

**TOWN OF JEROME, ARIZONA
LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that the following ordinance was finally adopted by the Jerome Town Council on **FEBRUARY 13, 2018**.

Candace B. Gallagher, CMC
Town Manager/Clerk

ORDINANCE NO. 437

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-13, "ABATEMENT OF PUBLIC NUISANCES," OF THE JEROME TOWN CODE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1. Article 7-13, "Abatement of Public Nuisances," of the Jerome Town Code, is hereby deleted in its entirety and replaced with the text set forth in Exhibit "A," attached.

Section 2. Following its adoption, this Ordinance shall be published by the Town Clerk in accordance with the requirements of A.R.S. § 39-203 *et seq.*

Section 3. All ordinances or parts of ordinances that are in conflict with the provisions of this Ordinance are hereby repealed to the extent of their inconsistency herewith. Specifically, former Article 7-13, and by reference Town of Jerome Ordinance No. 243 adopted November 13, 1990, are hereby repealed and replaced with the attached Article 7-13.

Section 4. Should any section or provision of this Ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance, any provision incorporated by reference and any other provision of the Town Code as a whole or any part thereof other than the part so declared invalid.

ORDINANCE NO. 437
EXHIBIT "A"

Article 7-13 **Abatement of Public Nuisances**

Section 7-13-1. It is hereby declared to be a public nuisance, fire hazard, and hazard to public health and safety to allow the accumulation of rubbish, trash, filth, debris, abandoned inoperable vehicles, dilapidated buildings and structures, litter, garbage, dead animals, brush, street cleaning, industrial wastes, or other unsanitary matter of any kind on any property, buildings, lots, grounds, tracts of land and the contiguous sidewalks, streets, and alleys.

- a. No use or structure shall be operated or maintained in such a manner as to be an explosive or fire hazard; nor cause smoke, soot, dust, radiation, odor, noise, vibration, heat, glare, toxic fumes or other negative impact on the community to be emitted into

Jerome Town Hall Located at 600 Clark Street, Jerome Civic Center

the atmosphere at any time to such an extent as to constitute a nuisance; contribute to neighborhood deterioration; nor divert water-carried waste or pollutants into any open water course or groundwater supply. Any such condition determined by the Town to constitute imminent peril to public health, safety or welfare shall be ceased immediately.

- b. Trash and garbage must be kept contained prior to off-site disposal so as not to be a nuisance. Open garbage must not be stored in any residential or commercial lot for more than seven days. Commercial dumpsters must be kept clean, emptied regularly, kept in good repair, and continuously covered.
- c. The property owner shall be responsible for the removal of dry grasses and weeds exceeding six inches in height AND deemed to constitute a fire hazard by the Fire Chief or the Zoning Administrator.
- d. The dispensing, handling, or disposal of fuels, paint thinner, or similar explosive or fire-producing materials shall comply with Underwriters Laboratories, Inc. standards or better.
- e. To avoid negative impact on the community, graffiti must be removed at the request of the Town pursuant to this Article.
- f. Unclaimed publications shall not be allowed to accumulate on a property owner's property. If the publication is subscribed to by the property owner or by a tenant on the property, the property owner or tenant shall be responsible for the unclaimed publications. If the material is unsolicited, the publisher shall be responsible for the unclaimed publications.
- g. Dangerous buildings shall be subject to this Article 7-13.

h. All fences, screen walls and retaining walls on the premises shall be safe and structurally sound. They shall be maintained so that they do not constitute a blighting, or deteriorated condition. Section 7-13-2 Written notice of any violation of Section 7-13-1 shall be either personally served or sent to the owner, lessee, and occupant of the property at her or his last known address by registered or certified 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 at his last known address. The notice shall be dated, signed by the Code Enforcement Officer or Building Official, have attached a copy of this Article 7-13 and include, at minimum, the following items: property description/address; description of the violation; required mitigation and cost thereof; and consequences. The notice of violation and the assessment lien provided for under this Article 7-13 shall run with the land. The Town, in its sole option, may record a notice of violation with the county recorder and thereby cause compliance by any entity thereafter acquiring such property. The non-filing of any notice of violation shall in no way affect the validity of such notice as to the entities so notified. A satisfaction of a notice of violation or assessment lien shall be filed when the property is brought into compliance by the owner, occupant or lessee. Where multiple ownership exists of a property in violation of this chapter, the Town may serve any one (1) owner of record and such service shall be deemed to be service upon any party having or claiming an ownership interest in the property. After service upon any one (1) owner, the Town may fully proceed under this Article 7-13 the same as if all owners had been served.

