

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 11-357

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE ARIZONA, AMENDING TOWN CODE CHAPTER 17.100 PROPERTY MAINTENANCE.

WHEREAS, the Town wishes to amend the Pinetop-Lakeside Town Code Chapter 17.100, Property Maintenance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, as follows:

Section 1:

Town Code Section 17.100.030 Definitions, is amended as follows:

2. "Graffiti" means any unauthorized inscription, work, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property.
3. "Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the Arizona Department of Environmental Quality or the United States Environmental Protection Agency.
4. "Land" means any lot, parcel, tract of land or combination thereof, located within the Town of Pinetop-Lakeside. Property shall include adjacent sidewalks, streets, alleys and other easements.
5. "Nuisance" means (a) any public nuisance as defined by state statute or local ordinance; or (b) any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. Nuisance includes, but is not limited to: abandoned wells, shafts, basements, excavations, graffiti, abandoned refrigerators, washing machines, dryers and other appliances, abandoned motor vehicles, inoperable motor vehicles, junk motor vehicles, other motor vehicles without current license or registration, any structurally unsound fences or structures, lumber, trash or other debris; (c) an accumulation of solid waste which would weigh more than one hundred (100) pounds or which would occupy a space greater than one cubic yard; or (d) fire hazards.
6. "Owner" means a person who is the rightful owner of property and/or the person listed as the current owner as recorded in the official records of the Navajo County Recorder's Office.
7. "Person" includes a corporation, limited liability company, company, partnership, firm, association, or society, as well as a natural person. When the word person is used to designate the party whose property is subject to this chapter, the term includes the United States, this state, or any territory, state, or country, or any political subdivision of this state which may lawfully own any property, or a public or private corporation, or partnership or association. When the word person is used to designate the violator or offender of any law, it includes corporation, limited liability company, company, partnership, firm, association, or society or any other association of persons.

8. "Property manager" means a person with the authority and the ability to make emergency repairs and with the responsibility to oversee the maintenance and protection of the building and/or property, and to represent the owner's interest.
9. "Responsible Person" means an owner, occupant, lessor, lessee, manager, licensee, or other person having possession, the right to possession, control or a right to control property.
10. "Solid waste" means any garbage, trash, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semi-solid or contained gaseous material. Solid waste also includes abandoned, inoperable, junk or unlicensed/unregistered vehicles, refrigerators, stoves, washing machines, dryers and other appliances, structurally unsound fences, buildings and other structures, lumber, etc. Solid waste includes hazardous waste, waste containing radioactive materials, domestic sewage and landscaping rubble.
11. "Structure" means buildings, improvements and other man-made structure that are constructed or placed on land.
12. "Tenant" means a person or entity entitled under an oral or written rental agreement to occupy land or a structure, whether residential or commercial use, to the exclusion of or in conjunction with others.
13. "Zoning regulations" means the Town of Pinetop-Lakeside zoning regulations. (Ord. 97-141 § 2 (part); Ord. 90-82 § (1)(21.2.03))

Section 2:

Town Code Section 17.100.040 Maintenance of Property - Storage, is amended as follows:

17.100.040 Maintenance of property – Storage.

- A. Maintenance. An owner, tenant or other responsible person shall maintain land and structures within the Town of Pinetop-Lakeside free from graffiti, solid waste, hazardous waste, rubbish, trash, weeds, debris or other conditions constituting a nuisance which constitute a hazard to the public health or safety of the occupants, pedestrians, children or other persons who come upon or near the premises.
- B. Responsibility for Removal. The owner, tenant or other responsible person shall have the duty and responsibility of removing graffiti, solid waste, hazardous waste, rubbish, trash, weeds, debris or other conditions constituting a nuisance or which constitute a hazard to the public health or safety of the occupants, pedestrians, children or other persons who come upon or near the premises.

Section 3:

Town Code Section 17.100.060 Enforcement, is amended as follows:

17.100.060 Enforcement.

A. Notice of Noncompliance.

1. Notice of Noncompliance. A written notice of any noncompliance of this chapter will be given to the owner, tenant or responsible person after a field inspection is completed. This written notice shall give a minimum of ten (10) days to correct the noncompliance.
2. When the violation pertains to a nuisance deemed to be a threat to the public health and safety or is a graffiti nuisance, the responsible party may be given less than ten (10) days to correct the violation. The date by which to correct the noncompliance will be clearly stated in the written notice.

A. B. Notice of Civil Violation.

1. Notice of Civil Violation. A written notice of any violation of this chapter shall be given to the owner, tenant or responsible person who fails to correct a violation identified in the notice of noncompliance. This written notice shall give a minimum of ~~at least thirty (30)~~ ten (10) additional days before the date set for compliance, and shall include the following information:

- a. The name and address of the property owner or other person to whom the notice of violation is directed; and
- b. The physical property address or the legal description of the land upon which the violation has occurred or is occurring; and
- c. A description of the violation, including a reference to this chapter by section number; and
- d. A brief statement of the action required to be taken to correct the violation; and
- e. The date before which the corrective action shall be taken, which date shall be at least thirty (30) days after the date of the notice of civil violation; and
- f. The estimated maximum cost of such removal to the Town if the owner, tenant or responsible person does not comply.

2. Delivery of Notice. Delivery of a written notice of noncompliance in A above and civil violation in B above may be made by posting the notice at or on the property in a conspicuous place and by any of the following additional methods:

- a. Personal service on the owner, tenant or other responsible person;
- b. By mail to the owner, tenant or other responsible person at his/her last known residence or business address, or at the address to which the tax bill for the land was last mailed.

~~3. Recording of Notice. The Town may record the notice of civil violation in the Navajo County Recorder's Office provided that if compliance with the notice of civil violation is subsequently satisfied, the Town shall record a release of the notice, also.~~

B. Continuing Duty to Correct. Payment of a civil monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the Town in any notice of civil violation. Each day of noncompliance may constitute a violation of this code.

Section 4:

This Ordinance will become effective on the 19th day of December 2011.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 17th day of November 2011.

TOWN OF PINETOP-LAKESIDE



RICH CROCKETT, Mayor

ATTEST:



LU ANNE FROST, Town Clerk

APPROVED AS TO FORM:



W. KENT FOREE, Town Attorney