

ORDINANCE NO. 5062

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA,
ARIZONA AMENDING SECTION TITLE 8, HEALTH, SANITATION,
AND ENVIRONMENT, CHAPTER 5, STORM WATER POLLUTION
CONTROL**

WHEREAS, in 1990 the United States Environmental Protection Agency (USEPA) implemented Phase I of the National Pollutant Discharge Elimination System (NPDES) program to regulate stormwater discharges from regulated operators of medium and large municipal separate storm sewer systems (MS4s);

WHEREAS, under the NPDES program, the City of Mesa was identified as operating a medium-sized MS4;

WHEREAS, the City of Mesa was issued their first MS4 Permit in 1997 from the USEPA;

WHEREAS, the Arizona Department of Environmental Quality (ADEQ) was granted primacy over the NPDES program in the State of Arizona by the USEPA in 2002;

WHEREAS, the ADEQ subsequently established the Arizona Pollutant Discharge Elimination System (AZPDES) program;

WHEREAS, the ADEQ issued onto the City of Mesa their second MS4 permit on July 29, 2010, which then became effective August 29, 2010 (2010 MS4 Permit);

WHEREAS, the conditions outlined in the 2010 MS4 Permit required some amendments to the City Mesa Code; and

WHEREAS, the City of Mesa Development and Sustainability Department is to provide the current level of enforcement for the existing code sections and any new sections consistent with the City of Mesa Public Nuisances, Property Maintenance, Neighborhood Preservation, and Animal Regulation adopted under Title 8, Health, Sanitation, and Environment, Chapter 6 of the Mesa City Code;

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, AS FOLLOWS:

SECTION 1: That Title 8, Chapter 2 of the Mesa City Code of Ordinances, Mesa, Arizona is hereby amended as follows:

ADDITIONS TO THE TEXT ARE SHOWN IN BOLD, ALL CAPITAL LETTERS AND UNDERLINED: ABC

DELETIONS TO THE TEXT ARE SHOWN AS STRIKE-OUTS: ~~Abe~~

2011 AMENDMENTS TO MESA CITY CODE

TITLE 8, HEALTH, SANITATION, AND ENVIRONMENT

CHAPTER 5, STORM WATER POLLUTION CONTROL

SEPTEMBER 2011

SECTION:

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8-5-1: **DEFINITIONS:**

(A)—The following terms AS used in this Chapter shall mean: (2774/Reso. 6528)

A.A.C. (ARIZONA ADMINISTRATIVE CODE): OFFICIAL COMPILATION OF RULES THAT GOVERN STATE AGENCIES, BOARDS, AND COMMISSIONS.

A.R.S. (ARIZONA REVISED STATUTES): STATUTORY LAWS IN THE STATE OF ARIZONA.

AZPDES STORM WATER PERMIT: A PERMIT ISSUED BY ANY AGENCY OF THE STATE OF ARIZONA HAVING APPROPRIATE AUTHORITY OVER THE ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM WHICH AUTHORIZES THE DISCHARGE OF STORM WATER PURSUANT TO THE C.W.A.

BEST MANAGEMENT PRACTICES: SCHEDULES OF ACTIVITIES, PROHIBITIONS OF PRACTICES, STRUCTURAL AND NONSTRUCTURAL CONTROLS, OPERATIONAL AND MAINTENANCE PROCEDURES, AND OTHER MANAGEMENT PRACTICES TO PREVENT OR REDUCE THE DISCHARGE OF POLLUTANTS TO WATERS OF THE UNITED STATES TO THE MAXIMUM EXTENT PRACTICABLE. (2774/RESO. 6528)

CITY: City of Mesa, Arizona. (2774/Reso. 6528)

CITY ENGINEER: The City Engineer of the City or authorized deputy, agent, or representative. (2774/Reso. 6528)

CITY MANAGER: The City Manager APPOINTED IN ACCORDANCE WITH ARTICLE III OF THE MESA CITY CHARTER, pursuant to Chapter 20 of Title 1 of the Mesa City Code or such other person as the City Manager may designate. (2774/Reso. 6528)

CITY STORM SEWER SYSTEM: Those facilities not part of a POTW within the City by which storm water may be conveyed to waters of the United States, including all roads, ~~municipal~~ streets, catch basins, curbs, gutters, ditches, channels, storm drains, ~~and~~ retention or detention basins, AND DRYWELLS THAT ARE OWNED AND OPERATED BY THE CITY. (2774/RESO. 6528)

CIVIL HEARING OFFICER: THE MESA ZONING ADMINISTRATOR WITHIN THE DEVELOPMENT AND SUSTAINABILITY DEPARTMENT OR SUCH OTHER PERSON AS DESIGNATED BY THE CITY MANAGER.

C.F.R. (CODE OF FEDERAL REGULATIONS): CODIFICATION OF THE GENERAL AND PERMANENT RULES AND REGULATIONS PUBLISHED IN THE FEDERAL REGISTER BY THE EXECUTIVE DEPARTMENTS AND AGENCIES OF THE FEDERAL GOVERNMENT OF THE UNITED STATES—Compilation of federal regulations promulgated under the C.W.A. and incorporated herein by reference. (2774/Reso. 6528)

C.W.A. (CLEAN WATER ACT): THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972 (P.L. 92-500; 86 STAT. 816; 33 UNITED STATES CODE SECTIONS 1251 THROUGH 1376), AS AMENDED [A.R.S. § 49-201(6)]—Federal Water Pollution Control Act, as amended, 33 United States Code §§1251 et seq., incorporated herein by reference. (2774/Reso. 6528)

DISCHARGE OF A POLLUTANT: ANY ADDITION OF ANY POLLUTANT OR COMBINATION OF POLLUTANTS TO WATERS OF THE UNITED STATES FROM ANY POINT SOURCE.

E.P.A. (ENVIRONMENTAL PROTECTION AGENCY): Federal agency charged with primary enforcement of the C.W.A. (2774/Reso. 6528)

HAZARD: A CONDITION THAT PRESENTS A RISK TO THE PUBLIC HEALTH OR THE ENVIRONMENT.

IMMINENT HAZARD: A CONDITION THAT PRESENTS AN IMMEDIATE LIKELIHOOD FOR CAUSING HARM TO THE PUBLIC HEALTH OR THE ENVIRONMENT.

NOTICE TO ABATE: A NOTICE ISSUED TO A RESPONSIBLE PARTY CONCERNING A VIOLATION OF THIS CHAPTER OF THE MESA CITY CODE.

