

ORDINANCE 486-10

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING THE QUEEN CREEK TOWN CODE CHAPTER 10 HEALTH AND SANITATION, ARTICLE 10-2, NUISANCE PROCEDURES AND REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED STRUCTURES AND ARTICLE 10-3 LITTER, NUISANCES; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council deem it necessary to adopt certain rules and regulations to protect and promote the health, safety and welfare of the Town of Queen Creek and its residents, and to protect neighborhoods, public and private property, against physical, visual and economic deterioration;

WHEREAS, the Town has deemed it necessary to allow for a ninety (90) day grace period after the adoption date of this ordinance before the new requirements go into effect, to allow residents, neighborhood associations, homeowners' associations, and Town staff adequate time to prepare for the revised requirements;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Queen Creek, Arizona as follows:

Section 1: That the certain document titled "Town Code Chapter 10 Health and Sanitation, Article 10-2, Nuisance Procedures and Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures and Article 10-3 Litter, Nuisances" a copy of which is attached hereto as **Exhibit "A"** is hereby referred to, adopted, and made a part of the Town of Queen Creek Town Code as if fully set out in this Ordinance.

Section 3: To the extent of any conflict between other Town ordinances and this Ordinance, this Ordinance shall be deemed to be controlling.

Section 4: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance or parts thereof.

Section 5: Notwithstanding any provision of any code or standard adopted by reference herein, any person violating any provision of this chapter shall be guilty of a class one misdemeanor.

Section 6: The Town Clerk is hereby directed to publish this adopting ordinance in full.

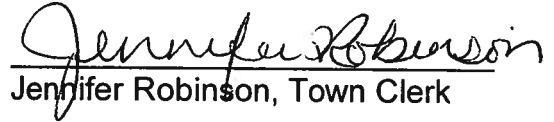
Section 7: This Ordinance shall become effective on December 17, 2010.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Queen Creek, Arizona this 17th day of November, 2010.

FOR THE TOWN OF QUEEN CREEK


Gail Barney; Mayor

ATTESTED TO:


Jennifer Robinson, Town Clerk

REVIEWED BY:


John Kross, Town Manager

APPROVED AS TO FORM:


Mariscal, Weeks, McIntyre
& Friedlander, P.A., Town
Attorneys

EXHIBIT "A"

TO ORDINANCE 486-10 and RESOLUTION 867-10

ARTICLE 10-2 NUISANCE PROCEDURES AND REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED STRUCTURES

- 10-2-1 Public Nuisance: Purpose and Scope
- 10-2-2 Authority to Enforce Nuisance Standards
- 10-2-3 Rules and Regulations
- 10-2-4 Jurisdiction
- 10-2-5 Recording a Notice of Violation
- 10-2-6 Inspections
- 10-2-7 Nuisance Enforcement Procedure
- 10-2-8 Denial, Suspension or Revocation of Business License
- 10-2-9 Withholding of Permits
- 10-2-10 Court-Ordered Nuisance Abatement and Injunction
- 10-2-11 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property
- 10-2-2-12 Owner to Maintain Premises

Section 10-2-1 Public Nuisance: Purpose and Scope

A. The purpose of this Chapter 10: Health and Sanitation and the regulations contained therein including the provisions of Articles 10-1; 10-2; 10-3; 10-4; 10-5; 10-6; 10-7 and 10-8 is to promote the health, safety and welfare of the Town of Queen Creek and its residents, and to protect neighborhoods against physical, visual and economic deterioration. To that end, it is a violation of this chapter to erect, maintain, use, place, deposit, cause, allow, leave or permit to remain on any property any conditions that:

1. Contribute to or cause injury or endangerment to the health, safety or welfare of others;
2. Are contrary to community standards of decency;
3. Are offensive to the senses of any reasonable person or normal sensitiveness;
4. Unlawfully interfere with, obstruct or tend to obstruct or render dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, trail, path, street or highway in the Town;
5. Obstruct the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by the public;
6. Damage or contribute to the deterioration of property or improvements in the community; or
7. 10-2-3 Procedure to Compel Are nuisances as defined in this chapter, including but not limited to, Article 10-2 Nuisance Procedures and Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures and/or Article 10-3 Litter: Nuisances.

B. Except as otherwise provided, this chapter shall apply to all land within the Town of Queen Creek without regard to the use or occupancy or date of construction, improvement, acquisition or annexation.

Section 10-2-2 Authority to Enforce Nuisance Standards

A. The Town Manager or designee shall enforce the provisions of this chapter. The Town code enforcement officer, in coordination and cooperation with such other town officials as

have been designated by the Town Manager or by code or regulation adopted by the Town, is hereby authorized and directed to enforce all provisions of this chapter.

B. In enforcing this chapter, the code enforcement officer, or other designated town official, may take one(1) or more of the following actions:

1. Informal intervention with the responsible party.
2. Where the violation is on public property, such as noncompliant posting of signs in a public right-of-way, take summary action to remove the violation and, may, serve notice of the action or written warning, issue a citation and/or prepare and serve a long-form complaint on the responsible party.
3. Issue a notice of violation to the responsible party in accordance with the procedures set forth in this article.
4. Issue a criminal or civil citation, pursuant to Queen Creek Town Code, to the responsible party in accordance with the procedures set forth in this article.
5. File a long-form complaint for criminal or civil penalties, pursuant to Queen Creek Town Code, with the Town of Queen Creek Municipal Court against the responsible party in accordance with the procedures set forth in this article.
6. In the case of an imminent hazard or a building or structure which is unfit for human habitation, with the concurrence and approval of the Town Manager, take emergency remedial action or issue an order to vacate the property in accordance with the procedures set forth in the Queen Creek Town Code and/or applicable Building Codes.

C. 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 Town who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this chapter.

