out provisions of the Ordinance. All such rules and regulations shall be approved by the Rehabilitation Appeals Board, and the City Council after a public hearing. (Ord. No. G-3859, § 3.)

Sec. 39-13. Authority and Inspections

- A. The City is authorized to make inspections of property to determine compliance with this ordinance.

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- B. An inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. Exempted from the operation of this ordinance is large, remote acreage in its natural state, acreage impossible to service with large machinery due to its terrain, property used for governmental purposes, industrially and commercially 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.
- E. If upon inspection, one or more violations of Section 39-5 exists, the owner or responsible party will be required to correct all violations within a reasonable amount of time. 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. It shall be incumbent upon the City to reinspect for the purpose of reoccupancy within two business days of the receipt of a written request by the owner. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 8, passed 3/18/98, eff. 4/18/98; Ord. No. G-4266, § 7, passed 5/3/00, eff. 6/2/00; Ord. No. G-4370, § 3, passed 6/27/01, eff. 7/27/01.)

Sec. 39-14. Enforcement Independent of Other Officials

The authority of the City to enforce the provisions of this chapter is independent of and in addition to the authority of other City officials to enforce the provisions of any other chapter of the City Code. (Ord. No. G-3859, § 3.)

Sec. 39-15. Cooperation of Other Departments

Upon request of the Director or designee, the Police Department and any other department of the City has authority to assist and cooperate with the Director in the performance of duties under this chapter. This cooperation may include assistance in enforcement or abatement actions, including removal of persons from structures to be demolished pursuant to this chapter. (Ord. No. G-3859, § 3.)

Sec. 39-16. Violations and Penalties.

- A. The remedies herein are cumulative and the City may proceed under one or more such remedies.
- B. Any owner or responsible party, who causes, permits, facilitates, or aids or abets any violation of any provision of the Ordinance or who fails to perform any act or duty required by the Ordinance is subject to a Civil sanction of not less than fifty dollars nor more than two thousand five hundred dollars.
- C. 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 the Ordinance or who fails to perform any act or duty required by the Ordinance is

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- guilty of a Class 1 misdemeanor.
- D. Each day any violation of any provision of the Ordinance or the failure to perform any act or duty required by the Ordinance exists shall constitute a separate violation or offense.
- E. 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. This presumption shall not prevent enforcement of the provisions of this Ordinance against any person specified in subsection C of this section.
- F. In addition to any other sanction or penalty authorized under subsections B and C of this section, the court may issue an order permitting the City to abate the condition giving rise to the violation. The reasonable costs of any such abatement shall be the responsibility of the person found responsible or guilty of the violation and may be collected as provided in Section 39-22.
- G. It is an affirmative defense for an owner of record that any violation of this Ordinance was caused by an act or acts of a lessee or tenant who was a resident of the property on the date of violation alleged in the complaint and that the owner has no legal authority to compel the lessee or tenant to correct the violation. No defense shall be asserted pursuant to this provision unless notice thereof is filed with the Phoenix Municipal court and provided to the Office of Phoenix City Prosecutor at least twenty days in advance of the date set for trial.
- H. Notwithstanding Subsection C of this section, a violation of Section 39-9 shall not be considered a class 1 misdemeanor but instead shall be considered a petty offense punishable by a fine not to exceed two hundred fifty dollars.
- I. If any owner or responsible party is adjudged guilty or responsible for a violation of this ordinance which caused or contributed to the necessity of an order to vacate a dwelling or dwelling unit being issued pursuant to Section 39-24, the court shall impose a fine or penalty, exclusive of surcharges, no less than the greater of fifty dollars (\$50.00) or the amount paid by any governmental agency to re-establish a household for any individuals or families residing in the dwelling or dwelling units ordered to be vacated. In no event shall the maximum fine or penalty for a single offense or violation exceed two thousand five hundred dollars (\$2,500.00), exclusive of surcharges. In no case shall an owner or responsible party who falls within the provisions of this subsection be eligible for suspension or commutation of a sentence or penalty except in the case of a criminal offense such owner or responsible party is placed on probation with the condition that the minimum mandatory fine be paid. (Ord. No. G-3859, § 3; Ord. No. G-4079, § 9, passed 3/18/98, eff. 4/18/98; Ord. No. G-4446; § 6, passed 6/26/02, eff. 7/26/02.)