NPDES STORM WATER PERMIT: A PERMIT ISSUED BY ANY AGENCY OF THE UNITED STATES HAVING APPROPRIATE AUTHORITY OVER THE National Pollutant Discharge Elimination System Permit issued by the E.P.A. which authorizes the discharge of storm water pursuant to **THE** C.W.A. §402. (2774/Reso. 6528)

PERSON: AN INDIVIDUAL, EMPLOYEE, OFFICER, MANAGING BODY, TRUST, FIRM, JOINT STOCK COMPANY, CONSORTIUM, PUBLIC OR PRIVATE CORPORATION, INCLUDING A GOVERNMENT CORPORATION, PARTNERSHIP, ASSOCIATION OR STATE, A POLITICAL SUBDIVISION OF THIS STATE, A COMMISSION, THE UNITED STATES GOVERNMENT OR ANY FEDERAL FACILITY, INTERSTATE BODY OR OTHER ENTITY [A.R.S. § 49-201(27)]—Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal government agency, or any other legal entity, including their legal representatives, agents, or assigns. (2774/Reso. 6528)

PROPERTY PREMISES: Any building, facility, lot, parcel, real estate, or land or portion of land, whether improved or unimproved, and including adjacent sidewalks and parking strips. (2774/Reso. 6528)

POINT SOURCE: ANY DISCERNIBLE, CONFINED AND DISCRETE CONVEYANCE, INCLUDING, BUT NOT LIMITED TO, ANY PIPE, DITCH, CHANNEL, TUNNEL, CONDUIT, WELL, DISCRETE FISSURE, CONTAINER, ROLLING STOCK, CONCENTRATED ANIMAL FEEDING OPERATION OR VESSEL OR OTHER FLOATING CRAFT FROM WHICH POLLUTANTS ARE OR MAY BE DISCHARGED TO WATERS OF THE UNITED STATES. POINT SOURCE DOES NOT INCLUDE RETURN FLOWS FROM IRRIGATED AGRICULTURE.

POLLUTANT: ANY FLUIDS, CONTAMINANTS, TOXIC WASTES, TOXIC POLLUTANTS, DREDGED SPOIL, SOLID WASTE, SUBSTANCES AND CHEMICALS, PESTICIDES, HERBICIDES, FERTILIZERS AND OTHER AGRICULTURAL CHEMICALS, INCINERATOR RESIDUE, SEWAGE, GARBAGE, SEWAGE SLUDGE, MUNITIONS, PETROLEUM PRODUCTS, CHEMICAL WASTES, BIOLOGICAL MATERIALS, RADIOACTIVE MATERIALS, HEAT, WRECKED OR DISCARDED EQUIPMENT, ROCK, SAND, CELLAR DIRT AND MINING, INDUSTRIAL, MUNICIPAL AND AGRICULTURAL WASTES OR ANY OTHER LIQUID, SOLID, GASEOUS OR HAZARDOUS SUBSTANCES [A.R.S. § 49-201(29)].

POTW (PUBLICLY OWNED TREATMENT WORKS): A TREATMENT WORKS OWNED BY THIS STATE OR A MUNICIPALITY OF THIS STATE AS DEFINED IN SECTION 502(4) OF THE CLEAN WATER ACT [A.R.S. § 49-255(5)].

RELEASE: Any DIRECT OR INDIRECT spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing of a pollutant into or on any land TO THE CITY STORM SEWER SYSTEM. (2774/Reso. 6528)

RESPONSIBLE PARTY: A PERSON WHO KNOWS OR HAS REASON TO KNOW OF THE EXISTENCE OF ANY VIOLATION OF THIS CHAPTER ON THAT PERSON'S PROPERTY OR PROPERTY WHICH THAT PERSON OCCUPIES OR CONTROLS, IN WHOLE OR IN PART, INCLUDING BUT NOT LIMITED TO AN OWNER, OCCUPANT, LESSOR, LESSEE, MANAGER, MANAGING AGENT, LICENSEE OR ANY PERSON WHO HAS LEGAL CARE OR CONTROL OF THE PROPERTY.

STORM WATER: Storm water runoff, snow melt runoff, and surface runoff and drainage [A.A.C. R18-9-A901 (36)]. (2774/Reso. 6528)

WATERS OF THE UNITED STATES: ALL WATERS AS DEFINED IN 40 C.F.R. 122.2.

(B) — Other terms used in this Chapter are defined in the applicable sections of the C.W.A. and the C.F.R. Summaries of those definitions are provided as follows: (2774/Reso. 6528)

BEST MANAGEMENT PRACTICES: Schedules of activities, prohibitions of practices, good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. (2774/Reso. 6528)

DISCHARGE: Any addition of any pollutant or combination of pollutants to waters of the United States from any point source. (2774/Reso. 6528)

POINT SOURCE: Any discernible, confined, and discrete conveyance, except agricultural discharges and return flows from irrigated agriculture. (2774/Reso. 6528)

POLLUTANT: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. (2774/Reso. 6528)

PUBLICLY OWNED TREATMENT WORKS: Any device or system used in the treatment of municipal sewage or industrial waste of a liquid nature which is owned by a state or municipality. (2774/Reso. 6528)

WATERS OF THE UNITED STATES: All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce. (2774/Reso. 6528)

8-5-2: ILLICIT DISCHARGES RELEASES AND CONNECTIONS:

- (A) Unless expressly ~~authorized~~ **PERMITTED** or exempted by this Chapter, no person shall discharge **RELEASE**, directly or indirectly, to the City storm sewer system. (2774/Reso. 6528)
- (B) ~~Discharges Regulated~~ **THE RELEASE OF POLLUTANTS TO THE CITY STORM SEWER SYSTEM AUTHORIZED BY** pursuant to an **ANY AZPDES OR** NPDES Storm Water Permit or other **AZPDES OR** NPDES permit ~~under the C.W.A.~~ which is issued to the person who causes the discharge are **THE RELEASE IS PERMITTED** ~~authorized~~ under this Chapter ~~provided that the person is in full compliance with all requirements of such permit.~~ (2774/Reso. 6528)
- (C) Unless identified by the City ~~Engineer~~ **MANAGER OR DESIGNEE** under Subsection (D) of this Section, the following ~~discharges~~ are exempt from the prohibition set forth in Subsection (A) of this Section: (2774/Reso. 6528)
1. ~~Discharges~~ **RELEASES** composed entirely of storm water. (2774/Reso. 6528)
 2. ~~Discharges~~ **RELEASES** caused by a person from any of the following activities: (2774/Reso. 6528)
 - (a) Water line flushing and other ~~discharges from drinking~~ **POTABLE** water sources; (2774/Reso. 6528)
 - (b) Lawn watering **AND LANDSCAPE IRRIGATION**; (2774/Reso. 6528)
 - (c) Irrigation water; (2774/Reso. 6528)
 - (d) Diverted stream flows; (2774/Reso. 6528)
 - (e) Rising groundwaterS; (2774/Reso. 6528)
 - (f) ~~Groundwater~~ **UNCONTAMINATED GROUNDWATER** infiltration **TO SEPARATE STORM SEWERS** containing no pollutants; (2774/Reso. 6528)
 - (g) ~~Pumped~~ **UNCONTAMINATED PUMPED** groundwater ~~containing no pollutants~~; (2774/Reso. 6528)
 - (h) Foundation and footing drains; (2774/Reso. 6528)
 - (i) Water from crawl space pumps; (2774/Reso. 6528)
 - (j) Air conditioning condensation ~~and evaporative cooler runoff~~; (2774/Reso. 6528)
 - (k) ~~Natural~~ Springs; (2774/Reso. 6528)
 - (l) Individual residential car washing; (2774/Reso. 6528)
 - (m) Flows from riparian habitats and wetlands, ~~as these areas are designated under applicable federal and state laws~~; (2774/Reso. 6528)
 - ~~(n) Dechlorinated swimming pool discharges; (2774/Reso. 6528)~~
 - ~~(o)~~ **(N)** Flows resulting from fire fighting activities; or (2774/Reso. 6528)
 - (O) STREET WASH WATER.**
 - ~~(p) Dust control watering (2774/Reso. 6528)~~