D. The code enforcement officer, or other designated town officer, may expand the scope of any inspection to include other Town Code violations noted during inspection.

E. All inspections shall be conducted in compliance with the Constitutions of the United States and the State of Arizona.

F. The authority of the code enforcement officer to enforce the provisions of this chapter is independent of and complementary to the authority of other town officials to enforce the provisions of any other statute, code or regulation. The remedies provided for in this chapter are cumulative and in addition to any other remedies established by law, and this chapter shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the Town or other officials under other laws, ordinances, or rules.

Section 10-2-3 Rules and Regulations

The Town Manager, or designee, is authorized to make reasonable and necessary administrative rules and regulations to carry out the provisions of this chapter.

Section 10-2-4 Jurisdiction

A. Unless otherwise specified, the Queen Creek Municipal Court shall have jurisdiction of all proceedings to enforce this chapter.

- B. Civil actions to enforce this chapter may be adjudicated by a judge or a Civil Hearing Officer.
- C. The Municipal Court of the Town of Queen Creek shall have jurisdiction to issue orders permitting the town to abate conditions that constitute a violation of the provisions of this chapter. The Municipal Court may retain jurisdiction over any matter to abate conditions that constitute a violation of this chapter until the violation is abated in full.

Section 10-2-5 Recording a Notice to Remove

10-2-5 Service of Notice

10-2-6 Appeal to Council

10-2-7 Removal by Town

10-2-8 Lien for Removal of Violation

The Town 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 chapter, to all persons or entities thereafter acquiring an interest in the property. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. When the property is brought into compliance, if a notice of violation was recorded, a satisfaction of notice of violation shall be recorded.

Section 10-2-6 Inspections

- A. The code enforcement officer or other Town official as designated by the Town Manager, or by code or regulation adopted by the town, is hereby authorized to make inspections for violations of this chapter in the normal course of the job duties or in response to a citizen complaint when there is reason to believe that a violation of this chapter has been or is being committed and where necessary to certify compliance with an enforcement action.
- B. In order to investigate possible violations or to determine compliance with this chapter, private property may only be entered with the consent of the owner or occupant. If consent is denied or cannot be obtained, private property may be entered with an administrative warrant/order issued by a court of competent jurisdiction.

Section 10-2-7 Nuisance Enforcement Procedure

A. Nuisance Enforcement –In General

As more fully described in this article and hereafter, and after appropriate or necessary investigation, documentation and inspection, the code enforcement officer, or other designated town official, may take one (1) or more of the following actions:

1. Informal mediation or intervention with the responsible party
2. Summary action to remove the violation, accompanied by appropriate notice, warning or enforcement action.
3. Issue a notice of violation.
4. Issue a criminal or civil citation.
5. File a long-form complaint for criminal or civil penalties.
6. Take action for abatement or vacation of premises.

B. Informal Mediation or Intervention and Summary Action

1. Informal mediation or intervention. Whenever in the judgment of the code enforcement officer, or other designated official, action short of formal citation or notice of violation is likely to achieve satisfactory and timely compliance, informal

intervention, including written and verbal communication, may be used. The Town Manager and code enforcement officer shall promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

2. Summary action. Where obvious and elemental violations occur and entry onto private property is not necessary for enforcement, e.g., in the case of illegal posting of advertising in public rights-of-way, the code enforcement officer, or other designated official, may remove or summarily abate the violation. In such cases, evidence of the violation shall be forwarded to the code enforcement officer, or other appropriate official for identification of the responsible party and additional enforcement.

C. Notice of Violation

1. Upon reasonable belief that a violation of this chapter has occurred, the code enforcement officer, or other designated official, may notify the owner, owner's agent, or responsible party, through the issuance of a written notice, that a violation of this chapter has occurred and must be corrected and/or removed from the property.
2. The notice of violation shall set forth the following information:
 - a. Identification of property in violation. If the notice includes an abatement action, it shall include a legal description of the property and street address, if known, and if unknown, then by book, map and parcel number;
 - b. Statement of violation in sufficient detail to allow an owner or responsible party to identify and correct the problem along with legal citation(s) of applicable code, statutory or regulatory provision(s);
 - c. The period of time, not less than thirty (30) days from the mailing of the notice, the responsible party is given to comply;
 - d. Name, business address and business phone number of the code enforcement officer and/or other town official who issued the notice;
 - e. Reinspection date, if any;
 - f. If the notice includes an abatement action, a cost estimate to correct the violations and legal description of the property;
 - g. A warning statement that if the violations are not corrected within the period stated, the town may abate the nuisance itself or by private contractor, assess the owner or responsible party for the cost of such abatement including an administrative charge of ten (10%) percent, and record a lien on the property for assessment; and
 - h. Notice of the right and procedure for appealing the action.
3. Any notice given for any purpose under this chapter shall be provided, in writing, to the owner, the owner's authorized agent or the owner's statutory agent, lien holder and to the occupant or lessee. The notice given for any purpose under this chapter shall be deemed effective on the date when written notice is personally served in the same manner as provided by the Arizona Rules of Civil Procedure or mailed certified mail return receipt requested. If notice is served by certified mail, the notice shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. The notice shall be given not less than thirty

(30) days before the day set for compliance and shall include the legal description of the property and the cost of such removal to the town if the owner, occupant or lessee does not comply. The owner shall be given not less than thirty (30) days to comply. Nothing herein shall preclude the town from giving additional verbal or written notice at its discretion and the Town Manager and code enforcement officer may promulgate criteria for informal intervention and procedures for documentation and recordkeeping.

4. Nothing in this section shall require the issuance of a notice of violation prior to commencement of other enforcement proceedings, including civil or criminal proceedings.