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Sec. 39-17. Jurisdiction of Court

- A. Jurisdiction of all proceedings to enforce the provisions of this Ordinance shall be in the Municipal Court of the City of Phoenix.
- B. Civil actions to enforce this Ordinance may be adjudicated by a judge or a court hearing officer.
- C. The Municipal Court of the City of Phoenix shall have jurisdiction to issue orders permitting the City to abate conditions that constitute a violation of the provisions of this Ordinance. (Ord. No. G-3859, § 3.)

Sec. 39-18. 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, City ordinance or as provided in the Local Rules of Practice and Procedure--City Court--City of Phoenix. (Ord. No. G-3859, § 3.)

Sec. 39-19. Admission or denial of allegation; hearing; findings of court; civil sanction.

- A. 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 complaint. Allegations not denied at the time of appearance are deemed admitted.
- B. If the allegations are admitted, the court shall enter judgment for the City and impose a civil sanction.
- C. 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 City 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 City, the court shall enter judgment for the City and impose a civil sanction.
- D. 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 City and impose a civil sanction. (Ord. No. G-3859, § 3.)

Sec. 39-20. Court Ordered Abatement

- A. In addition to any other abatement procedure provided in this chapter, the Director, the Director's designee or the City Prosecutor, in the name of the City of Phoenix, may apply to the Municipal Court for an order permitting the City to abate any condition that constitutes a violation of this Ordinance.

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- 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, clean-up or any other action the court deems reasonably necessary to correct the violation. A demolition shall only be permitted as provided in Section 39-8.
- D. 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 39-22. (Ord. No. G-3859, § 3.)

Sec. 39-21. 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. (Ord. No. G-3859, § 3.)

ARTICLE 4. Abatement.

Sec. 39-22. Abatement

- A. If a property owner or responsible party is served a notice of violation pursuant to this Ordinance and fails to comply with such notice within thirty days, the City may correct or abate the condition as described in the notice. The City shall pay the cost and expense of such abatement from any appropriation made available for that purpose and shall certify a statement of account to the City Treasurer who shall collect the amount due, together with interest at the rate established by law.
- B. Upon commencement of action on the property or after mailing the statement of account to the owner or responsible party, the City shall assess the property for the cost of work performed, including actual costs of any additional inspection and other incidental connected costs, and for associated legal costs for abatement or injunction and pursue any or all means for recovery of cost if the assessment is not paid. If the assessment is paid, the City shall remove the assessment. In the event it is necessary to enforce the assessment by sale, the sale shall be made from a judgment of foreclosure and order of sale. The City shall have the right to enforce the assessment in the Superior Court of Maricopa County at any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessments or liens for the purposes provided

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for in the ordinance shall not be a bar to a subsequent assessments or liens and any number of liens or assessments on the same parcel may be enforced in the same action.

- C. The assessment is prior and superior to all other liens, obligations, mortgages, or other encumbrances, except liens for general taxes.
- D. Any liens or assessments filed with the county recorder pursuant to previous provisions of this ordinance or any similar ordinance shall remain in effect under the same terms and conditions that existed at the time of recording. (Ord. No. G-3859, § 3; Ord. No. G-3946, § 1, passed 7/3/96, eff. 8/2/96; Ord. No. G-4079, § 10, passed 3/18/98, eff. 4/18/98; Ord. No. G-4266, § 8, passed 5/3/00, eff. 6/2/00.)
- E. The city may dispose of any property or material removed from real property as a result of abatement in any manner, including but not limited to destruction. (Ord. No. G-4370, § 4, passed 6/27/01, eff. 7/27/01.)

Sec. 39-23. Temporary Abatement

If it is determined that a nuisance as provided in Section 39-8 is a hazard to the public safety and health, the City Manager or duly authorized agent may declare such structure a hazard with great potential for actual and serious physical harm. After notice is communicated to any owner of record to secure the structure and the owner does not secure the structure to City specifications, the hazard may be summarily abated by the City through boarding. Any and all charges and costs arising from the City taking action to secure the structure shall be a lien filed against the real property containing such a structure. (Ord. No. G-3859, § 3.)

