



## COUNCIL MINUTES

May 24, 2012

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on May 24, 2012 at 7:31 a.m.

COUNCIL PRESENT	COUNCIL ABSENT	OFFICERS PRESENT
Scott Smith Alex Finter Christopher Glover Dina Higgins Dennis Kavanaugh Dave Richins Scott Somers	None	Christopher Brady Debbie Spinner Linda Crocker

(Councilwoman Higgins participated in the meeting through the use of telephonic equipment.)

1-a. Hear a presentation, discuss and provide direction on the proposed revisions to the Nuisance Code.

Development and Sustainability Department Director Christine Zielonka stated that on February 28, 2011, the Council adopted revisions to the Nuisance Code. She explained that staff now proposes various administrative housekeeping revisions to the Code to ensure that it is easily understood by staff and the community. Ms. Zielonka introduced Laura Hyneman, who was recently selected to serve as the new Development and Sustainability Department Deputy Director.

Mr. Hyneman displayed a PowerPoint presentation (**See Attachment 1**) and reported that the purpose of the Nuisance Code is to promote the health, safety and welfare of the citizens of Mesa by setting standards for the maintenance of lots, buildings and property. (See Page 2 of Attachment 1) She explained that the Code also sets minimum standards for large animals and livestock, as well as residential rental inspections.

Ms. Hyneman briefly outlined the topics that would be covered during the presentation. (See Page 3 of Attachment 1) She commented that not only was staff seeking Council direction with respect to the proposed Nuisance Code changes (i.e., administrative, definitions, clarifications), but also relative to the screening of boats and utility trailers.

Ms. Hyneman highlighted the proposed amendments regarding the administrative provisions as follows:

- Interpretation authority for the Nuisance Code has been assigned to the City Manager or designee.
- The Civil Hearing Officer has been granted the discretion to reduce civil sanctions for cases with extraordinary conditions.
- The Arizona Rules of Civil Procedure will be used as the method for serving notices of violation.

Ms. Hyneman pointed out that various definitions have been clarified and cited, as an example, the revised definition of “accessible” as it applies to Residential Rental Inspections. (See Page 5 of Attachment 1) She explained that such inspections will be limited to those areas that can be reached quickly without requiring the inspectors to climb over or remove obstacles. She added that the definition is derived from the Building Code, which addresses the issue of inspections.

Responding to a question from Mayor Smith, Ms. Hyneman acknowledged that an individual could place an obstacle in front of a property or wall in an effort to prevent an inspection from occurring. She noted, however, that the inspections are usually requested by either the property owner or a tenant. Ms. Hyneman further stressed the importance of ensuring that the inspectors are not harmed or that properties are not damaged during the inspection process.

Ms. Hyneman, in addition, reviewed the expanded definition of “blight” (See Page 6 of Attachment 1), which has been clarified to include modifiers such as “uncontrolled” or “untended” to describe the neglectful nature of blight. She displayed a photograph of an old motel on Main Street, which has since been demolished, illustrating such a condition. (See Page 7 of Attachment 1)

Ms. Hyneman also remarked that in 2011, the provision for “garage sale” was clearly defined in the Nuisance Code in terms of allowed frequency, location and activity. (See Page 8 of Attachment 1) She said that staff proposes to expand the definition of “garage sale” to encompass other terms that describe the same activity (i.e., yard sale, carport sale, estate sale).

In response to a question from Councilwoman Higgins, Ms. Hyneman clarified that in the short period of time she has been working in her new position, she has not received any complaints from citizens regarding the frequency with which an individual can hold a garage sale (i.e., no more than four times a year).

Ms. Zielonka confirmed Ms. Hyneman’s statement and added that the surrounding neighbors of those individuals who conduct garage sales are pleased that such activity now occurs on a less frequent basis.

Ms. Hyneman continued with the presentation and indicated that the proposed amendments to the Nuisance Code also include language clarification with regard to specified minimum vegetation heights over public rights-of-way. (See Page 10 of Attachment 1)

Councilmember Finter stated that he would hope the City would send out “a kind first notice” to the offending property owners whose vegetation impedes/obstructs City streets in an effort to educate those individuals regarding the Nuisance Code. He suggested that such a process

would be greatly appreciated by the community and is a more effective tool than simply citing an individual for a Code violation.