5. Thirty (30) 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.

D. Nuisance Abatement.

1. Civil Hearing Officer Authorized. When a person is served with a notice to abate in accordance with A.R.S. § 9-499 to comply with the provisions of this chapter concerning matters within the scope of A.R.S. § 9-499 and neglects, fails or refuses to abate a violation for more than thirty (30) days from the effective date of the notice, a Civil Hearing Officer shall hold an administrative hearing pursuant to the notice regarding whether an order should be entered authorizing the Town Manager or designee to abate any condition that constitutes a violation. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders which it determines to be appropriate including an order authorizing the town to abate the condition, including the authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order. Decisions by the hearing officer shall be based upon a preponderance of the evidence. The hearing officer shall issue findings in writing, upholding, modifying or reversing the notice.

2. Order of Abatement. A copy of the order of abatement shall be posted upon the subject property. The order shall be sent by certified mail to the owner, lien holder, occupant or lessee at their last known address or most recent address to which a tax bill was mailed. If the owner does not reside on the property, a duplicate order shall also be sent to the owner at the owner's last known address.

3. Notice Appeal. Any person aggrieved by a decision of the Civil Hearing Officer regarding the notice may appeal to the Town of Queen Creek Town Council. The aggrieved person(s) may appeal by delivering a written statement of appeal to the Town Clerk within ten (10) business days, excluding weekends and legal holidays, after service of the notice and order to abate is complete. The town shall take no action to abate a nuisance while an appeal is pending. The appeal shall be heard and a determination made by the Town Council at its next regular meeting or within five (5) days, whichever time is greater. The council may affirm, vacate, or modify the notice and order to abate. The decision of the council is final and binding. If the notice and order to abate is affirmed and the council does not modify the time for compliance, the time for compliance as set forth in the original notice shall run from the time service of the notice was first completed. If no timely statement of appeal is made, then the notice and order to abate becomes effective when the

time for appeal lapses. The town is authorized to record the notice and order to abate with the appropriate County Recorder's Office and proceed with abatement. This appeal process does not apply if the removal or abatement is ordered by a court.

4. Abatement by the Town and Final Notice. When the time for compliance as set forth in the notice and order to abate, or as set by the Town Council on appeal, has lapsed, the town may abate the nuisance or cause it to be abated. A final notice giving the responsible party five (5) days to abate the nuisance shall be delivered in the same manner as set forth in this section. If the responsible party has not complied within five (5) days, the town may proceed with abatement. After five (5) days have elapsed from the date of issuance of the Order of Abatement, the town, its employees or contractors are authorized to enter upon the property and remove all rubbish, trash, weeds, filth, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract.

5. Order of Assessment.

- a. Within thirty (30) days after the town, its employees or contractors have removed, enjoined or abated the rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures or other violations under this chapter from any lot, parcel or tract, the town shall issue a written order of assessment on the property. The order shall list the date, common address, legal description of the property, tax parcel number of the property and that the Town of Queen Creek is the authority issuing the assessment. The order shall also list the date and actual cost of assessment, a ten percent (10%) surcharge levied by the town, and the total cost of assessment, including the cost of removal, abatement or injunction and associated legal costs for abatement or injunctions. The order shall indicate that the entire cost is due and payable in full within thirty (30) days from the date of issuance of the order, and that the assessment will become delinquent on that date. The order shall be signed by the Town Manager or her/his designee and shall be recorded in the office of the County Recorder in which the property is located.
- b. The order of assessment shall also contain the following notice in bold face print: NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S. § 9-499 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF THE TOWN OF QUEEN CREEK, ARIZONA. THE TOWN MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.
- c. Assessment Appeal. The order of assessment shall indicate that the owner, lessee or occupant shall have ten (10) business days, excluding weekends and legal holidays, from the date of issuance to appeal the amount of the assessment levied by the town by delivering a written statement of appeal to the Town Clerk. The date of mailing the order shall be the date of issuance. All appeals of order of assessments shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of the assessment may be appealed. The appeal may be filed with the appeal fee provided in the Town Code, and failure to pay the required fee shall result in the appeal not being filed and deemed invalid.

This appeal process does not apply if the removal or abatement is ordered by a court.

- d. The Civil Hearing Officer shall hear the appeal within fifteen (15) days after receipt. Written notice of the hearing shall be provided to the appropriate town departments and to the owner, occupant or lessee. The Civil Hearing Officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders, which it determines to be appropriate upholding or modifying the amount of the assessment. The hearing officer's decision shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this ordinance and whether the amount assessed actually covers the costs incurred by the town.
- e. The owner, lessee or occupant may appeal a decision of the Civil Hearing Officer to the Town of Queen Creek Town Council pursuant to the same process of appeal for a notice and order to abate as set forth in this section above. The decision of the council, if a valid appeal is filed, is final and binding.
- f. The order of assessment shall provide that any delinquent assessments shall bear interest in the same manner as delinquent utility bills at a rate prescribed by A.R.S. § 44-1201, as amended from time to time.
- g. A prior assessment under this chapter is not a bar to subsequent assessments under this chapter and any number of liens imposed pursuant to this chapter may be enforced in the same action.
- h. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the assessment is affirmed, the original assessment or the assessment as so modified shall be recorded in the office of the county recorder and, from the date of its recording, shall be a lien on said lot or tract of land until paid. Such liens shall be prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy a lien obtained under the provisions of this chapter shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the superior court at any time after the recording of the assessment, but failure to enforce the lien by such action 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 thereof. A prior assessment for the purposes provided in this chapter shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.
- i. Assessments that are imposed as set forth herein run against the property until paid and are due and payable in equal annual installments as follows:
 - a) Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
 - b) Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.

- c) Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
- d) Assessments of five thousand dollars or more but less than ten thousand dollar shall be paid within six years after the assessment is recorded.
- e) Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded

E. Nuisance; abatements; assessments; lien enforcement. The Finance Division shall maintain a list of all delinquent assessments made pursuant to this ordinance.