- (D) No person shall cause a ~~discharge~~ **RELEASE**, directly or indirectly, to the City storm sewer system which is exempted under Subsection (C) of this Section if the City ~~Engineer~~ **MANAGER OR DESIGNEE** identifies and provides written notice to the person that the ~~discharge~~ **RELEASE** from such person has the potential to ~~be a source~~ **RESULT IN A DISCHARGE** of pollutants to waters of the United States. (2774/Reso. 6528)
- (E) No person shall ~~discharge~~ **RELEASE ANY POLLUTANT**, directly or indirectly, to the City storm sewer system where such ~~discharge~~ **RELEASE** would result in or contribute to a violation of the ~~ANY AZPDES~~ **OR** NPDES Storm Water Permit issued to the City, either separately considered or when combined with other ~~discharges~~ **RELEASES**. Liability for any such ~~discharge~~ **RELEASE** shall be the responsibility of the person causing or responsible for the ~~discharge~~ **RELEASE**, and the person shall defend, indemnify, and hold harmless the City in all administrative or judicial enforcement actions relating to such ~~discharge~~ **RELEASE**. (2774/Reso. 6528)
- (F) No person shall establish, use, maintain, or continue any direct or indirect connection to the City's storm sewer system which has the potential to result in a violation of this Section. This prohibition is retroactive and shall apply to connections made in the past, regardless of whether they were made under a permit or other authorization or whether they were permissible under the law or practices applicable or prevailing at the time of the connection. (2774/Reso. 6528)

8-5-3: REDUCTION OF POLLUTANTS IN STORM WATER:

- (A) All persons owning or operating facilities or engaged in activities which will or may reasonably be expected to result in **THE RELEASE OF** pollutants ~~entering TO~~ the City storm sewer system, either directly or indirectly, shall undertake ~~all practicable~~ **APPROPRIATE** best management practices ~~identified by the City Engineer to minimize~~ **THE RELEASE OF** such pollutants **TO THE MAXIMUM EXTENT PRACTICABLE**. Such ~~measures~~ **BEST MANAGEMENT PRACTICES** shall include the requirements imposed by **BOTH** ~~all of the following:~~ (2774/Reso. 6528)
1. This ~~CHAPTER~~ **Section**; **AND** (2774/Reso. 6528)
 2. ~~The applicable NPDES Storm Water Permits; and~~ (2774/Reso. 6528)
 3. ~~Any written guidelines which may be developed, or referenced,~~ **OR ADOPTED BY RESOLUTION AND ON FILE WITH THE CITY CLERK** ~~for general use by the City Engineer.~~ (2774/Reso. 6528)
- (B) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, maintained, or kept, except in appropriate containers or in lawfully established dumping grounds, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations ~~in TO or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, or other drainage structures~~ **COMPONENT OF THE CITY STORM SEWER SYSTEM OR UPON ANY PUBLIC PROPERTY. ADDITIONALLY, NO PERSON SHALL DO THE SAME, ~~business place, or upon any private lot of land in the City~~ **PROPERTY IN SUCH A MANNER** ~~so that the same becomes or THAT could reasonably be expected to become a pollutant~~ **RESULT IN THE RELEASE OF POLLUTANTS TO THE CITY STORM SEWER SYSTEM**. (2774/Reso. 6528)**
- (C) Persons owning or operating a parking lot, ~~gas station parking, storage~~ **OR** ~~and loading areas,~~ or similar **PROPERTY** ~~premises which IS~~ are exposed to rainfall shall ~~clean~~ **MAINTAIN** those **PROPERTIES** ~~premises in a frequent and thorough manner so that~~ **ANY RELEASE** storm water from such **PROPERTIES** ~~premises does not cause or contribute to a violation of Section 8-5-2.~~ (2774/Reso. 6528)
- (D) Any person performing construction **ACTIVITIES** shall **UNDERTAKE** ~~use all practicable~~ **APPROPRIATE** best management practices ~~identified by the City Engineer to minimize~~ **THE RELEASE OF** pollutants and sediment **TO THE MAXIMUM EXTENT PRACTICABLE** ~~from leaving the~~

construction site. At a minimum, the person SUCH BEST MANAGEMENT PRACTICES shall do INCLUDE THE REQUIREMENTS IMPOSED BY both of the following: (2774/Reso. 6528)

1. THIS CHAPTER Not cause or contribute to a violation of Section 8-5-2; and (2774/Reso. 6528)
 2. Comply with any written guidelines which may be developed, or referenced, OR ADOPTED BY RESOLUTION AND ON FILE WITH THE CITY CLERK for general use by the City Engineer. (2774/Reso. 6528)
- (E) Persons causing discharges HAVING THE POTENTIAL TO CAUSE A RELEASE OF POLLUTANTS TO THE CITY STORM SEWER SYSTEM AND who are required to submit to ~~E.P.A.~~ a notice of intent to comply with an AZPDES OR NPDES Storm Water Permit shall provide a copy of such notice ANY APPROVAL OR STATEMENT OF AUTHORIZATION FROM THE PERMITTING AGENCY to the City Engineer MANAGER OR DESIGNEE. THE CITY WILL NOT ISSUE A CONSTRUCTION PERMIT NOR WILL VERBAL AUTHORIZATION BE GIVEN TO PROCEED WITH INITIAL GRADING AND DRAINAGE OPERATIONS UNTIL THE APPROVAL OR STATEMENT OF AUTHORIZATION FROM THE PERMITTING AGENCY HAS BEEN SUBMITTED TO THE CITY prior to beginning the construction or operation of an industrial activity which would cause the discharge. (2774/Reso. 6528)