Section 7-13-3. When any owner, lessee or occupant to whom notice has been given pursuant to Section 7-13-2 fails, neglects or refuses to abate the prohibited violation from such property by the date set for compliance within the notice, the Town Manager, or his or her duly authorized representative, may abate such violation. Upon abatement of the violation, the Town Manager, or his or her duly authorized representative, shall prepare an assessment containing a verified statement of the actual cost of such removal or abatement. The owner, lessee or occupant shall be required to pay the actual cost, plus an additional twenty (20) percent of such cost, to the Town within thirty (30) calendar days after the assessment has been mailed to the last known address of record of the owner, lessee or occupant. A duplicate copy of such assessments shall be mailed to the person or persons to whom the original notice of removal was mailed in the manner heretofore prescribed for service of the notice of removal. If the total assessment, including the twenty (20) percent additional charge as set out above, is not paid within thirty (30) calendar days after mailing of the assessment, the Town shall apply a lien to the property in the amount of the original assessment, including the twenty (20) percent additional charge, plus the cost of title search, recording fees, legal fees and other related fees. Failure to comply will result in civil court action.

Section 7-13-4. When a violation of this Town Code or Zoning Ordinance poses a substantial and immediate threat of serious harm to the health or safety of any person, then the Town may immediately enter the subject property and take the minimum action necessary to relieve the threat of serious harm. Prior to entering the property, the Town shall obtain either the consent of a person who owns, leases, rents, occupies, controls, or has the right to control the property, or an inspection warrant pursuant to Article 18-5 of this Town Code from the Town Magistrate court authorizing the Town to enter the property. The Town Magistrate Court may issue such an order only upon a showing that probable cause exists to believe that a violation of this Town Code or Zoning Ordinance, which poses a substantial and immediate threat of serious harm to the health or safety of any person, exists on the property. Any person who owns, leases, rents, occupies, controls, or has the right to control the property that is found to be in violation of this Town Code or Zoning Ordinance will be issued a citation for all violations causing the emergency abatement. The Magistrate Court may impose

monetary reimbursement orders as justified by the violations and as permitted by A.R.S. § 9-499, as may be amended.

Section 7-13-5. The Town may record an assessment levied pursuant to Section 7-13-3 in the office of the County Recorder of Yavapai County, Arizona, and from the date of its recording shall be a lien on such lot, tract of land or premises described in the assessment, until paid. Such liens shall be subject to and inferior to the lien for general taxes and shall be prior to all other liens, obligations, mortgages and other encumbrances. A sale of the property to satisfy a lien obtained under the provisions of this Section 7-13-5 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 of Yavapai County, 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 7-13-5 shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same premises may be enforced in the same action. All assessment liens filed with the county recorder shall bear interest at the highest rate of interest permitted by law. If the lot subject to the assessment is unimproved, permit issuance for any improvements will be denied until such charges are paid in full.

Section 7-13-6. The transfer of any and all property interests in any manner, including, but not limited to, the sale, trade, lease, gift or assignment of any real property against which an assessment has been levied pursuant to this Article 7-13 shall not relieve the party(ies) initially subject to the assessment.

Section 7-13-7. Any person who interferes with, prevents, or attempts to interfere with or prevent an individual employed by the Town or other person contracted by the Town from investigating an alleged violation of this Article 7-13, or from correcting or abating a violation of this Article 7-13, is guilty of a Class 1 misdemeanor.

Section 7-13-8. In addition to any cost incurred, any person, firm or corporation found guilty of violating any of the provisions of this Article 7-13 shall be guilty of a Class I misdemeanor. Each occurrence or day the violation shall continue shall be a separate offense, punishable as described herein.