- 1. All assessments sixty (60) days delinquent shall be forwarded to the Town Manager and Town Attorney for review. If the Town Manager and Town Attorney determine that the value of the assessment(s), surcharges and interest, together with the value of all other liens having priority over the assessment, does not exceed the value of the property, the Town Attorney may commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority, the assessment, surcharges and interest.
- 2. If the Town Manager and Town Attorney determine that the value of the assessment, surcharge and interest, together with the value of all other liens having priority over the assessment, exceeds the value of the property, the Town Attorney need not commence legal action to foreclose the lien. The Town Manager may negotiate on the Town's behalf with parties holding liens which have priority on the property. Any agreement waiving part or all of an assessment, surcharge and interest shall be approved by the Town Council.
- 3. Upon payment in full of an assessment, surcharge and interest or upon waiving of an assessment, surcharge and interest in full by the Town Council, the town shall record a notice of satisfaction of assessment in the Office of the County Recorder in which the property is located. The notice shall contain the name of the owner of the property, the tax parcel number of the property, the common street address, and the legal description of the property. The notice shall refer to the date of the order of assessment and the docket and page number in the Office of the County Recorder where such order is recorded.

F. Collection of assessments. The Town Manager shall be authorized to collect assessments imposed pursuant to this chapter in the same manner and method as delinquent utility bills and license taxes. No utility service shall be commenced on any property having delinquent assessments, surcharges and interest from an assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full. No business license or sales tax license shall be issued for a business on any property having delinquent assessments, surcharges and interest from an assessment levied pursuant to this chapter until the assessment, surcharges and interest have been paid in full.

G. Public services revolving account. The public services revolving account within the town's general fund is established, consisting of monies collected from payments on assessments levied under this chapter, surcharges on fines, and such other funds as the town council may appropriate. The finance director shall administer the account. All expenditures from the account shall comply with provisions of this code and any

administrative regulations and policies governing expenditures of the town. The public services revolving account may be used to advance the costs for the removal of rubbish, trash, weeds, filth, accumulations, debris, blight or dilapidated structures, or other violations of this chapter, from any lot, parcel or tract pursuant to this chapter.

- H. Nuisance: transfer of property after notice. The transfer of any and all property interest in any manner including but not limited to 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 the property, in writing assumes responsibility for compliance with the notice of violation and a copy of such writing is provided to the town. If a violation of this chapter exists on the property at the time legal ownership has been transferred and the entity assuming an ownership interest in the property is provided with notice of the violation, such entity shall also be liable for violation as a successor owner of the property.

Section 10-2-8 Denial, Suspension or Revocation of Business License

A business license application shall be denied where it is determined that a nuisance exists on the property for which the application is made and the applicant fails to abate the nuisance within five (5) days after verbal or written notice thereof.

The Town Manager is authorized to suspend or revoke any business license issued pursuant to the Queen Creek Town Code if it is determined that the licensee causes, permits or maintains or allows the creation or maintenance of a nuisance under this chapter upon the licensed property. Suspension or revocation of the business license shall be in addition to any other remedy available to the town.

Section 10-2-9 Withholding of Permits

From the date a notice and order to abate expires without compliance by the responsible party until the nuisance is abated or the city's costs of abatement are reimbursed (whichever occurs later), the Town may withhold or suspend any permit or approval of any alteration, repair, or construction of any existing or new structure or sign on the property, as well as any permit or approval pertaining to the use or development of the property; provided, however, that no permit or approval necessary to correct the nuisance conditions shall be withheld.

Section 10-2-10 Court-Ordered Nuisance Abatement and Injunction

- A. In addition to any other abatement procedure provided in this chapter, the Town Manager or designee, Town Attorney or Town Prosecutor, in the name of the Town of Queen Creek, may apply to the Municipal Court for an order permitting the Town to abate any condition that constitutes a violation of this chapter. The Town may also seek injunctive relief.
- 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 chapter 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 and/or injunctive relief is appropriate, the court may order demolition, board-up, clean-up or any other action the court deems reasonably necessary to correct or enjoin the violation.

D. The reasonable costs of any abatement, including reasonable attorneys' fees and associated legal costs, permitted by the court's order shall be the responsibility of the owner and responsible party and may be collected by the Town.

Section 10-2-11 Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures on Property

It is unlawful for any person to throw, deposit, maintain or allow to be maintained, any rubbish, trash, weeds, filth, debris and dilapidated structures on any occupied or unoccupied private or public property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for rubbish, trash, weeds, filth, debris and dilapidated structures in such a manner that rubbish, trash, weeds, filth, debris and dilapidated structures will be prevented from being carried or deposited by the elements upon any public place. In addition to any criminal penalty which may be imposed for violation of any provisions of this article, such person shall be liable for all costs which may be assessed pursuant to this article for the removal of said rubbish, trash, weeds, filth, debris and dilapidated structures.

Section 10-2-12 Owner to Maintain Premises

The owner or person in control of any private property shall at all times maintain the premises free of rubbish, trash, weeds, filth, debris and dilapidated structures; provided that this section shall not prohibit the storage of rubbish, trash, weeds, filth and debris in suitable containers.