8-5-4: AUTHORITY TO INSPECT:

(A) THE MESA DEVELOPMENT AND SUSTAINABILITY DEPARTMENT OR SUCH OTHER CITY DIVISION OR DEPARTMENT AS THE CITY MANAGER MAY DESIGNATE IS HEREBY AUTHORIZED TO MAKE INSPECTIONS FOR VIOLATIONS OF THIS CHAPTER IN THE NORMAL COURSE OF JOB DUTIES OR IN RESPONSE TO A CITIZEN COMPLAINT THAT AN ALLEGED VIOLATION OF THE PROVISIONS OF THIS CHAPTER MAY EXIST OR WHEN THERE IS A REASON TO BELIEVE THAT A VIOLATION OF THIS CHAPTER HAS BEEN OR IS BEING COMMITTED.

(B) IN ORDER TO DETERMINE COMPLIANCE WITH THIS CHAPTER, PRIVATE PROPERTY MAY BE ENTERED WITH THE CONSENT OF THE OWNER OR OCCUPANT OR AS AUTHORIZED BY A COURT OF COMPETENT JURISDICTION.

8-5-4: INSPECTIONS AND MONITORING:

- (A) Upon presentation of credentials and at all necessary hours, all authorized employees of the City shall have free access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this Chapter. Inspection, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the City in determining compliance with the requirements of this Chapter and all applicable NPDES Storm Water Permit conditions. All persons shall allow such activities under safe and nonhazardous conditions with a minimum of delay. (2774/Reso. 6528)
- (B) In addition to those activities described in Subsection (A) of this Section, authorized City employees shall engage in monitoring necessary to ensure compliance with this Chapter and all applicable NPDES Storm Water Permit conditions. At the City's expense, the City Engineer may establish on premises such devices as the City Engineer reasonably determines are necessary to conduct sampling or metering operations. Such devices shall be installed so as to minimize the impact on the owner and occupant of the premises. During all inspections as provided in Subsection (A) of this Section, a City employee may take any samples necessary to aid in the pursuit of the inquiry or in the recordation of the activities on the premises. (2774/Reso. 6528)
- (C) The City Engineer may order any person engaged in any activity or owning or operating on any premises which may cause or contribute to discharges of storm water in violation of this Chapter or any applicable NPDES Storm Water Permit condition to undertake such monitoring activities and analyses and furnish such

reports as the City Engineer reasonably may specify. The costs of such activities, analyses, and reports shall be borne by the recipient of the order. (2774/Reso. 6528)

8-5-5: COMMENCEMENT OF AN ACTION:

(A) THE CITY MANAGER OR DESIGNEE IS AUTHORIZED TO COMMENCE AN ENFORCEMENT ACTION UNDER THIS CHAPTER BY ISSUING A NOTICE OF ABATEMENT UNDER THIS CHAPTER OR A CITATION FOR CIVIL SANCTIONS UNDER THIS CHAPTER, OR BOTH. THEY MAY ALSO SEEK THE ISSUANCE OF A COMPLAINT BY THE MESA CITY PROSECUTOR FOR CRIMINAL PROSECUTION OF HABITUAL OFFENDERS AS DEFINED IN THIS CHAPTER.

(B) NOTHING IN THIS SECTION SHALL PRECLUDE CITY EMPLOYEES FROM SEEKING VOLUNTARY COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER OR FROM ENFORCING THIS CHAPTER THROUGH NOTICES OF VIOLATION, WARNINGS, OR OTHER INFORMAL DEVICES DESIGNED TO ACHIEVE COMPLIANCE IN THE MOST EFFICIENT AND EFFECTIVE MANNER UNDER THE CIRCUMSTANCES.

8-5-5: CLEANUP AND NOTIFICATION OF RELEASES:

~~(A) As soon as any owner or operator has actual or constructive knowledge of any release which may result in pollutants or discharges that are not in compliance with this Chapter entering the City storm sewer system, such person promptly shall take all necessary steps to ensure the discovery of the source and extent and proceed with containment and cleanup of such release. (2774/Reso. 6528)~~

~~(B) In addition to the requirements contained in Subsection (A) of this Section, such person shall notify the City Engineer of the release in both of the following manners: (2774/Reso. 6528)~~

~~1. By telephone within twenty-four (24) hours or by twelve (12:00) noon of the next work day if knowledge is received on a weekend or holiday; and (2774/Reso. 6528)~~

~~2. In writing within three (3) days of receiving knowledge of the release. (2774/Reso. 6528)~~

8-5-6: REMEDIES NOT EXCLUSIVE:

VIOLATIONS OF THIS CHAPTER ARE IN ADDITION TO ANY OTHER VIOLATION ESTABLISHED BY LAW, AND THIS CHAPTER SHALL NOT BE INTERPRETED AS LIMITING THE PENALTIES, ACTIONS, OR ABATEMENT PROCEDURES WHICH MAY BE TAKEN BY THE CITY OR OTHER PERSONS UNDER OTHER LAWS, ORDINANCES, OR RULES.

8-5-6: CIVIL AND CRIMINAL PENALTIES:

~~(A) The City Manager may request that the City Attorney commence civil and/or criminal action pursuant to this Section against any person who violates any requirement of this Chapter or any applicable NPDES Storm Water Permit condition. (2774/Reso. 6528)~~

~~(B) A person who violates any requirement of this Chapter or any applicable NPDES Storm Water Permit condition shall be subject to a civil penalty of not less than one hundred dollars (\$100.00) or more than ten thousand dollars (\$10,000.00) for each violation. Each day in which a violation continues shall constitute a separate offense. (2774/Reso. 6528)~~

~~(C) A person shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment in the City jail for a period not to~~

exceed six (6) months or by both such fine and imprisonment for each of the following offenses: (2774/Reso. 6528)

1. ~~Committing a violation of this Chapter or an applicable NPDES Storm Water Permit condition after previously having been found responsible for committing three (3) or more civil violations under this Section within a twenty-four (24) month period calculated using the dates of the commission of the offenses, whether by admission, by payment of the fine, by default, or by judgment after hearing; or (2774/Reso. 6528)~~
 2. ~~Failing or refusing to provide evidence of the person's identity, including full name, residence address, and date of birth, to a duly authorized agent of the City upon request when such agent has reasonable cause to believe the person is committing or has committed a violation of this Chapter or an applicable NPDES Storm Water Permit condition. (2774/Reso. 6528)~~
- (D) ~~In addition to or in lieu of all other available penalties, the City may revoke any permit, approval, or license to construct improvements to real property or operate a business in the City if the holder of such permit, approval, or license is found to be in violation of any requirement of this Chapter or any applicable NPDES Storm Water Permit condition. (2774/Reso. 6528)~~

