

**ORDINANCE NUMBER 17-05**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, AMENDING ARTICLE 1-8 OF THE MARICOPA CITY CODE REGARDING THE PENALTY FOR CODE VIOLATIONS, AMENDING ARTICLE II OF CHAPTER 9 REGARDING PENALTIES FOR PROPERTY MAINTENANCE VIOLATIONS AND AMENDING CHAPTER 10 REGARDING PENALTIES FOR VIOLATION THEREOF AND PROVIDING FOR SEVERABILITY AND THE EFFECTIVE DATE THEREOF.**

**WHEREAS**, the City of Maricopa previously adopted Article 1-8, Penalty, as part of the City Code to provide the penalty for any code violation that is not otherwise provided in the City Code; and

**WHEREAS**, the City of Maricopa previously adopted Chapter 9 of the City Code regarding Health and Sanitation, which included several specific penalties for violation thereof; and

**WHEREAS**, the City of Maricopa previously adopted Chapter 10 of the City Code regarding Offenses, which included several specific penalties for violation thereof; and

**WHEREAS**, the Mayor and City Council of the City of Maricopa believe, after consultation with its staff, that amending Article 1-8, Chapter 9 and Chapter 10 of the Maricopa City Code to allow for either civil and criminal penalties for code violations would be in the best interest of the City of Maricopa.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Maricopa, Arizona as follows:

**SECTION 1.** That Article 1-8(B) and Article 1-8(C) of the Maricopa City Code be deleted in its entirety and replaced with the following:

**ARTICLE 1-8 PENALTY**

**(B) Civil Code Enforcement**

(1) As an alternative to other enforcement means, for an informal, timely and efficient process for adjudication of civil code violations, violations of the zoning, subdivision and other code ordinances of the City may be filed under the civil enforcement procedures herein, and are declared to be civil offenses. A person shall not be charged both as a civil and criminal offense for the same violation on the same date, but a subsequent violation against the same property or person may be charged as criminal rather than civil. The City may file a criminal charge against a violator that does not comply with a civil enforcement action pursuant hereto.

(2) The City Magistrate or a hearing officer appointed by City Council shall hear and determine zoning, subdivision and code violations under this civil violation procedure.

(3) Filing a Complaint

(i) Civil citations shall be filed using a complaint form substantially similar to the Uniform Arizona Traffic Ticket and Complaint form, as approved by the Arizona Supreme Court, which shall cite to this Article as well as the particular subsection of the zoning, subdivision or code ordinance applicable to the alleged violation. Each subsection of the ordinance cited in the complaint shall be deemed a separate offense. Complaints may be sworn to by any code enforcement officer, building inspector, zoning officer or public safety officer for the City. The citation shall contain the date and time for the alleged violation, and direct the defendant to appear before the City Magistrate or the hearing officer at the specified time to enter a plea either admitting or denying the complaint.

(ii) Citations will be served (a) by personal delivery upon the defendant by the code enforcement officer, responsible inspector, zoning officer or public safety officer for the City; (b) by first class mail, postage prepaid, addressed to the defendant at the last known address; (c) by posting the citation on the property where the violation has occurred; or (d) by any of the methods described in Rules 4, 4.1 or 4.2 of the Arizona Rules of Civil Procedure.

(iii) The citation will state that if the defendant wishes to admit responsibility, he must correct the violation (if applicable) and pay one hundred dollars (\$100.00) per day per violation for the first offense; two hundred dollars (\$200.00) per day per violation for the second offense; and four hundred dollars (\$400.00) per day per violation for any subsequent offense within ten (10) days from the date of receipt of the citation or by the date specified on the citation either in person or by mail to the City. The citation will state that if the defendant fails to correct the violation (if applicable) and pay the civil penalty on or before the date specified above or fails to appear at the date specified on the citation, the City Magistrate or hearing officer will enter a default judgment against him and impose a sanction of not less than \$200.00 nor more than \$2,500.00 for each alleged violation.

(iv) Subpoenas for witnesses shall be prepared and signed at the request of either the defendant or the City, and served by personal service, certified mail or first class mail, pursuant to A.R.S. §13-4072, as may be amended.

(4) Hearing Procedures

(i) Unless otherwise modified herein, civil enforcement procedures herein shall follow the Arizona Rules of Court for Civil Traffic Violations. Evidence of the charges in the citation may be presented by the City Attorney, a code enforcement officer or a building inspector. The defendant may present evidence pro per or through counsel. If the defendant is represented by an attorney, the attorney shall file a notice of appearance with the Maricopa City Court at least five (5) business days prior to the hearing. The defendant will not have a right to a jury trial.

(ii) If the City Magistrate or hearing officer finds that the charges are proven by a preponderance of the evidence, judgment shall be entered against the defendant and sanctions imposed in an amount not to exceed \$2,500.00 per violation for each day a violation exists beyond the initial notice constituting a separate offense. If the City Magistrate or hearing officer finds the charges not proven, the case shall be dismissed.

(iii) Any sanction shall be imposed immediately, without setting a sentencing date or probationary period, except that the City Magistrate or hearing officer may allow the defendant a time to pay the sanction not more than 30 days from the hearing date. If a defendant cannot pay within 30 days from the hearing date, then the defendant shall enter into an acceptable payment plan to pay the sanction.

(iv) Any judgment entered against a defendant may be collected as any other civil judgment as provided in the Arizona Revised Statutes. In addition, any judgement entered against a defendant shall constitute a lien against defendant's real property until paid and a copy of the judgment will be filed with the Pinal County Recorder's office.

(C) Any violation of or failure or refusal to do or perform any act required by Chapter 12 of this code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of Title 28, Chapter 5, Arizona Revised Statutes and amendments thereto.

(D) Upon a defendant's conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct. The award of restitution shall be governed by the procedures and standards set forth in A.R.S. §13-804.

**SECTION 2.** That Section 9-24, Section 9-25, Section 9-26, Section 9-27, Section 9-28 and Section 9-29 of the Maricopa City Code be deleted in their entirety.

**SECTION 3.** That Section 10-1-2(D), Section 10-1-3(B), Section 10-1-4(C), Section 10-1-5(B), Section 10-1-6(B), Section 10-1-7(D), Section 10-1-8(D), Section 10-1-9(C), Section 10-1-10(B), Section 10-1-11(B), Section 10-1-12(H), Section 10-1-13(B), Section 10-1-14(B),

Section 10-1-15(B), Section 10-1-16(B), Section 10-1-17(B), Section 10-1-18(D) and Section 10-2-2(B) of the Maricopa City Code be deleted in their entirety.

**SECTION 4.** To the extent of any conflict between other City Ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing City Ordinance, Resolution or regulation except as expressly set forth herein.

**SECTION 5.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**SECTION 6.** This Ordinance shall become effective thirty (30) days from the date of adoption by the City Council for the City of Maricopa.

**PASSED AND ADOPTED** by the Mayor and Council of the City of Maricopa, Arizona, this 6<sup>th</sup> day of June, 2017.

APPROVED:

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Christian Price  
Mayor

ATTEST:

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Vanessa Bueras, CMC  
City Clerk

APPROVED AS TO FORM:

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Denis Fitzgibbons  
City Attorney