Section 10-2-3 Procedure to Compel Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures

~~The town clerk shall enforce the provisions of this article by causing to be prosecuted violators of this article in the municipal court pursuant to the provisions of this code or by compelling the removal of rubbish, trash, weeds, filth, debris and dilapidated structures by the procedure outlined hereafter, or by both the prosecution and compelling removal; the exercise of either option shall not preclude the exercise of the other option, and both may be exercised simultaneously.~~

Section 10-2-4 Notice to Remove

~~To compel the removal of rubbish, trash, weeds, filth, debris and dilapidated structures through the provisions of this article, if a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of rubbish, trash, weeds, filth, debris and dilapidated structures located on property owned or controlled by such person, he shall be given written notice by the clerk to remove all rubbish, trash, weeds, filth, debris and dilapidated structures from such property within thirty days from the date the notice was received by him, and prior to the date of compliance on the notice. Such notice shall be received not less than thirty days before the date set thereon for compliance, and shall contain an estimate of the cost of removal by the town, a statement that unless the person owning or controlling such property complies therewith within thirty days from the date such written notice is received, that the town will, at the expense of the person owning or controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that a surcharge for the cost of such removal by the town shall be billed separately and shall constitute a lien on the property owned or controlled by the person. The notice shall further advise that the person receiving the notice may appeal in writing to the council within thirty days from the date the notice is received by him and prior to the date of compliance.~~

Section 10-2-5 Service of Notice

~~Notice shall be personally served on the owner or person controlling such property, by a police officer of the town in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address. In the event that the post office address of the owner or user is unknown or if the owner or user cannot be reached by mail, the town clerk may cause to be published such notice in the newspaper used by the town for one publication, and such service shall be complete and shall have the same effect and force as if personally served upon such owner or user.~~

Section 10-2-6 Appeal to Council

~~Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the council from the demand of the clerk. The council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the council shall be final. The council may either affirm or reverse the decision of the clerk or modify the scope of the work as required in the notice.~~

Section 10-2-7 Removal by Town

~~When any such person to whom notice, as aforesaid, has been given, and on or before the date of compliance on the notice, or within such further time as may have been granted by the council on appeal, fails, neglects or refuses to move from such property any or all rubbish, trash, weeds, filth, debris and dilapidated structures the clerk is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property. Upon completion of the work, the clerk shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which said work was done, including ten percent for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in Section 10-2-5. The owner or person controlling such property shall have thirty days from the date of service upon him to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the clerk within such thirty day period, then the amount of the assessment as determined by the clerk shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the council shall be final and binding on all persons.~~

Section 10-2-8 Lien for Removal

~~If no appeal is taken from the amount of the assessment, or if an appeal is taken and the council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the office of the county recorder and, from the date of its recording, shall be a lien on said lot or tract of land until paid. Such liens shall be prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the superior court at any time after the recording of the assessment, but failure to enforce the lien by such action 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 thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.~~

ARTICLE 10-3 LITTER; NUISANCES

- 10-3-1 Definitions
- 10-3-2 Public Nuisances Defined
- 10-3-3 Litter in Public Places; Construction Debris
- 10-3-4 Depositing Litter in Gutters
- 10-3-5 Litter Thrown from Vehicles
- 10-3-6 Littering from Trucks
- 10-3-7 Littering in Parks
- 10-3-8 Deposit of Commercial Handbills on Public Property
- 10-3-9 Handbills: Commercial and Non-Commercial
- 10-3-10 Dropping Litter from Aircraft
- 10-3-11 Deposit of Litter on Occupied Private Property
- 10-3-12 Maintenance of Litter-Free Premises
- 10-3-13 Vacant Lots
- 10-3-14 Business Establishments - Receptacles
- 10-3-15 Unsightly Premises
- 10-3-16 Abatement of Nuisances
- 10-3-17 Penalties

Section 10-3-1 Definitions

In this chapter, unless the context otherwise requires:

- A. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, and includes, but is not limited to, helicopters and lighter-than-air dirigibles and balloons.
- B. "Abandoned Structure" means a vacant structure, characterized by blight, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property.
- C. ~~B.~~ "Animal" means any and all types of animals, both domestic and wild, male and female, singular and plural.
- D. ~~C.~~ "Authorized private receptacle" means a litter storage and collection receptacle as required and authorized in this article.
- E. "Blight or Blighted" means 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, lack of maintenance or damage; buildings, structures, whether main or accessory characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, excessive use or lack of maintenance; other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.
- F. "Building" means any structure designed for occupancy including mobile homes, manufactured homes, factory-built buildings, and like property for which taxes may be assessed.

G. ~~D.~~—"Commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed, or otherwise reproduced original or copies of any matter or literature:

~~1.~~1. Which is not defined as in this chapter as either a newspaper or a non-commercial handbill; and

~~2.~~2. Which advertises for sale any merchandise, product, commodity or thing; or

~~3.~~3. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

~~4.~~4. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. The terms of this paragraph shall not apply when an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when in either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this paragraph shall be derived to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this town; or

~~5.~~5. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

H. ~~E.~~—"Debris" means junk, abandoned broken or neglected lumber, furniture, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, vehicles, car parts, equipment or the remains of something of little or no apparent economic value.

I. "Deteriorated or deterioration" means a lowering in quality of the condition or appearance of a building, structure or premises, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

J. ~~F.~~—"Dilapidated structure" means any unsightly and dangerous structure as defined by the Uniform Code for the Abatement of Dangerous Buildings, 1994 edition Section 302 or any unsafe building or structure defined by the Uniform Building Code, 1994 edition, Section 102, or any old, abandoned or partially destroyed structure, or any structure commenced and abandoned.

K. ~~G.~~—"Filth" means any accumulation of garbage, junk or litter, or any condition which constitutes a breeding place for flies, rodents, mosquitoes and other insects or animals which are capable of carrying and transmitting disease-causing organisms to any person or persons, any spoiled or contaminated food or drink intended for human consumption, or all sewage, human or animal excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