Sec. 39-24. Emergency Abatement

- A. Notwithstanding any other provision of this Ordinance if, in the opinion of the City Manager or designee, the conditions at a property constitute an imminent hazard, the City Manager may order immediate abatement of the hazard without notice. Such abatement of an imminent hazard shall be limited to the minimum work necessary to remove the hazard.
- B. The City shall pay the cost and expense of such abatement from any appropriation made available for that purpose.
- C. A lien shall be recorded with the Maricopa County Recorder's Office and shall address the same costs and procedures identified in Section 39-22, entitled "Abatement".
- D. Whenever the City finds that any structure contains an imminent hazard or health hazard, the City Manager or his designee, may declare such structure unfit for human occupancy and order it to be vacated or to remain vacant.
- E. A structure declared unfit for occupancy and ordered vacated or to remain vacant under the provisions of this section shall not be leased, rented or occupied until it has been inspected and deemed fit for occupancy by the City. The City shall reinspect, for the purpose of reoccupancy, within two business days of the receipt of a written request by

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the owner. (Ord. No.G-3859, § 3.)

Sec. 39-25. Abatement by Demolition

- F. Prior to any demolition authorized by Section 39-8, the City shall issue a notice of violation to the owner and any responsible parties with an interest in the property that is recorded in the office of the county recorder and may record such notice pursuant to section 39-28. (Ord. No. G-3859, § 3; Ord. No. G-4370, § 5, passed 6/27/01, eff. 7/27/01.)

Sec. 39-26. Notice of Violation

- A. If the City finds a violation of this ordinance, the City may notify the owner, owner's agent, or responsible party through the issuance of a notice of violation.
- B. A notice of violation issued pursuant to Article 4 of this chapter 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 City representative to contact,
 5. A cost estimate to correct the violations,
 6. Availability of financial assistance for hardship,
 7. City's authority to abate should owner or responsible party not correct the violation within thirty days, and to assess a lien against the property for the costs of abatement, and
 8. Appeal procedures.
- C. Any notice given for any purpose under this ordinance shall be deemed effective on the date when written notice is hand delivered or mailed certified mail return receipt requested, addressed to the property owner, owner's agent, or responsible party. If personal service or mailed 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 thirty days. Nothing herein shall preclude the City from giving additional verbal or written notice at its discretion. If the City does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situations.
- D. Nothing in this section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.
- E. 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. (Ord. No. G-3859, § 3; Ord. No. G-3946, § 2, passed

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7/3/96, eff. 8/2/96; Ord. No. G-4266, § 9, passed 5/3/00, eff. 6/2/00.)

Sec. 39-27. Repealed. (Ord. No. G-4266, § 10, passed 5/3/00, eff. 6/2/00.)

Sec. 39-28. Recording a Violation.

G. The City may record a notice of violation with the office of the 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, a satisfaction of notice of violation shall be recorded. (Ord. No. G-3859, § 3; Ord. No. G-3946, § 3, passed 7/3/96, eff. 8/2/96; Ord. No. G-4370, § 6, passed 6/27/01, eff. 7/27/01.)

Sec. 39-29. Transfer of Property After Notice.

- A. Responsibility upon transfer of property: The transfer of any and all property interests in any manner including but not limited to the sale, trade, lease, gift or assignment of any real property against which a notice of violation has been issued shall not relieve the party(s) served unless the legal entity assuming an ownership interest in such property, in writing, assumes responsibility for compliance with the notice of violation and a copy of such writing is presented to the City.
- B. Fraudulent transfer as a misdemeanor: Any legal entity, real or statutory, who transfers the ownership interest in real property against which a notice of violation has been served without obtaining a written acceptance of liability from the new owner for the items listed in the notice of violation shall be guilty of a misdemeanor. (Ord. No. G-3859, § 3.)

Sec. 39-30. Structures Posted as Hazardous.

- A. Any structure which has been declared to be an imminent hazard by the Director shall immediately be vacated and shall not be re-occupied until the Director has issued a certificate of compliance which indicates that imminent hazards do not exist and that incipient hazards and health hazards are acknowledged and minimized by the person(s) responsible for the property.
- B. No person occupying a structure after the City has posted, on the structure, a notice of its hazardous condition shall be eligible for relocation assistance or be considered a displaced person. (Ord. No. G-3859, § 3.)