8-5-7: DEFENDANTS AND RESPONSIBLE PARTIES:

ANY RESPONSIBLE PARTY WHO CAUSES, PERMITS, FACILITATES, AIDS, OR ABETS ANY VIOLATION OF THIS CHAPTER OR WHO FAILS TO PERFORM ANY ACT OR DUTY REQUIRED PURSUANT TO THIS CHAPTER, IS SUBJECT TO THE ENFORCEMENT PROVISIONS OF THIS CHAPTER. RESPONSIBLE PARTIES MAY BE INDIVIDUALLY AND JOINTLY RESPONSIBLE FOR THE VIOLATIONS, THE PRESCRIBED CIVIL OR CRIMINAL SANCTIONS, FOR ABATEMENT OF THE VIOLATION AND FOR ANY ASSOCIATED COSTS AND FEES.

8-5-7: ABATEMENT OF VIOLATIONS:

- (A) ~~In addition to or in lieu of other penalties available under this Chapter, the City may serve a notice to abate upon any person engaged in any activity or owning or operating on any premises in violation of this Chapter or an applicable NPDES Storm Water Permit condition. (2774/Reso. 6528)~~
- (B) ~~The notice to abate shall set forth all of the following information: (2774/Reso. 6528)~~
1. ~~The period of time the person has to abate or correct the violation; (2774/Reso. 6528)~~
 2. ~~Identification of the property in violation by street address, if known, and if unknown, then by book, map, and parcel number; (2774/Reso. 6528)~~
 3. ~~Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation; (2774/Reso. 6528)~~
 4. ~~Reinspection date and time; (2774/Reso. 6528)~~
 5. ~~Name, business address, and business telephone number of the City Engineer; (2774/Reso. 6528)~~
 6. ~~A warning that if the violation is not corrected within the specified time, the City may abate the problem itself or by private contractor, assess the person for the cost of such abatement, and record a lien on the property for the assessment; and (2774/Reso. 6528)~~
 7. ~~Appeal procedures. (2774/Reso. 6528)~~

- ~~(C) If the person fails to comply with the abatement notice, the City may correct or abate the conditions subject to the notice if the City Engineer determines that those conditions constitute a significant hazard. If the City corrects or abates those conditions, the City Manager may prepare a verified statement as to the actual cost of correcting or abating the violation and serve the statement upon the person. (2774/Reso. 6528)~~
- ~~(D) The person receiving a notice to abate or a statement of costs may appeal by submitting a written request to the City Manager within fifteen (15) days of receipt of the notice or statement. The hearing shall be held before the City Manager as soon as practicable after the filing of the request. The decision of the City Manager shall be final and binding. (2774/Reso. 6528)~~
- ~~(E) The notice to abate and statement of costs shall run with the land. The City, at its sole option, may record a notice or statement with the Maricopa County Recorder and thereby cause compliance by an entity thereafter acquiring such property. When the property is brought into compliance, the City shall file a satisfaction of notice to abate with the Maricopa County Recorder. (2774/Reso. 6528)~~
- ~~(F) If a situation presents an imminent hazard to life or public safety, the City may do any of the following without abiding by the thirty (30) day notice period applicable to Subsection (B) of this Section: (2774/Reso. 6528)~~
- ~~1. Issue a notice to abate; (2774/Reso. 6528)~~
 - ~~2. Act immediately to correct or abate the imminent hazard itself; or (2774/Reso. 6528)~~
 - ~~3. Commence an action in Superior Court to enjoin the person to abate the imminent hazard. (2774/Reso. 6528)~~

8-5-8: CIVIL VIOLATIONS AND CITATION:

(A) A CIVIL ACTION FOR VIOLATIONS OF THIS CHAPTER MAY BE COMMENCED BY ISSUANCE OF A CITATION.

(B) THE CITATION WILL BE SUBSTANTIALLY IN THE FORM ESTABLISHED BY THE CITY MANAGER OR DESIGNEE. THE CITATION SHALL ADVISE THE RESPONSIBLE PARTY OF THE VIOLATION(S) COMMITTED, EITHER BY WRITTEN DESCRIPTION OF THE VIOLATIONS OR BY DESIGNATION OF THE CITY CODE SECTION THAT WAS VIOLATED. THE CITATION SHALL DIRECT THE RESPONSIBLE PARTY TO PAY THE CIVIL SANCTION AND ALL APPLICABLE FEES IN ACCORDANCE WITH SECTION 8-5-9 OF THIS CHAPTER WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION OR TO APPEAR BEFORE THE CIVIL HEARING OFFICER WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION AND ADMIT OR DENY THE ALLEGATIONS CONTAINED IN THE CITATION. THE CIVIL HEARING OFFICER MAY PERMIT AMENDMENTS TO THE CITATION IF SUBSTANTIAL RIGHTS OF THE RESPONSIBLE PARTY ARE NOT THEREBY PREJUDICED. THE CITATION SHALL BE SERVED PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE.

(C) THE RESPONSIBLE PARTY SHALL, WITHIN THE TIME PERIOD SPECIFIED ON THE CITATION OR WITHIN 10 CALENDAR DAYS OF THE ISSUANCE OF THE CITATION, WHICHEVER IS GREATER, EITHER PAY THE CIVIL SANCTION AND THE FEES, OR APPEAR IN PERSON, THROUGH AN ATTORNEY OR BY EMAIL WITH THE CLERK OF THE CIVIL HEARING OFFICER AND ADMIT OR DENY THE ALLEGATIONS CONTAINED IN THE CITATION.