L. ~~H.~~—"Fowl" means any and all fowl, domesticated and wild, male and female, singular and plural.

- M. ~~I.~~ "Garbage" means the accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals as well as other organic waste material subject to rapid decomposition.
- N. ~~"Graffiti"~~ means initials, slogans, designs or drawings, written, spray-painted, etched, sketched or otherwise applied 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.
- O. ~~"Grass"~~ includes, but is not limited to, Barnyard grass, Bermuda grass, Bluegrass, Bromegrasses, Crab grass, Foxtail, Johnson grass, Ragweed, Rye grass, wild oats, or hybrids thereof.
- P. ~~"Hazard"~~ means any condition that presents a risk to the safety of any person or adversely affects or jeopardizes the health or well-being of any person or endangers property. Such conditions include, but are not limited to, occupancy without adequate water or sanitation facilities, accumulation of human or animal waste, presence of medical or biological waste, sharps, gaseous or combustible materials, radioactive waste, dangerous or corrosive chemicals or liquids, flammable or explosive materials, friable asbestos, offal or decay matter.
- Q. ~~"Hazardous wastes"~~ means 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 Code of Federal Regulations Section 261.1 through 261.33, as and if amended, except that, for purposes of this ordinance hazardous waste shall include household waste as defined in 40 Code of Federal Regulations Section 261.4B.1.
- R. ~~J.~~ "Junk" means items that in their present state are of little or no apparent economic value, that are not confined within an industrial area in compliance with the zoning ordinance, including, but not limited to an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper or machinery parts; inoperative machinery or appliances; building material wastes; litter or discarded or empty containers. Junk also includes all types of solid waste described in the Town of Queen Creek Town Code.
- S. ~~"Land"~~ means all land in the Town of Queen Creek, whether improved or unimproved.
- I. ~~K.~~ "Litter" means any filth, debris and weeds which constitute a hazard to public health and safety and shall include, without limitation, any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, ashes, street cleanings or other unsightly and unsanitary matter of any kind whatsoever, any other matter defined as "refuse" in this chapter, and any growth of weeds to a height of over higher than six inches.
- U. ~~L.~~ "Major repair" means the removal from any vehicle of a major portion thereof, including, but not limited to, the differential, transmission, head, engine block or oil pan.
- V. ~~M.~~ "Newspaper" means a publication regularly issued for dissemination of current news, matters of general interest and local happenings at stated short intervals of time whether such publication is distributed by paid subscription or for free. Such publication shall be from a known office of publication and shall bear the dates of issue and shall be numbered consecutively.
- W. ~~N.~~ "Non-commercial handbill" means any printed or written matter, any sample or device, circular, leaflet, pamphlet, magazine paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definitions of a commercial handbill or a newspaper.

- X. "Owner" means a person, persons or legal entity listed as current title holder as recorded in the official records of the County Recorder's Office.
- Y. "Owner's agent" means a statutory agent designated pursuant to A.R.S. § 33-1902 as and if amended.
- Z. Ø. "Park" means a park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to public recreation.
- AA. "Person" means a human being, enterprise, corporation, association, partnership, firm or society.
- BB. "Pond" means an in-ground body of water that is at least eighteen inches deep and eight feet or greater in any dimension. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.
- CC. P. "Private property" or "private premises" means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mail box belonging or appurtenant to such dwelling, house, building or other structure.
- DD. "Property" means and includes buildings, grounds, lots and tracts of land.
- EE. Q. "Property used for agricultural purposes" means property of not less than ten contiguous acres which:
- 1.-1. The primary use of the property is as agricultural land and the property has been in active production in conformance with generally accepted agricultural practices for at least two of the five prior years; and
- 2.-2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.
- FF. R. "Public place" means any and all streets, sidewalks, boulevards, alleys, rights-of-ways or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- GG. S. "Refuse" means all putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.
- HH. "Responsible Party" means any owner, occupant, lessor, lessee, manager, licensee, or other person having control over a structure or parcel of land; and in the case where the demolition of a structure is proposed as a means of abatement, any lienholder whose lien interest is recorded in the official records of the County Recorder's Office.
- II. T. "Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, metal, wood, glass, bedding, crockery and similar materials.
- JJ. U. "Streets or road" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes the whole right-of-way of the public entity maintaining said way, whether such right-of-way is paved or not.
- KK. "Structure" means 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 and includes buildings, improvements and other structures that are constructed or placed on land.

LL. ~~V.~~ "Trash" means any accumulation of refuse, rubbish, litter or garbage.

MM. "Unsecured structure" means any structure that is vacant with a damaged or open door, window, or other opening not secured in accordance with Town standards to prevent unauthorized entry.

NN. "Vacant structure" means any unoccupied or an illegally occupied structure or any occupied structure without adequate facilities/utilities which is empty or remains empty and is not continuously maintained for twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to said property; or any structure which exhibits dilapidated walls, windows, roof or doors which will fail to prevent the entry of a trespasser.

OO. ~~W.~~ "Vehicle" means every device in, upon or by which, any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks, except for a device propelled solely by human power.

PP. "Weeds" means a useless and troublesome plant generally accepted as having no value and frequently of uncontrolled growth. Any vegetation which is, or is likely to be, detrimental, destructive or unsightly and difficult to control or eradicate, including but not limited to bull thistle, cocklebur, foxtail, horseweed, lambsquarters, london rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, shepardspurse, sow thistle, white horse nettle, willow weed and those types of plant growth defined as noxious weeds by A.R.S. § 3-201 regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Chapter regards the growth as desirable.

Section 10-3-2 Public Nuisances Defined

~~Acts~~In combination with Article 10-2, acts, omissions, conditions and things in or upon any land, property, private lot, building, structure or premises, or in or upon any public right-of-way, wash, street, avenue, alley, park, parkway or other public or private place in the town which are injurious to the public health, safety and general welfare, which interfere with the comfortable enjoyment of life or property by any person, or which unlawfully obstruct the free passage or use of any public park, wash, square, alley, sidewalk, street or highway are hereby declared to be public nuisances, including, but not limited to the following:

~~A.~~A. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from insects or rodents, or which are foul or malodorous, or which are not securely closed and protected or, if necessary, illuminated so as to prevent persons or objects from falling therein. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

~~B.~~B. Filthy, littered or trash-covered exterior areas, including all buildings and structures thereon and areas adjacent thereto.

