

STRIKETHROUGH VERSION OF CHAPTER 10 AMENDMENTS

10-6-1 ENFORCEMENT, PENALTIES.

(A) Enforcement Official. Law Enforcement, Code Enforcement, the Sanitation Inspector, Sanitation Supervisor, and Sanitation Superintendent shall have the authority and responsibility for enforcement and compliance with this chapter.

(B) No oversight or dereliction of duties by any person assigned to enforce the provisions of this chapter shall legalize, allow, or excuse a violation of this chapter.

(C) All violations of this chapter are subject to criminal and civil penalties and enforcement provisions, including abatement, collections, and liens, pursuant to Article 1-8 and Article 18-1. **A PERSON WHO COMMITS A VIOLATION OF THIS CHAPTER AFTER PREVIOUSLY HAVING BEEN FOUND RESPONSIBLE FOR COMMITTING A PRIOR SIMILAR OFFENSE SHALL BE SUBJECT TO INCREASING CIVIL SANCTIONS FOR EACH ADDITIONAL OFFENSE AS SET FORTH IN 18-1.**

(D) If a person pleads responsible or is found to be responsible for a civil violation of Section 10-2-1 the court shall impose a civil sanction in accordance with the following guidelines: for a first time offense, the civil sanction shall be in an amount not less than \$500 nor more than \$750; for a second offense, the civil sanction shall be in a sum not less than \$750 nor more than \$1,000, and for a third offense or subsequent offense, the civil sanction shall be in an amount not less than \$1,000. Any violation of Section 10-2-1 may be dismissed or the fines may be reduced or suspended when proof is filed and accepted by the court which shows that the property owner or tenant have signed up for utility service with the City and paid, or reached an agreement with the City for a payment plan, for the outstanding balance due on the account.

(E) Each day any violation of any provision of this code or any ordinance incorporated herein, or the failure to perform any act or duty required by this code or ordinance incorporated herein, continues shall constitute a separate offense.

(F) The City may obtain an administrative warrant from the Goodyear Municipal Court authorizing the City to enter the property located in the City at reasonable times to inspect the property to ensure compliance with the provisions of this chapter or when there is probable cause to believe a condition, object, activity or circumstance exists on the property that justifies the inspection. The administrative warrant may also give authorization to City staff to enter the property to remove City containers when there is no active sanitation account associated with the property. No active sanitation account means no current sanitation account has been opened with the City related to the property or the sanitation account related to the property has been terminated for any reason.

10-6-2 COMPLIANCE, ABATEMENT NOTICE.

(A) When there has been a violation of this chapter, the Enforcement Official addressing that violation may cause to be prepared and served a Notice of Violation and Order to comply to the property owner, the beneficiary of a deed of trust, the owner's authorized agent, or the owner's statutory agent and the occupant or lessee. If the violation has occurred on public property, the notice shall be served to the

person responsible for the violation. THE ENFORCEMENT OFFICIAL MAY ISSUE A CITATION TO THE RESPONSIBLE PARTY WITHOUT ISSUING A NOTICE OF VIOLATION.

(B) IF A NOTICE OF VIOLATION OR CITATION IS ISSUED, IT SHALL INCLUDE:

- (1) IDENTIFICATION OF PROPERTY IN VIOLATION;
- (2) STATEMENT OF VIOLATIONS IN SUFFICIENT DETAIL TO ALLOW AN OWNER OR RESPONSIBLE PARTY TO IDENTIFY AND CORRECT THE PROBLEM;
- (3) REINSPECTION DATE, IF APPLICABLE;
- (4) ADDRESS AND PHONE NUMBER OF A CITY REPRESENTATIVE TO CONTACT;
- (5) IF THE NOTICE IS ASSOCIATED WITH AN ABATEMENT ACTION, THEN INCLUDE A COST ESTIMATE TO CORRECT THE VIOLATIONS;
- (6) CITY'S AUTHORITY TO ABATE SHOULD OWNER OR RESPONSIBLE PARTY NOT CORRECT THE VIOLATION WITHIN THIRTY DAYS, AND ASSESS A LIEN AGAINST THE PROPERTY FOR THE COSTS OF ABATEMENT; AND
- (7) APPEAL PROCEDURES, IF APPLICABLE.

~~Service. Written Notice shall be served either by personal service or by certified mail. If notice is served by certified mail, the notice shall be mailed to the last known address of the property 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 30 days before the day set for compliance and shall include the legal description of the property and the cost of removal to the City if the owner, occupant, or lessee does not comply. The owner shall be given not less than 30 days to comply. The City may record the notice in the county recorder's office in the county where the property is located. If the notice is recorded and compliance with the notice is subsequently satisfied, the City shall record a release of the notice.~~

~~(C) If the violation has occurred on public property, the notice shall be served to the person responsible for the violation by personal service or certified mail to their last known address.~~

(C) Service.