ARTICLE 5. Rehabilitation Appeals Board.

Sec. 39-31. Rehabilitation Appeals Board.

- A. There is created the Rehabilitation Appeals Board, hereinafter referred to as the Board, which is composed of nine members, including a chairperson and eight other members to be appointed by the Mayor and approved by the City Council.
- B. The following professional categories are to be represented on the Board:

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1. a registered architect;
 2. a lending officer;
 3. a home builder or licensed building contractor;
 4. a professional real estate appraiser;
 5. a licensed engineer, with experience in building construction; and
 6. a real estate licensee (residential).
- C. The remaining seats on the Board shall be filled by citizens interested in housing or neighborhood improvement who reside in a neighborhood represented by a neighborhood organization which is listed with the Neighborhood Services Department. (Ord. No. G-3859, § 3.)

Sec. 39-32. Terms of Members; Vacancies.

- A. The term of office of the members of the Board shall be for three years. The terms of members of the Board on the effective date of this Ordinance shall continue pursuant to their current appointments. Three year terms shall commence upon the expiration of the current terms.
- B. Any member missing three consecutive regular meetings may be removed from office by the Phoenix City Council.
- C. Any vacancy occurring shall be filled by appointment by the Mayor, subject to the approval of the City Council, such appointment to be for the balance of the unexpired term.
- D. Members of the Board shall serve without compensation. (Ord. No. G-3859, § 3.)

Sec. 39-33. Quorum; Officers of the Board; Absences; Meetings.

- A. The Board is composed of up to eight members and the chairperson; a majority of the authorized members of the Board shall constitute a quorum. Decisions of the Board are made by a majority vote of those present.
- B. The chairperson is responsible for determining that a quorum exists for each meeting of the Board.
- C. For the purpose of fulfilling attendance requirements, a member who is absent from a Board meeting but attends the meeting immediately preceding or immediately following the missed meeting, will not, upon approval of the chairperson, be credited with an absence.
- D. The Board shall select a vice chairperson to preside over its proceedings in the absence of the chairperson.
- E. The meetings of the Board shall be held at the call of the chairperson, or an acting chairperson designated by the chairperson, or as the Board may determine.
- F. The Director or designated representative shall act as secretary to the Board. (Ord. No.

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G-3859, § 3.)

Sec. 39-34. Powers, Duties and Responsibilities of the Board.

- A. Appeals. The Board shall hear appeals involving a notice of violation issued pursuant to this chapter.
1. On an appeal, the Board may affirm, reverse, or modify the notice of violation. In the event that the Board modifies the notice of violation, the following limitations and procedures shall apply:
 - a. If the appeal is taken on the grounds that the amount of time for correction of the violation given in the notice of violation is unreasonable, upon a showing by the appellant that the time is unreasonable, and upon a satisfactory showing by the appellant that there is a reasonable probability that the appellant will be able to correct the violation by the granting of additional time, the Board may grant up to an additional ninety days to correct the violation. The Board may permit City staff to grant additional time of up to ninety days if during the initial time extension the appellant has substantially complied with any plan or timetable approved by the Board.
 - b. If the appeal is taken on the grounds that the method to correct the violation as specified in the notice of violation is unreasonable, the Board may approve an alternate method of correction as long as the purposes of this Ordinance are fulfilled.
 - c. In the event that the appeal is taken on the grounds that the cost of the abatement is unreasonable, the Board may affirm, modify or reverse the lien amounts resulting from the abatement for good cause shown.
 2. In order to assist it in making the determinations set forth above, the Board may take evidence from the appellant, City staff, and any other person.
 3. At the appeal hearing, the Board shall make its decision.
 4. The appellant shall be deemed to have received notice of the decision of the Board if the appellant made an appearance at the hearing. In the event of the non-appearance of the appellant at the hearing, written notice of the decision shall be mailed to the appellant via ordinary United States mail to the address provided on the written appeal application. The notice shall be deemed to have been served on the date of deposit in the U.S. mail.
- B. The Director or designee may request the advice and consent of the Board on any issue. The Director or designee may request the consent of the Board when pursuing abatement through demolition except when proceeding pursuant to a court order. If the Director seeks the consent of the Board as provided in this subsection, notice shall be served on the subject property's owner or responsible party in the same manner as notice of an appeal hearing is given pursuant to Section 39-7 H.
- C. The Board shall periodically meet for the purpose of planning and advising the City Council on matters concerning substandard or hazardous structures and enforcement or revision of applicable sections of Chapter 39 of the City Code and other relevant matters.