Ms. Hyneman further reported that staff was seeking Council input relative to the screening of watercraft, utility trailers and campers. She explained that the Nuisance Code currently allows people to park such vehicles behind the front face of their home and no longer requires that such items be screened or situated behind a fence or wall. She stated that the Zoning Code, which regulates recreational vehicles (RVs) and travel trailers, requires that those vehicles be parked behind a wall or a gate.

Ms. Hyneman displayed photographs of two Mesa residences located two doors away from each other. She advised that the first photo illustrates what appears to be a pontoon boat covered with a gray tarp parked on the side of the house (See Page 12 of Attachment 1) and said that the second photograph depicts a travel trailer parked behind the front plane of the other house. (See Page 13 of Attachment 1) Ms. Hyneman explained that Code Compliance sent a courtesy notice to the homeowner with the travel trailer for violating the Zoning Code. She said that individual contacted City staff and questioned why he was being cited when the pontoon boat owner was not. Ms. Hyneman added that this issue arose as a question of fairness in the neighborhood with respect to the disparity between the Nuisance Code and the Zoning Code.

Responding to a series of questions from Mayor Smith, Zoning/Civil Hearing Administrator Gordon Sheffield clarified that the definition of a recreational vehicle includes travel trailers, fifth wheels and pop-up campers. He noted that when staff updated the Zoning Code and reviewed the RV/Manufactured Home section, they did not raise the issue of screening with the Council since the Council had adopted screening requirements for RVs six or seven years prior to that time. Mr. Sheffield also said that the Council did not discuss the different kinds of vehicles that can be towed besides those that can be slept in.

Ms. Zielonka remarked that Code Compliance has been confronted with the problem, as illustrated by the photos, that a boat/trailer can be unscreened and covered by a tarp, whereas an RV must be screened, which seems inequitable. She added that staff was seeking Council direction as to whether the requirements should be the same.

Mayor Smith commented that with respect to the issue of equitable, he would rather focus on "what is the right thing to do." He stated that staff was "jumping to the fact" that screening RVs was appropriate, but noted that situations are created that do not seem to make sense.

Councilmember Richins commented that his boat and trailer are parked on the side of his house unscreened and stated that people who "have issues" with such activity should probably live in a neighborhood that has a Homeowner's Association (HOA). He stated that at some point in time, the Council will have to decide that not only are there neighborhoods in Mesa that do not have HOAs and less stringent rules, but also that there are residential areas with HOAs that are able to "self-determine" their rules and regulations. Councilmember Richins further voiced concern with respect to the City encroaching too far on becoming a "giant City of Mesa HOA" and added that it was important for residents to be respectful of their neighbors and engage in a dialogue.

Mayor Smith indicated that in the above-referenced scenario, the travel trailer is required to be screened, but that it is permissible for the boat to be stored where it is currently located. He

restated that Councilmember Richins would move towards saying that neither vehicle should be screened.

Councilmember Richins remarked that there is a nuance with respect to travel trailers, in that someone could use them as accessory living quarters, which would create a different situation than a boat or a work trailer.

Mr. Sheffield responded that the current Zoning Ordinance prohibits someone from living in an RV when it is stored on a single-residence lot.

Councilmember Richins acknowledged Mr. Sheffield's comment, but noted that he was aware of people who do live in RVs when they are stored. He questioned whether it would be appropriate for the Council to address that as a separate issue or, in the alternative, if it is behind the front face of the house.

Mayor Smith commented that the scenario presented by staff illustrates a seemingly similar situation, but handled in different ways.

Councilmember Richins further pointed out that with respect to the issue of scale, parking a large diesel pusher on the side of a house would be one thing as compared to a pop-up camper or travel trailer, which are much smaller in scale. He stated that he was unsure how that was addressed in the Code and inquired if the Council might wish to consider the height of the various vehicles.

Mr. Sheffield responded that the current Zoning Ordinance defines RVs and requires that they be screened, but does not delineate the size.

Councilmember Kavanaugh commented that he had not yet formed an opinion with respect to this matter. He requested that staff conduct research to assess whether Mesa's standards to require screening for RVs is or is not consistent with those of other Valley communities.

City Manager Christopher Brady stated that staff would research the matter and bring back their findings to the Council.

Mayor Smith stated that the homeowner with the travel trailer has a legitimate issue and suggested that staff refine the proposed language in the Nuisance Ordinance and bring back different options for the Council's consideration. He also noted that he would prefer that staff concentrate on issues such as blight, dilapidated properties, and the overgrowth of vegetation on public rights-of-way. He added that it is easy to get "bogged down" on items such as where residents should park their boats and trailers, but said that such matters are not necessarily the most important to resolve.