~~C.~~C. Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any ordinance of the town or Maricopa County. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

- ~~D.~~ D. Poison oak, poison ivy, or any noxious or toxic weeds or uncultivated plants (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than six inches or which present a fire hazard. 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.
- ~~E.~~ E. Accumulations of bottles, glass, cans, ashes, ~~small pieces of~~ scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash and abandoned material, unless the same be kept in covered bins or metal receptacles approved by this code or any town ordinance. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- ~~F.~~ F. Accumulations of trash, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing straw, packing hay or other packing material, lumber, scrap iron, tin and other metal, or anything whatsoever in which insects may breed or multiply or which provides harborage for rodents or which may create a fire hazard. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- ~~G.~~ G. Any unsightly and dangerous building, billboard or other structure, or any old abandoned or partially destroyed building or structure, or any building or structure commenced and abandoned.
- ~~H.~~ H. All places used or maintained as junk yards or dumping grounds, or for the wrecking, dissembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to interfere with the comfortable enjoyment or the quality of life or property by and of others; provided, however, that nothing contained in this subsection shall be deemed to prohibit any automobile wrecking yard or other junk yard where the same is otherwise permitted by the town zoning ordinance and amendments thereto, which is operated in conformity therewith. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."
- ~~I.~~ I. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human or animal excreta, sewage or other offensive substances accumulated on private or public property; provided, however, nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner provided by a county health officer, this code or ordinance of the town.
- ~~J.~~ J. The erection, continuance or use of any building, room or other place in said town for the exercise of any trade, employment or manufacture which, by noxious exhalations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors or other annoyances, which is discomforting or offensive or detrimental to the health of individuals or of the public, except for normal exhalation or smoke produced by normal

heating devices. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

~~K.~~ K. Causing, allowing or permitting any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by any considerable number of people, with the lawful use of any school, public place or public street, with any governmental or public function of the town, or as to constitute a hazard or threat to the public health, safety and welfare of the people of the town; provided, however, this subsection shall not apply where the person responsible for said artificial illumination is authorized by the town manager, any school within the town, this code or any ordinance of the town. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

~~L.~~ L. Burning of refuse. No outside burning is allowed except when such burning is necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

~~M.~~ M. Any unguarded or abandoned excavation, pit, well or hole which is dangerous, injurious or harmful to life or property.

~~N.~~ N. To leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under the control of any person and in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, unless such icebox, refrigerator or other container is properly stored by first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container.

~~O.~~ O. The doing of any act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or other thing either:

1. 1. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous the free passage or use, in the customary manner, of any stream, public park, parkway, square, sidewalk, street or highway in the town and is no less a nuisance because the extent of the annoyance or damage inflicted is unequal.

2. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property by an entire community or neighborhood or by a considerable number of persons.

~~P.~~ P. To leave or permit to remain overnight in the front yard of any private premises, construction equipment whether free standing or on one or more axles; or to store overnight in the front yard of any private premises, any building materials whether free standing or on pallets or skids, when such equipment or materials are not for use at the premises or stored pursuant to a valid and current building permit issued by the town for work at that premises. Equipment and materials may be stored in the side yard area of any private premises so long as they are screened from public view by an opaque wall, fence or other permitted screen. Nothing in this subsection shall be deemed to prohibit uses named herein when such are necessary and incidental to an agricultural use on land defined in this chapter as "property used for agricultural purposes."

~~Q.~~ Q. Any dangerous, deteriorated, abandoned, partially destroyed or unfinished building, addition, appendage or other structure, or any building or structure in violation of the uniform building codes as adopted by the town, and any vacated or abandoned building

not securely closed at all times; any abandoned structure, unsecured structure or vacant structure; any wood, metal or other material used for securing structures and buildings must be compatible with the color of the building or structure.

- R. All land shall be maintained so as to prevent a pond or the accumulation of stagnant water when such pond or water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls. This does not apply to Town-approved retention basins as a whole except for portions of retention basins creating, contributing to or causing injury or endangerment to the health, safety or welfare of the community.
- S. Any condition defined or deemed to be a nuisance or hazard to the public health, safety, or welfare by any statute of the State of Arizona or any code or ordinance adopted by the Town of Queen Creek. These include but are not limited to the Queen Creek Town Code, the Queen Creek Zoning Ordinance, the Uniform Fire Code, International Building Code, Uniform Housing Code, and similar codes or any provision of any State statute or code or ordinance adopted by the Town of Queen Creek and intended to protect the character, safety or attractiveness of a neighborhood or area.
- T. Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or blighted appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.
- U. Any wall or fence that is missing blocks, boards or other material, or is otherwise deteriorated so as to constitute a hazard to persons or property. This includes but is not limited to, leaning or damaged fences, fences missing slats or blocks or any other materials that are otherwise broken or damaged in such amounts as to present a deteriorated or blighted appearance. All replacement materials shall be uniform, compatible and consistent with the design thereof.
- V. To leave or permit to remain on any property, areas infested with insects or rodents including, but not limited to: bees, wasps, hornets, yellow jackets, mice, rats, or roaches, in an amount that may become a hazard to public health or safety.
- W. All exposed exterior surfaces, windows and doors shall be maintained so as to be free of deterioration that is a threat to health and safety, impervious to moisture and weather elements, or shall not otherwise present a deteriorated or blighted appearance. Windows, doors, locks on doors, and hinges must be present and installed properly. These items must be free from deterioration or blighting conditions. Any temporary boarding of structures and buildings must be done in accordance with Town specifications.