1. IF THE RESPONSIBLE PARTY TIMELY PAYS THE CIVIL SANCTION AND THE FEES, EITHER IN PERSON OR BY MAILING PAYMENT TO THE CITY, THE ALLEGATIONS IN THE CITATION SHALL BE DEEMED ADMITTED AND SUCH PERSON SHALL BE DEEMED RESPONSIBLE FOR HAVING COMMITTED THE OFFENSE(S) DESCRIBED IN THE

CITATION. IF THE RESPONSIBLE PARTY APPEARS IN PERSON, THROUGH AN ATTORNEY OR BY EMAIL AND ADMITS THE ALLEGATIONS, THE CIVIL HEARING OFFICER SHALL ENTER JUDGMENT AGAINST THE RESPONSIBLE PARTY IN THE AMOUNT OF THE CIVIL SANCTION, PLUS ANY APPLICABLE FEES DESIGNATED IN SECTION 8-5-9; OR,

2. IF THE RESPONSIBLE PARTY APPEARS IN PERSON, THROUGH AN ATTORNEY OR BY EMAIL AND DENIES THE ALLEGATIONS CONTAINED IN THE CITATION, THE CLERK OF THE CIVIL HEARING OFFICE SHALL SET THE MATTER FOR HEARING.
- (D) IF A PERSON SERVED WITH A CITATION FAILS TO PAY THE CIVIL SANCTION AND THE FEES OR TO FILE ON OR BEFORE THE TIME DIRECTED ON THE CITATION OR AT THE TIME SET FOR HEARING BY THE CIVIL HEARING OFFICER, THE ALLEGATIONS IN THE COMPLAINT SHALL BE DEEMED ADMITTED, AND THE CIVIL HEARING OFFICER SHALL ENTER A FINDING OF RESPONSIBLE AND A JUDGMENT FOR THE CITY AND IMPOSE THE APPROPRIATE SANCTIONS AND FEES.
- (E) ALL PROCEEDINGS BEFORE THE CIVIL HEARING OFFICER SHALL BE INFORMAL AND WITHOUT A JURY, EXCEPT THAT TESTIMONY SHALL BE GIVEN UNDER OATH OR AFFIRMATION. THE TECHNICAL RULES OF EVIDENCE DO NOT APPLY, EXCEPT FOR STATUTORY PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. IF THE ALLEGATIONS IN THE CITATION ARE DENIED, THE CITY IS REQUIRED TO PROVE VIOLATIONS OF THIS CHAPTER BY A PREPONDERANCE OF THE EVIDENCE. NO PREHEARING DISCOVERY SHALL BE PERMITTED, EXCEPT UNDER EXTRAORDINARY CIRCUMSTANCES AS DETERMINED BY THE CIVIL HEARING OFFICER. THE CIVIL HEARING OFFICER IS AUTHORIZED TO MAKE SUCH ORDERS AS MAY BE NECESSARY OR APPROPRIATE TO FAIRLY AND EFFICIENTLY DETERMINE THE TRUTH AND DECIDE THE CASE AT HAND. AN APPEAL FROM FINAL JUDGMENTS OF THE CIVIL HEARING OFFICER MAY BE TAKEN PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE FOR SPECIAL ACTIONS.
- (F) ANY PERSON AGGRIEVED BY A DECISION OF THE CIVIL HEARING OFFICER, AT ANY TIME WITHIN 30 CALENDAR DAYS AFTER A FINAL JUDGMENT HAS BEEN RENDERED, MAY FILE A COMPLAINT OF SPECIAL ACTION IN SUPERIOR COURT TO REVIEW THE CIVIL HEARING OFFICER'S DECISION. FILING THE COMPLAINT DOES NOT STAY PROCEEDINGS ON THE DECISION SOUGHT TO BE REVIEWED, BUT THE COURT MAY, ON APPLICATION, GRANT A STAY AND ON FINAL HEARING, AFFIRM OR REVERSE, IN WHOLE OR IN PART, OR MODIFY THE DECISION REVIEWED.

8-5-9: CIVIL PENALTIES:

- (A) ANY RESPONSIBLE PARTY WHO IS FOUND RESPONSIBLE FOR A CIVIL VIOLATION OF THIS CHAPTER, WHETHER BY ADMISSION, DEFAULT, OR AFTER A HEARING, SHALL PAY A CIVIL SANCTION OF NOT LESS THAN \$150 OR MORE THAN \$1,500. A SECOND FINDING OF RESPONSIBILITY WITHIN 36 MONTHS OF THE COMMISSION OF A PRIOR VIOLATION OF THIS CHAPTER SHALL RESULT IN AN ENHANCED CIVIL SANCTION OF NOT LESS THAN \$250 OR MORE THAN \$2,500. A THIRD FINDING OF RESPONSIBILITY WITHIN 36 MONTHS OF THE COMMISSION OF A PRIOR VIOLATION OF THIS CHAPTER SHALL RESULT IN AN ENHANCED CIVIL SANCTION OF NOT LESS THAN \$500 OR MORE THAN \$2,500. IN ADDITION TO THE CIVIL SANCTION, THE RESPONSIBLE PARTY SHALL PAY THE APPLICABLE FEES AND CHARGES SET FORTH IN THE CITY'S DEVELOPMENT AND SUSTAINABILITY DEPARTMENT (CODE COMPLIANCE) SCHEDULE OF FEES AND CHARGES, AND MAY BE ORDERED TO PAY ANY OTHER APPLICABLE FEES AND CHARGES.

(B) AFTER ENTERING A JUDGMENT OF RESPONSIBLE AND SETTING A CIVIL SANCTION AND FEES AS SPECIFIED IN SECTION 8-5-9 (A), THE CIVIL HEARING OFFICER MAY ORDER A COMPLIANCE HEARING AND SET A DATE FOR SUCH HEARING. UPON PRESENTATION OF EVIDENCE AND/OR TESTIMONY BY THE CITY INSPECTOR AT THE COMPLIANCE HEARING THAT THE VIOLATION(S) SPECIFIED IN THE COMPLAINT HAS BEEN ABATED, THE CIVIL HEARING OFFICER MAY REDUCE ALL OR A PORTION OF THE CIVIL SANCTION COMMENSURATE WITH THE COST BORNE BY THE DEFENDANT TO ACHIEVE COMPLIANCE, OR THE CIVIL HEARING OFFICER MAY VACATE THE PREVIOUS JUDGMENT AND DISMISS THE CITATION(S). IF, A MINIMUM OF 7 CALENDAR DAYS BEFORE A SCHEDULED COMPLIANCE HEARING, THE CIVIL HEARING OFFICER RECEIVES BOTH OF THE FOLLOWING ITEMS, THEN THE CIVIL HEARING OFFICER MAY ISSUE WRITTEN ORDERS COMMENSURATE WITH THE AUTHORITY GIVEN IN THIS SECTION, TO REDUCE CIVIL SANCTIONS AND/OR VACATE THE RELATED JUDGMENT WITHOUT HOLDING THE SCHEDULED COMPLIANCE HEARING:

1. WRITTEN AND NOTARIZED CONFIRMATION FROM THE CITY INSPECTOR THAT THE VIOLATION HAS BEEN SUCCESSFULLY ABATED, AND

2. A WRITTEN AND NOTARIZED STATEMENT FROM THE DEFENDANT DESCRIBING THE ACTIONS TAKEN AND THE ITEMIZED COSTS BORNE TO ABATE THE VIOLATION.