- (1) ANY NOTICE OR CITATION GIVEN FOR ANY PURPOSE UNDER THIS CODE SHALL BE DEEMED EFFECTIVE ON THE DATE WHEN NOTICE OR CITATION IS HAND-DELIVERED, MAILED CERTIFIED AND/OR MAILED REGULAR, ADDRESSED TO THE PROPERTY OWNER, OWNER'S AGENT, OR RESPONSIBLE PARTY. TO THE LAST KNOWN ADDRESS OR THE ADDRESS TO WHICH THE TAX BILL FOR THE PROPERTY WAS LAST MAILED.
- (2) IF PERSONAL SERVICE OR MAILED SERVICE IS NOT PRACTICABLE, SERVICE OF NOTICE SHALL ALSO BE DEEMED EFFECTIVE UPON NOTIFICATION THROUGH ONE-TIME PUBLIC NOTICE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION AND BY POSTING THE PROPERTY FOR A PERIOD OF 30 DAYS.
- (3) NOTHING HEREIN SHALL PRECLUDE THE CITY FROM GIVING ADDITIONAL WRITTEN NOTICE AT ITS DISCRETION. IF THE CITY DOES ELECT TO GIVE ANY ADDITIONAL NOTICE IN

ANY INSTANCE, IT SHALL NOT THEREBY BECOME OBLIGATED TO GIVE SUCH ADDITIONAL NOTICE THEREAFTER IN THE SAME OR OTHER SITUATIONS.

- (4) THE CITY MAY RECORD THE NOTICE IN THE COUNTY RECORDER'S OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED. IF THE NOTICE IS RECORDED AND COMPLIANCE WITH THE NOTICE IS SUBSEQUENTLY SATISFIED, THE CITY SHALL RECORD A RELEASE OF THE NOTICE.

~~(D) The notice and order referred to herein shall contain the following information:~~

- ~~(1) A date by which corrective action must be taken by the person(s) to whom the notice is directed. The date for compliance shall be consistent with law, but not less than 30 business days after service of the notice;~~
- ~~(2) The legal description of the property;~~
- ~~(3) A description of the violation for which the notice is given;~~
- ~~(4) The manner in which the violation may be corrected;~~
- ~~(5) The cost of removing the violation if done by the City, should the owner not comply. The cost may include the actual costs of any additional inspection and other incidental connected costs;~~
- ~~(6) A statement that, unless the person(s) to whom this notice is directed complies with correcting the identified violation within the time specified for correction, the City will abate the violation and charge the cost of abatement to the person(s) to whom this notice is directed; provided, however, such expense shall not exceed the amount of the estimate provided in the notice; and~~
- ~~(7) The process to appeal from the demand in the notice and assessments, unless ordered by the court.~~

~~(E) In the event the property owner fails to pay the cost of abatement, the City may record a lien on the real property identified in the Notice of Violation. Unpaid sums are a lien on the property from the date of recording in the office of the County Recorder in Maricopa County, Arizona, until the fees and all costs are paid as provided by law.~~

~~(F)~~ (D) Nothing in this chapter shall be construed to preclude the City from pursuing the matter civilly and/or criminally as well as any and all other remedies provided by law.

(E) NOTHING IN THIS SECTION SHALL REQUIRE THE ISSUANCE OF A NOTICE OF VIOLATION PRIOR TO THE COMMENCEMENT OF CIVIL OR CRIMINAL ACTION, AS WELL AS ANY AND ALL OTHER REMEDIES PROVIDED BY LAW. IF A RESPONSIBLE PARTY HAS BEEN ISSUED TWO NOTICES OF VIOLATION FOR THE SAME VIOLATION WITHIN A TWO-YEAR PERIOD THEN THE ENFORCEMENT OFFICIAL MAY IMMEDIATELY ISSUE A CIVIL OR CRIMINAL CITATION WITHOUT ANY ADDITIONAL NOTICES.

10-6-4 ABATEMENT BY CITY.

(A) The Enforcement Official may cause the condition identified in the notice to be abated at the expense of the owner and/or person controlling the property or when deposited on or in a public place at the

expense of the person depositing the litter therein or thereon, when the person served with the notice to comply fails, neglects or refuses to comply with the demand identified in the notice by the date identified in the notice.

(B) Upon completion of the work, the Enforcement Official shall prepare a statement of account of the actual cost of abatement, the date the work was completed, the street address on which said work was done, including 5%, or such additional amount as may hereafter be provided by law, of the actual cost for additional inspection and other incidental costs in connection therewith, and shall serve a copy of such statement upon the person(s) owning or controlling such property, or in the case of a person placing litter in or on a public place, the person placing the litter therein or thereon in the manner prescribed in this chapter. The statement of account shall include notice that a lien may be filed on the abated property if the outstanding balance is not paid in 30 days from the date of service. Failure to comply with this notice of lien provision will not preclude the placing of the lien so long as 30 days advance notice that a lien may be filed is provided prior to the filing of a lien.

(C) The person to whom the statement is given shall have 30 days from the date of service to appeal in writing to the City Manager from the abatement fees as contained in the verified statement as provided in Article 10-6. If an appeal is not filed with the Clerk within the 30 day period, the abatement fees shall become final and binding.

(D) An assessment that is past due accrues interest as provided in A.R.S. § 9-499 at the rate prescribed in A.R.S. § 44-1201.

(E) IN THE EVENT THE PROPERTY OWNER FAILS TO PAY THE COST OF ABATEMENT, THE CITY MAY RECORD A LIEN ON THE REAL PROPERTY IDENTIFIED IN THE NOTICE OF VIOLATION. UNPAID SUMS ARE A LIEN ON THE PROPERTY FROM THE DATE OF RECORDING IN THE OFFICE OF THE COUNTY RECORDER IN MARICOPA COUNTY, ARIZONA, UNTIL THE FEES AND ALL COSTS ARE PAID AS PROVIDED BY LAW.