Examples of such deterioration and blight include but are not limited to:

1. Improperly anchored canopies, metal awnings, stairways, exhaust ducts and overhead extensions;
2. Chimneys that are structurally unsafe;
3. Exterior windows, doors, garage doors, door hardware and door frames that are not maintained in sound condition, that are not fitted securely in their frames and are not substantially weather tight or have inoperable locks, holes, breaks or cracks; Any exterior door incapable of functioning as intended by design;

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 or vacant structure for more than one hundred eighty days in any two-year period;
 8. Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or blighted appearance;
 9. Exterior painted surfaces with loose, cracked, scaling, chipping or peeling paint, visible from a public area, in such amounts as to present a deteriorated or blighted appearance;
 10. Any wood surfaces unprotected from the elements by paint or other protective treatment, except those naturally resistant to decay;
 11. The existence of hazards, hazardous waste, junk or graffiti on Property.
- X. All vacant, unsecured or abandoned buildings and structures shall be secured against unauthorized entry at all times.
1. Notice Posting.
 - a. The owner of record of a vacant, unsecured or abandoned structure or building is required to post a notice at the front of the structure or building, in a conspicuous location protected from the weather, that provides the current name, address and phone number of the owner of record, if the owner of record resides locally, or the current name, address, and phone number for a local authorized agent.
 - b. If a notice of default or foreclosure has been recorded for the real property on which the vacant, unsecured or abandoned structure or building is constructed, the lender's name, address, and telephone number must also be provided on the notice posted.
 - c. The posted notice shall be no smaller than 8 ½ inches by 11 inches.
 2. Security.

The owner of a vacant, unsecured or abandoned structure or building, or responsible party, is responsible for securing that building or structure and its property against unauthorized entry in accordance with the following provisions:

 - a. For the first ninety (90) consecutive days during which the structure or building remains vacant, unsecured or abandoned, any doors, including garage doors, windows, and other opening of the structure or building may be secured with painted plywood panels that match the exterior appearance of the structure or building.
 - b. After the expiration of ninety (90) consecutive days, the owner, or responsible party, shall restore and maintain the structure or building to an occupied appearance, with all doors, including garage doors, windows, and other openings of the structure or building in good repair. The owner, or responsible, shall also install and maintain a security fence around the structure or building and maintain a commercially-serviced, 24-hour burglar

alarm system to prevent unauthorized entry into the structure or building or onto the property.

Y. Any condition which poses a substantial risk to the health or safety of any person or of the public, including, but not limited to, an unsafe, unsanitary or structurally unsound condition.

Section 10-3-3 Litter in Public Places; Construction Debris

~~A.~~ A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, or in authorized private receptacles for collection.

~~B.~~ B. Construction debris shall not remain uncontained for more than twenty-four hours and shall be contained at all times upon the premises.

Section 10-3-4 Depositing Litter in Gutters

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premise free of litter.

Section 10-3-5 Litter Thrown from Vehicles

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town or upon private property.

Section 10-3-6 Littering From Trucks

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

Section 10-3-7 Littering in Parks

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of.

Section 10-3-8 Deposit of Commercial Handbills on Public Property

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street or other place within the town, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 10-3-9 Handbills: Commercial and Non-Commercial

~~A.~~ A. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle, but it is not unlawful on any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

~~B.-B.~~ No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are known, or should be known, to such person to be temporarily or continuously uninhabited or vacant.

~~C.-C.~~ No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words "no trespassing", "no peddlers or agents", "no advertisement", or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any handbill left upon such premises.

~~D.-D.~~ No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited unless the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this article.

~~E.-E.~~ No person shall throw, deposit or distribute any commercial handbill in or upon private premises which are inhabited except upon the acceptance thereof, or the express consent therefor, by an occupant of such premises.

Section 10-3-10 Dropping Litter from Aircraft

~~Any~~No person in any aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

Section 10-3-11 Deposit of Litter on Occupied Private Property

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 10-3-12 Maintenance of Litter-Free Premises

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building or any other regulation, ordinance, order or statute.

Section 10-3-13 Vacant Lots

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

Section 10-3-14 Business Establishments - Receptacles

No person occupying or employed in any business establishment shall deposit any litter in any receptacle, unless such receptacle shall be provided with a lid of sufficient weight to prevent the escape of any litter from the receptacle. This provision shall not apply to boxes, either postboard or wooden, greater than six inches square in size, provided, however, that a receptacle shall be provided of sufficient size to prevent any such boxes from being carried or deposited by the elements upon any street, alley or other public place.

Section 10-3-15 Unsightly Premises

Every person owning, managing, controlling or occupying any real property in the town shall not allow any part of such property visible from the street or adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

Section 10-3-16 Abatement of Nuisances

Any public nuisance committed under this article may be abated in any manner provided by law including the method set forth in Article 10-2 of this chapter.

Section 10-3-17 Penalties

Any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance upon any property within the town, violates any provision of this article (including Article 10-2), or fails to comply with any provision of this article (including Article 10-2), shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in Article 1-8 of this code. The conviction of any person hereunder shall not relieve such person from the responsibility to correct such violation, nor prevent the enforcement, correction or removal thereof in any manner authorized by law. Every day that a nuisance is permitted to exist or caused to continue to exist under this article (including Article 10-2) shall be deemed a separate violation.

Any person, whether as principal, owner, agent, tenant, employee or otherwise who maintains a nuisance upon any property within the town, violates any provision of this article (including Article 10-2), or fails to comply with any provision of this article (including Article 10-2) may be subject to any of the penalties in this chapter, including but not limited to: informal intervention; summary action; criminal or civil citation; criminal or civil penalties; emergency remedial action; order to vacate; abatement; assessment; lien enforcement; suspension or revocation of business license; and withholding or suspension of permit or approval. The remedies provided for in this chapter are cumulative and in addition to any other remedies established by law, and this chapter shall not be interpreted as limiting the penalties, actions or abatement procedures which may be taken by the Town or other officials under other laws, ordinances, or rules.

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Description	Article 10-2 and 10-3 Town Code rev 11-9-10
Rendering set	Standard

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Padding cell	

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