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- D. The Board may adopt rules necessary to carry out the duties and responsibilities imposed upon it by this section. Such rules shall not be inconsistent with the provisions of this Ordinance, or the Charter of the City of Phoenix. (Ord. No. G-3859, § 3; Ord. No. G-4446, § 7, passed 6/26/02, eff. 7/26/02.)

ARTICLE 6. Appeals.

Sec. 39-35. Administrative Conference.

- A. Any notice of violation can be appealed to the City Manager or designee for an administrative conference for review of such notice of violation. A request for an administrative conference shall be made within the same time set for compliance in the notice of violation. A request for an administrative conference shall act as an automatic stay of enforcement of the notice of violation until the matter is finally determined by the City Manager or designee. In the event that an appellant is not satisfied with the decision reached at the administrative conference, an appeal to the Rehabilitation Appeals Board may be made within five calendar days after the decision of the City Manager or designee.
- B. Only cases which do not involve the demolition of structures or the amount of liens shall be permitted to be appealed to an administrative conference. (Ord. No. G-3859, § 3.)

Sec. 39-36. Variances.

The City Manager or designee may grant a minor variance to this Ordinance when there exists an unusual or unreasonable hardship resulting from a literal interpretation of this Ordinance provided that the method of work or repair offered conforms to the intent of this Ordinance. (Ord. No. G-3859, § 3.)

Sec. 39-37. Appeals to the Rehabilitation Appeals Board.

An owner or responsible party who is not or was not a party to a pending or adjudicated court proceeding involving a request for court ordered abatement of the violation (hereinafter, the “appellant”) may appeal a notice of violation to the Board, when it is claimed that:

1. The method or schedule for correcting the violation as set forth in the notice of violation is unreasonable or arbitrary.
 2. Substantive errors exist in the notice of violation.
- B. An owner or responsible party whose relationship with the property existed at the time of the recording of the assessment, and who is not or was not a party to a court proceeding which has established or may establish the amount of an assessment, may appeal the amount of the assessment for abatement to the Board.
- C. The appellant shall prepare the appeal in a written application for appeal. The application shall specify which of the grounds for appeal set forth above form the basis of the appeal, together with any facts supporting the grounds for appeal, and the relief sought. In the event the appeal is based upon the schedule for correcting the violation,

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- the appellant shall attach to the application for appeal a plan and timetable for completion of correction of the violation(s). The plan and timetable shall be in the form and in such detail as the Board may determine.
- D. The application for appeal shall be accompanied by a fee of twenty-five dollars, except that if the appeal is made by an owner/occupant of a single family residence in violation, the fee shall be ten dollars. The fee shall be deposited in the general fund of the City. In case of financial hardship, upon request made to the Board chairperson, the fee may be suspended until the decision on the appeal is made by the Board. The Board may also decide whether to invoke or waive the fee. If the appellant can demonstrate that the City erred in citing the property, the fee shall be waived.
 - E. The application for appeal shall also contain the appellant's mailing address to which the decision of the Board may be mailed.
 - F. The application for appeal of a notice of violation must be filed with the Director within the same time period set for compliance in the notice of violation. The application for appeal of an assessment amount must be filed with the Director within thirty days of receipt of notice or of actual knowledge of the assessment amount.
 - G. The timely filing of an appeal shall act as an automatic stay of enforcement of the notice of violation until the appeal is finally determined by the Board.
 - H. The hearing of an appeal shall be held by the Board after notice has been given to the appellant. If notice is by personal service or by certified mail that was sent more than fifteen days before the scheduled hearing, and the record shows that the notice was received less than five days before the hearing, the appellant shall, upon request, receive a resetting of the hearing. Written notice of the rescheduled hearing may be given to persons in attendance at that time. If notice is by publication, the final publication must be at least five days before the hearing. A public notice stating the date and time of the hearing and violations, shall also be posted at the property fifteen days prior to the hearing.
 - I. Failure of a person entitled to appeal under this Ordinance to file an appeal shall constitute a waiver of the right to a hearing of the appeal before the Board and such person shall be estopped to deny the validity of any order or action of the City which could have been timely appealed.
 - J. Once the decision of the Board has been rendered, a party may apply to Superior Court for relief in accordance with the Arizona Rules of Procedure for Special Actions. In the absence of a court order, the filing of a special action will not stay enforcement. (Ord. No. G-3859, § 3; Ord. No. G-3946, § 4, passed 7/3/96, eff. 8/2/96.)