Councilmember Richins further suggested that staff work with the Mesa Police Department (MPD) to ensure that the definition of "graffiti" in the Nuisance Ordinance "fits the tools that PD needs" to enforce the law.

Ms. Zielonka restated that staff will bring back various options with respect to the screening issue. She added that after the Council's summer break, staff will also come back with a draft ordinance for introduction.

Mr. Brady suggested that staff not draft the ordinance until they bring back their ideas to the Council.

Mayor Smith thanked staff for the presentation.

2. Acknowledge receipt of minutes of various boards and committees.

2-a. Transportation Advisory Board meeting held April 17, 2012

2-b. Economic Development Advisory Board meeting held April 3, 2012

It was moved by Councilmember Kavanaugh, seconded by Councilmember Glover, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

3. Hear reports on meetings and/or conferences attended.

Mayor Smith: Celebration at Whittier Elementary School, which earned an A+ Award of Excellence; 4<sup>th</sup> Annual City of Mesa Prayer Breakfast

Councilmember Richins: Renewable Energy Incentive Districts Seminar

4. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Wednesday, May 30, 2012, 8:00 a.m. – Light Rail Extension Groundbreaking Ceremony

Thursday, May 31, 2012, 7:30 a.m. – Study Session

5. Items from citizens present.

There were no items from citizens present.

6. Convene an Executive Session.

It was moved by Councilmember Richins, seconded by Councilmember Finter, that the Council adjourn the Study Session at 8:05 a.m. and enter into Executive Session.

Carried unanimously.

- a. Discussion or consultation for legal advice with the City Attorney. (A.R.S. §38-431.03A (3)) Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. §38-431.03A (4)) Discussion or consultation with designated representatives of the City in order to consider the City's position and instruct the City's representatives regarding negotiations for the purchase, sale or lease of real property. (A.R.S. §38-431.03A(7))

1. La Mesita Development
2. Residence at Center Street Station Development

Discussion or consultation with the designated representatives of the City in order to consider the City's position and instruct the City's representative regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the City. (A.R.S. §38-431.03A(5))

3. Meet and Confer – Mesa Fire Memorandum of Understanding
4. Meet and Confer – Mesa Police Memorandum of Understanding

7. Adjournment.

Without objection, the Executive Session adjourned at 9:15 a.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 24<sup>th</sup> day of May, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

pag  
(attachment – 1)

# Nuisance Code

City Council Study Session

May 24, 2012

Administrative Housekeeping and  
Proposed Responses to Issues





# *Nuisance Code*

## HEALTH, SAFETY AND WELFARE

- Setting minimum standards for the maintenance of improved and vacant properties to reduce potential hazards, and reduce occurrences of blight, that may cause deteriorating conditions, unattractive neighborhoods, and potential loss of property value.
- Animal regulations
- Residential rental inspections

# *Purpose*



- **Feedback on proposed changes**
  - Administrative Changes
  - Definitions
  - Clarifications
- **Seek direction on Screening of Boats and Utility Trailers**
- **Next Steps**



# *Administrative Provisions*

- Interpretation of the Nuisance Code – City Manager or their designee
- Discretion to reduce sanctions - Civil Hearing Officer
- Reference to Arizona Rules of Civil Procedure for serving Notices of Violation



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## Definitions

**(New) Accessible – applies to residential rental property inspections. “Capable of being reached quickly for inspections without requiring inspectors to climb over or remove obstacles.”**



mesa·az

# Definitions

BLIGHT expanded to include:

- General damage to the integrity of the construction of a building or structure;
- Uncontrolled growth of landscaping exhibited, by lack of maintenance,
- Untended damage to plant and landscape materials,
- The continued presence of dead or decaying plants





# *Garage Sale*

The garage sale provision includes new terms describing allowed

- Frequency
  - Four times per year
- Location
  - Anywhere on residential property
- Activity
  - Non-commercial/no new merchandise





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# Clarification

- Vegetation trimming – minimum 8' above sidewalks and 14' over streets & alleys





## *Request for Direction*

- Screening watercraft, utility trailers and campers
  - Nuisance Code update deleted the requirement to screen
  - Zoning Code requires screening of RV's

Should the requirements be the same?







## Next Steps

- If proposed changes are acceptable, then the ordinance will be finalized and brought to Council for consideration
- If more discussion is necessary, staff will come back in June.