

ORDINANCE NO. O2024.XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, ADDRESSING PUBLIC HEALTH, SAFETY, AND WELFARE BY AMENDING TEMPE CITY CODE CHAPTER 21, RELATING TO NUISANCES AND PROPERTY ENHANCEMENT, AND AMENDING CHAPTER 5, ARTICLE III AND APPENDIX A RELATED TO NUISANCE PARTIES AND UNLAWFUL GATHERINGS.

WHEREAS, the City Council is empowered by the Arizona Constitution, State Law and the City Charter to adopt legislation to protect the health, safety and general welfare of the public; and

WHEREAS, the City Council desires to reduce criminal and public safety incidents on certain residential and commercial properties by holding property owners accountable for excessive and egregious calls for police service; and

WHEREAS, the City Council desires to avoid unnecessary medical calls for service from health care facilities and institutions that are required to have sufficient licensed staff to serve their clients; and

WHEREAS, the City Council desires to reduce criminal and public safety incidents as a result of nuisance parties and unlawful gatherings and increase fines related thereto in order to more accurately reflect the costs to the public as a result of such activities;

WHEREAS, this ordinance seeks to create a collaborative approach between the City and property owners to implement measures that reduce demands on police and public safety resources and enhance community safety;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 5, Article III of the Tempe City Code is hereby amended to read as set forth in Exhibit A, attached hereto, with additions in _____ and deletions in _____:

Section 2. That Chapter 21 of the Tempe City Code is amended by adding a new Article 1-A and amending Article III as set forth in Exhibit B, attached hereto, with additions in _____ and deletions in _____:

Section 3. That Appendix A of the Tempe City Code is amended as follows:

NUISANCE PARTIES AND UNLAWFUL GATHERINGS

5-33 Police service fee for special security assignments related to nuisance parties:

First response~~\$250.00~~ 500.00

Second response~~\$1,000.00~~ 1,500.00

Third response and each subsequent response THEREAFTERUP TO ~~\$1,500.00~~ \$4,000.00; b2; Police service fee or special security assignments related to unlawful gatherings:

First response~~\$250.00~~ 500.00

Second response~~\$1,000.00~~ 1,500.00

Third response and each subsequent responseUP TO ~~\$1,500.00~~ 4,000.00

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the Code adopted herein by reference is for any reason held to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions thereof.

Section 5. The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Tempe City Code.

Section 6. The various City officers and employees are hereby authorized and directed to perform all acts necessary to give effect to this ordinance.

Section 7. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2025.

Corey D. Woods, Mayor

ATTEST:

Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:

Eric C. Anderson, City Attorney

EXHIBIT A, ORDINANCE O2025XX AMENDMENTS TO TEMPE CITY CODE,
CHAPTER 5, ARTICLE III

ARTICLE III. NUISANCE PARTIES AND UNLAWFUL GATHERINGS

Sec. 5-30. Purpose.

- (a) The City finds and determines that the control of nuisance parties on private property is necessary when such continued activity is determined to be a threat to the peace, health, safety or general welfare of the public. Often police response is required at a nuisance party in response to complaints in order to disperse uncooperative participants or enforce criminal laws. The response of police officers to a location constitutes a drain of personnel and resources which may leave other areas of the City without minimal levels of police protection, all of which creates a significant hazard to the safety of the police officers and to the public in general.
- (b) The City finds and determines it is a public nuisance for any responsible person(s) or social hosts to permit, allow, or host an unlawful gathering at his or her place of residence (or other private real property under his or her ownership or control) where spirituous liquor is served to, or is in the possession of, or consumed by, any minor, or where illegal drugs are in the possession of, or consumed by, any person. When unlawful gatherings occur, the City finds and determines that early intervention through substance use education for the responsible person is desirable.

Sec. 5-31. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them herein unless the context requires otherwise:

Juvenile means a minor under the age of eighteen (18) years.

Minor means any person under the age of twenty-one (21) years.

Owner means any owner, as well as an agent of an owner acting on behalf of the owner to control or otherwise regulate the occupancy of use of the property.

Premises mean the property that is the site of a nuisance party or an unlawful gathering. For residential properties, a premise can mean the dwelling unit, units or other common areas where the nuisance party or the unlawful gathering occurs.

Nuisance party means an assembly of persons for a social activity or for a special occasion in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property. This includes, but is not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace and litter.

Police service fee means the fee as shown by a schedule adopted by the City Council with the recommendation of the Police Chief to offset the cost of services provided by the Police Department in response to the nuisance party or unlawful gathering.

Responsible person means any persons in attendance including any owner, occupant, tenant, or tenant's guest or any sponsor, host or organizer of the social activity or special occasion constituting the nuisance party or unlawful gathering. If such a person is a juvenile, the term "responsible person" includes, in addition to the juvenile, the juvenile's parents or guardians. Responsible person does not include owners or persons in charge of premises where an unlawful gathering or nuisance party takes place if the persons in attendance obtained use of the property through illegal entry or trespassing.

Special security assignment means the police services provided during any call in response to complaints or other information regarding nuisance party or unlawful gatherings.

Spirituos liquor shall have the same meaning as defined in A.R.S. § 4-101(31).