Sec. 39-38. Repealed. (Ord. No. G-3946, § 5, passed 7/3/96, eff. 8/2/96.)

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Sec. 39-39. Liability.

When the Board, the Slum Property Designation Appeals Panel, Director or designee or any employee charged with the enforcement of this ordinance is acting in good faith and without malice for the City in the discharge of his duties, and if any suit shall be brought against said Board, Director or designee or employee because of such act or omission performed by him in the enforcement of any provisions of this ordinance, then such suit shall be defended by the Law Department of the City until the final termination of the proceedings and any judgment resulting therefrom shall be assumed by the City of Phoenix. (Ord. No. G-3859, § 3; Ord. No. G-4266, § 11, passed 5/3/00, eff. 6/2/00.)

ARTICLE 7. Conflict of Ordinances; Severability.

Sec. 39-40. Conflict of Ordinances.

- A. In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the City existing on the effective date of this Ordinance, 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 Ordinance 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 Ordinance, or with private restrictions placed upon property by covenant, deed, or other private agreement.
- C. In cases where two or more provisions of this Ordinance disagree, the most stringent or restrictive shall prevail. (Ord. No. G-3859, § 3.)

Sec. 39-41. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end the provisions of this Ordinance are hereby declared to be severable. (Ord. No. G-3859, § 3.)

ARTICLE 8. Slum Property.

SEC. 39-42. Slum Property Designation.

- A. The City Manager, or his designee, is authorized to designate residential rental property as slum property consistent with and pursuant to the provisions of Title 33, Chapter 17, Article 1, Arizona Revised Statutes.
- B. Notice of slum property designation shall be provided to all owners and lienholders of the affected property. Such notice shall inform of the designation, the reason or reasons for the designation, and the procedure to appeal the designation. The effective date and manner of service shall be as described in Section 39-26.
- C. The City may record a notice of slum property designation with the County Recorder. A

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recorded notice shall run with the land. Failure to record a notice shall not affect the validity of the notice as to persons who receive the notice. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-43. Assessment and Liens.

- A. The City Manager, or his designee, is authorized to impose assessments and liens pursuant to the provisions of Title 33, Chapter 17, Article 1, Arizona Revised Statutes.
- B. Notice of an assessment or lien shall be provided to all owners and lienholders of the affected property. Such notice shall inform of the amount of the assessment or lien, the reason for the assessment or lien, and the procedure to appeal the assessment or lien. The effective date and manner of service shall be as described in Section 39-26.
- C. The City may record an assessment or lien with the County Recorder or the Department of Transportation. A recorded assessment shall run with the land. Failure to record an assessment or lien shall not affect the validity of the assessment or lien as to persons who have notice thereof. The City shall release the assessment or lien upon receipt of payment.
- D. In the event that it is necessary to enforce an assessment or lien by sale, the sale shall be made from a judgment of foreclosure and order of sale. The City shall have the right to enforce an assessment or lien in the Superior Court, at any time after recording, but failure to enforce an assessment or lien shall not affect its validity. The recorded assessment or lien shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessments or liens for the purposes provided for in this ordinance shall not be a bar to subsequent assessments or liens, and any number of liens or assessments on the same property may be enforced in the same action. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-44. Slum Property Designation Appeals Panel.

- A. There is created a Slum Property Designation Appeals Panel, hereinafter referred to as the panel, which is composed of twelve city residents appointed by the City Manager.
- B. The term of office for the members of the panel shall be three years, except that for the initial appointments to the panel, four shall serve for one year, four shall serve for two years, and four shall serve for three years. The City Manager may make such appointments as are necessary to complete unexpired terms due to vacancies.
- C. The City Manager may remove members of the panel who decline to hear three consecutive appeals for which they have been selected to serve.
- D. Members of the panel shall serve without compensation. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-45. Hearing Panels.