IF EITHER ITEM HAS NOT BEEN RECEIVED BY THE CIVIL HEARING OFFICER 7 CALENDAR DAYS BEFORE, THEN THE COMPLIANCE HEARING SHALL TAKE PLACE AS PREVIOUSLY SCHEDULED.

(C) THE 36 MONTH PROVISION OF PARAGRAPH (A) OF THIS SECTION SHALL BE CALCULATED BY THE DATES THE VIOLATIONS WERE COMMITTED. THE RESPONSIBLE PARTY SHALL RECEIVE THE ENHANCED SANCTION UPON A FINDING OF RESPONSIBILITY FOR ANY VIOLATION OF THIS CHAPTER THAT WAS COMMITTED WITHIN 36 MONTHS OF THE COMMISSION OF ANOTHER VIOLATION FOR WHICH THE RESPONSIBLE PARTY WAS CONVICTED OR WAS OTHERWISE FOUND RESPONSIBLE, IRRESPECTIVE OF THE ORDER IN WHICH THE VIOLATIONS OCCURRED OR WHETHER THE PRIOR VIOLATION WAS CIVIL OR CRIMINAL.

(D) EACH DAY IN WHICH A VIOLATION OF THIS CHAPTER CONTINUES OR THE FAILURE TO PERFORM ANY ACT OR DUTY REQUIRED BY THIS CHAPTER OR BY THE CIVIL HEARING OFFICER CONTINUES SHALL CONSTITUTE A SEPARATE CIVIL OFFENSE.

8-5-10: (RESERVED)

8-5-11: HABITUAL OFFENDER:

(A) A PERSON WHO COMMITS A VIOLATION OF THIS CHAPTER AFTER PREVIOUSLY HAVING BEEN FOUND RESPONSIBLE FOR COMMITTING CIVIL VIOLATIONS OF THIS CHAPTER ON 3 SEPARATE DATES AND WITHIN A 36 MONTH PERIOD, WHETHER BY ADMISSION, BY PAYMENT OF THE FINE, BY DEFAULT, OR BY JUDGMENT AFTER HEARING, SHALL BE GUILTY OF A CLASS 1 CRIMINAL MISDEMEANOR. THE MESA CITY PROSECUTOR IS AUTHORIZED TO FILE A CLASS 1 CRIMINAL MISDEMEANOR COMPLAINT IN THE MESA CITY COURT AGAINST HABITUAL OFFENDERS. FOR PURPOSES OF CALCULATING THE 36 MONTH PERIOD UNDER THIS PARAGRAPH, THE DATES OF THE COMMISSION OF THE OFFENSES ARE THE DETERMINING FACTOR.

(B) UPON CONVICTION OF A VIOLATION OF THIS SECTION, THE COURT MAY IMPOSE A SENTENCE AUTHORIZED BY THE LAWS OF THE STATE OF ARIZONA FOR A CLASS 1

MISDEMEANOR, INCLUDING INCARCERATION NOT TO EXCEED 6 MONTHS IN JAIL OR A FINE NOT TO EXCEED \$2,500, EXCLUSIVE OF PENALTY ASSESSMENTS PRESCRIBED BY LAW, OR BOTH. THE COURT SHALL ORDER A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF THIS SECTION TO PAY A FINE OF NOT LESS THAN \$500 FOR EACH COUNT UPON WHICH A CONVICTION HAS BEEN OBTAINED AND BE PLACED ON PROBATION FOR UP TO 36 MONTHS. THE COURT MAY REDUCE SUCH FINES TO \$250 FOR EACH COUNT UPON WHICH A CONVICTION HAS BEEN OBTAINED PROVIDED ALL VIOLATIONS HAVE BEEN ABATED AND THE SITE IS IN COMPLIANCE WITH ALL SECTIONS OF THIS CHAPTER WITHIN 90 DAYS OF SENTENCING.

(C) EVERY ACTION OR PROCEEDING UNDER THIS SECTION SHALL BE COMMENCED AND PROSECUTED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA RELATING TO CRIMINAL MISDEMEANORS AND THE ARIZONA RULES OF CRIMINAL PROCEDURE.

8-5-12: FAILURE TO PROVIDE EVIDENCE OF IDENTITY:

A PERSON WHO FAILS OR REFUSES TO PROVIDE EVIDENCE OF HIS IDENTITY TO A DULY AUTHORIZED AGENT OF THE CITY UPON REQUEST, WHEN SUCH AGENT HAS REASONABLE CAUSE TO BELIEVE THE PERSON HAS COMMITTED A VIOLATION OF THIS CHAPTER, IS GUILTY OF A MISDEMEANOR. EVIDENCE OF IDENTITY UNDER THIS SECTION SHALL CONSIST OF A PERSON'S FULL NAME, RESIDENCE ADDRESS, AND DATE OF BIRTH.

8-5-13: ABATEMENT:

(A) IN ADDITION TO OR IN LIEU OF FILING A CIVIL CITATION OR CRIMINAL COMPLAINT, THE CITY MAY SERVE A NOTICE TO ABATE ANY VIOLATION OF THIS CHAPTER.

(B) THE NOTICE TO ABATE SHALL SET FORTH THE FOLLOWING INFORMATION:

1. THE RESPONSIBLE PARTY HAS 30 CALENDAR DAYS FROM SERVICE OF THE NOTICE TO ABATE OR CORRECT THE VIOLATION.
2. IDENTIFICATION OF THE PROPERTY IN VIOLATION BY STREET ADDRESS, IF KNOWN, AND IF UNKNOWN, THEN BY LEGAL DESCRIPTION OF THE PROPERTY OR BY MARICOPA COUNTY BOOK, MAP, AND PARCEL NUMBER.
3. STATEMENT OF THE VIOLATION IN SUFFICIENT DETAIL TO ALLOW A REASONABLE PERSON TO IDENTIFY AND CORRECT THE VIOLATION(S).
4. REINSPECTION DATE AND TIME.
5. NAME, BUSINESS ADDRESS, AND BUSINESS PHONE NUMBER OF THE CITY INSPECTOR WHO ISSUED THE NOTICE TO ABATE.
6. A WARNING STATING THAT IF THE VIOLATIONS ARE NOT CORRECTED WITHIN THE 30 CALENDAR DAY PERIOD, THE CITY MAY ABATE THE PROBLEM ITSELF OR BY PRIVATE CONTRACTOR, ASSESS THE RESPONSIBLE PARTY FOR THE COST OF SUCH ABATEMENT, AND RECORD A LIEN ON THE PROPERTY FOR THE ASSESSMENT.
7. HEARING PROCEDURES.

8. STATEMENT INDICATING THAT THE 30 CALENDAR DAY NOTICE SET FORTH IN THIS SECTION SHALL NOT APPLY TO EMERGENCY ABATEMENTS PURSUANT TO THIS CHAPTER.