- A. Appeals of a slum property designation or of an assessment or lien shall be heard by a

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rotating three member sub-panel of the panel. If more than one appeal is to be heard on the same day, one sub-panel may hear all the appeals.

- B. All members of a sub-panel must be present to hear an appeal. If a member declines or is unable to serve, another member shall be selected to serve on the sub-panel.
- C. No member shall serve on a sub-panel where he has an interest in the property or resides or owns property within one mile of the property.
- D. Each sub-panel shall select a chairperson by majority vote. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-46. Hearings.

- A. Any owner or lienholder aggrieved by a slum property designation or by an assessment or lien imposed pursuant to this article may appeal by filing a notice of appeal with the Neighborhood Services Department within thirty days of the effective date of the notice. The notice of appeal shall state appellant's relationship to the property, all grounds for the appeal, a mailing address, and a telephone number where the appellant can be notified of the time and place of the hearing.
- B. Upon receipt of a notice of appeal, the City shall set a hearing within not less than ten nor more than thirty days.
- C. Upon hearing an appeal, the three member sub-panel may affirm or reverse a slum property designation or affirm, reverse, or reduce an assessment or lien. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-47. Administrative Activities.

The panel shall meet periodically for the purpose of planning, rule making, advising the City Manager on matters concerning slum properties, and for such other reasons deemed appropriate for the execution of the panel's duties. (Ord. No. G-4266, § 12, passed 5/3/00, eff. 6/2/00.)

Sec. 39-48. Registration of Residential Rental Property.

- A. An owner of residential rental property shall maintain with the Maricopa County Assessor information required pursuant to the provisions of A.R.S. Tit. 33, Ch. 17, Art. 1 (A.R.S. § 33-1902 ET Seq.), in a manner to be determined by the Assessor. The owner shall update any information required by this section within ten (10) days after a change in the information occurs. The following information shall be maintained:
 - 1. the name, address and telephone number of the property owner;
 - 2. if the property is owned by a corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust, the name, address and telephone number of any of the following:
 - (a) for a corporation, a corporate officer;
 - (b) for a partnership, a general partner;
 - (c) for a limited liability company, the managing or

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- administrative member;
 - (d) for a limited partnership, a general partner;
 - (e) for a trust, a trustee; or
 - (f) for a real estate investment trust, a general partner or an officer.
3. the street address and parcel number of the property; and
 4. the year the building was built.
- 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 Assessor. The information shall include the name, address and telephone number of the agent.
- C. Residential rental property shall not be occupied if the information required by this section is not on file with the County Assessor. This subsection does not affect any existing lease.
- 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 section shall be assessed a civil penalty of one thousand dollars (\$1,000), plus an additional one hundred dollars (\$100) for each month after the date of the original violation until compliance occurs. The court shall not suspend any portion of the civil penalty provided by this subsection.
- F. Notwithstanding subsection E of this section, if a person complies within ten (10) days after receiving the complaint that notices the violation, the court shall dismiss the complaint and shall not impose a civil penalty. (Ord. No. G-4514, § 4, passed 6/4/03, Fe. 7/4/03.)

Neighborhood Services Department

Our mission

To preserve and improve the physical, social and economic health of Phoenix neighborhoods, support neighborhood self-reliance, and enhance the quality of life for residents through community-based problem solving, neighborhood-oriented services and public/private cooperation.

Contact Us

To report a violation, ask about a case or get information about the Neighborhood Preservation Ordinance and/or Code Enforcement Policy, contact the Neighborhood Preservation Division at:

blight@phoenix.gov

or

(602) 262-7844.

Learn about the Neighborhood Services Department by visiting **phoenix.gov/NSD**

For a copy of this publication in an alternate format or for reasonable accommodations contact:

Neighborhood Services Department ADA Liaison,

200 W. Washington St., Phoenix, AZ 85003.

Voice (602) 495-5456. TTY (602) 495-0685.

Esta información está disponible en español.