(C) IF THE RESPONSIBLE PARTY OR OTHER PERSON SERVED A NOTICE TO ABATE BY THE CITY PURSUANT TO THIS CHAPTER FAILS TO COMPLY WITH SUCH NOTICE; THE CITY MAY CORRECT OR ABATE THE CONDITIONS SUBJECT TO THE NOTICE IF THOSE CONDITIONS CONSTITUTE A HAZARD. IF THE CITY CORRECTS OR ABATES THOSE CONDITIONS, THE CITY MANAGER OR DESIGNEE MAY PREPARE A VERIFIED STATEMENT AS TO THE ACTUAL COST OF CORRECTING OR ABATING THE VIOLATION, INCLUDING COSTS OF INSPECTION AND OTHER CITY-INCURRED COSTS ASSOCIATED WITH ABATING THE VIOLATION. THE STATEMENT SHALL BE SERVED PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE. THAT STATEMENT SHALL FURTHER SET FORTH THE FOLLOWING:

- 1. THAT THE STATEMENT OF COSTS IS AN ASSESSMENT UPON THE LOTS AND TRACTS OF LAND FROM WHICH THE CITY CORRECTED OR ABATED THE VIOLATION.**
- 2. THAT THE PARTY HAS 15 CALENDAR DAYS FROM THE DATE OF DELIVERY OR MAILING OF THE STATEMENT TO PAY.**
- 3. IN THE EVENT PAYMENT IS NOT RECEIVED IN 15 CALENDAR DAYS, THE CITY WILL PLACE A LIEN ON THE PROPERTY IN THE AMOUNT OF THE ASSESSMENT.**
- 4. APPEAL PROCEDURES.**

(D) THE NOTICE TO ABATE AND THE STATEMENT OF ABATEMENT COSTS SHALL BE SERVED TO THE RESPONSIBLE PARTY PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE.

8-5-14: REQUEST FOR ABATEMENT HEARING:

THE RESPONSIBLE PARTY RECEIVING A NOTICE TO ABATE UNDER THIS CHAPTER OR A STATEMENT OF COSTS INCURRED BY THE CITY IN ABATING A HAZARD MAY APPEAL BY REQUESTING IN WRITING A HEARING AND BY SERVING SUCH A REQUEST TO THE DEVELOPMENT AND SUSTAINABILITY DEPARTMENT WITHIN 15 CALENDAR DAYS OF SERVICE OF THE NOTICE TO ABATE OR THE STATEMENT OF COSTS. THE HEARING SHALL BE HELD BEFORE THE CIVIL HEARING OFFICER AS SOON AS PRACTICABLE AFTER THE FILING OF THE REQUEST. AN APPEAL FROM FINAL JUDGMENTS OF THE CIVIL HEARING OFFICER MAY BE TAKEN PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE FOR SPECIAL ACTIONS. IF NO WRITTEN AND TIMELY REQUEST FOR HEARING IS MADE UNDER THIS SECTION TO DEVELOPMENT AND SUSTAINABILITY DEPARTMENT, THEN THE NOTICE OF ABATEMENT OR STATEMENT OF COSTS IS FINAL AND BINDING.

8-5-15: RECORDING AN ABATEMENT VIOLATION:

THE NOTICE TO ABATE AND STATEMENT OF COSTS SHALL RUN WITH THE LAND. THE CITY, AT ITS SOLE OPTION, MAY RECORD A NOTICE TO ABATE OR STATEMENT OF COSTS WITH THE MARICOPA COUNTY RECORDER AND THEREBY CAUSE COMPLIANCE BY A PERSON THEREAFTER ACQUIRING SUCH PROPERTY. WHEN THE PROPERTY IS BROUGHT INTO COMPLIANCE, A SATISFACTION OF NOTICE TO ABATE SHALL BE FILED WITH THE MARICOPA COUNTY RECORDER.

8-5-16: EMERGENCY ABATEMENT:

(A) IF A SITUATION PRESENTS AN IMMINENT HAZARD TO LIFE OR PUBLIC SAFETY, THE CITY MAY ISSUE A NOTICE TO ABATE DIRECTING THE RESPONSIBLE PARTY TO IMMEDIATELY TAKE SUCH ACTION AS IS APPROPRIATE TO CORRECT OR ABATE THE EMERGENCY DESCRIBED IN THE NOTICE. IN ADDITION, THE CITY MAY ACT IMMEDIATELY TO CORRECT OR ABATE THE EMERGENCY ITSELF OR MAY COMMENCE AN ACTION IN SUPERIOR COURT TO ENJOIN THE RESPONSIBLE PARTY TO ABATE THE IMMINENT HAZARD. IN THE EVENT THE CITY IS UNABLE TO CONTACT THE RESPONSIBLE PARTY DESPITE REASONABLE EFFORTS TO DO SO, IT IN NO WAY AFFECTS THE CITY'S RIGHT UNDER THIS SECTION TO CORRECT OR ABATE THE EMERGENCY ITSELF.

(B) THE CITY MAY RECOVER ITS COSTS INCURRED IN ABATING AN IMMINENT HAZARD UNDER THIS SECTION IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-5-13(C). THE RESPONSIBLE PARTY MAY APPEAL THE CITY'S EMERGENCY ABATEMENT ACTION UNDER THIS SECTION OR THE CITY'S STATEMENT OF COSTS FOR AN EMERGENCY ABATEMENT IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-5-14.

8-5-17: SUSPENSION OF CONSTRUCTION PERMIT OR LICENSE:

ANY CONSTRUCTION PERMIT OR LICENSE ISSUED BY THE CITY WHICH AUTHORIZES WORK RESULTING IN AN ALLEGED VIOLATION OF SECTION 8-5-2 OR SECTION 8-5-3 OF THIS CHAPTER MAY BE SUSPENDED PENDING ABATEMENT OF SAID VIOLATION OR FINAL RESOLUTION OF A CIVIL HEARING OF THE MATTER.

SECTION 2: Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconditional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof, so long as the intent of the remaining portions is clear.

SECTION 3: Repeal of Conflicting Ordinances.

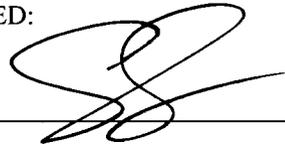
All ordinances and parts of ordinances in direct conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed upon this Ordinance taking effect.

SECTION 4: Effective Dates.

All amendments of this Ordinance shall take effect thirty (30) days after its adoption and is accordingly so ordained.

PASSED AND ADOPTED by the City Council of the City of Mesa, Arizona, this 12th day of September, 2011.

APPROVED:



ATTEST:


City Clerk