Unlawful gathering means a party, gathering, or event where spirituous liquor is served to, or is in the possession of, or consumed by, any minor, or where illegal drugs are in the possession of, or consumed by, any person, regardless of whether it would otherwise qualify as a nuisance party.

Sec. 5-32. Nuisance party.

- (a) When any police officer responds to any nuisance party and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the police officer shall issue a written notice to any responsible person(s). The responsible person(s) will be assessed a police service fee for special security assignments relating to nuisance parties as provided in Appendix A. The police officer or other police employee shall provide the notice of the violation to the responsible person(s) and the landlord or owner in any of the following manners:
 - (1) Personal service to any responsible person(s) being cited at the nuisance party.
 - (2) As to the resident(s) of the premise, posting of the notice on the door of the premises of the nuisance party.
 - (3) As to the landlord or owner, notification of the posting of the notice of the nuisance party shall be mailed to the property owner at the address shown on the Maricopa County property tax assessment records. Notification shall be made by certified mail. The return receipt will service as evidence of service.
 - a. Upon request, the landlord must provide the names of any and all occupants listed on the leasing documents at any location where the Police Department responds to a nuisance party.
- (b) If, after written notice of the violation as provided in subsection (a), a second or subsequent police response or responses is necessary to the same location or address for a nuisance party within THREE HUNDRED SIXTY-FIVE (365) ~~ninety (90)~~ days of the first response, such response shall be deemed a second response and subject to the police service fee as provided in Appendix A. If, after written notice of the violation as provided in subsection (a), a third response is necessary to the same location or address for a nuisance party within THREE HUNDRED SIXTY-FIVE (365) ~~ninety (90)~~ days of the second response, such response shall be deemed a third response and subject to the police service fee as provided in Appendix A.
- (c) On any response to a nuisance party, the responsible person(s) may be assessed a fee commensurate with the next level fee for a nuisance party, if any of the following factors are found:
 - (1) Minor in possession;
 - (2) Minor in consumption;
 - (3) Illegal drugs;
 - (4) Weapons; or
 - (5) Felonious conduct.

Sec. 5-33. Unlawful gatherings.

- (a) When any police officer responds to any unlawful gathering and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the police officer shall issue a written notice to

any responsible person(s). The responsible person(s) will be assessed a police service fee for special security assignments relating to unlawful gatherings as prescribed in Appendix A.

- (b) A police service fee may be imposed on any police response to an unlawful gathering. For any first response, the responsible person may be eligible for substance use education class in lieu of the police service fee assessment.

Sec. 5-34. Fees, billing; and appeal.

- (a) The police service fee for special security assignments arising out of nuisance parties and unlawful gatherings shall be progressive depending on the number of repeat unlawful gatherings, and shall be established by City Council (see Appendix A).
- (b) The amount of such police service fees charged shall be deemed a joint and several debt to the City of any and all responsible persons, whether they received the benefit of such special security assignment services or not. If the responsible person(s) for the nuisance party or unlawful gathering is a juvenile, then the parents or guardians of that juvenile will also be jointly and severally liable for the costs incurred for police services. Any person owing money due for the police service fee shall be liable in an action brought in the name of the City for recovery of such amount, including reasonable attorney fees.
- (c) If a responsible person is the person who owns the property where a nuisance party or unlawful gathering takes place, the owner will not be charged the police service fee unless:
 - (1) The owner was present at or had knowledge of the nuisance party or unlawful gathering and took no reasonable action to prevent the nuisance party or unlawful gathering; or
 - (2) If the owner had been sent a notice from the City that a nuisance party or unlawful gathering had taken place on the premises, and a subsequent nuisance party or unlawful gathering with the same responsible person, persons, sponsors or hosts occurs within ninety (90) days of the mailing of such notice to the owner; or
 - (3) If the owner/landlord fails to provide the names of the occupants listed on the leasing documents where the unlawful gathering or nuisance party occurs.
- (d) The City shall waive part or all of a police service fee charged against the owner of the property where a nuisance party or unlawful gathering takes place if the owner provides proof that they did not have an adequate period of time to prevent the nuisance party or unlawful gathering that triggered the fee, or that they have taken reasonable action to prevent the occurrence of future disturbances at the property.
- (e) The City does not waive its right to seek reimbursement for costs through any other legal remedies or procedures.
- (f) The Chief of Police or his designee shall cause appropriate billings for the special security assignment to be made to the responsible person(s), which shall include the name and address of the responsible person(s), the date and time of the incident and the police services performed, and such other information as may be desired.
- (g) Any responsible person(s) who wishes to dispute the determination that they are liable for the police service fee FOR A FIRST RESPONSE WITHIN A THREE HUNDRED AND SIXTY-FIVE (365) DAY PERIOD may appeal to the police commander assigned to that geographical location. If the responsible person is unsuccessful, they may submit a request for an administrative review hearing BY THE CITY MANAGER OR DESIGNEE in writing no more than ten (10) days after the unsuccessful appeal to the commander. The City and the responsible person(s) disputing the fee shall be given notice of the hearing and an opportunity to be heard. The hearing officer shall establish rules of administration and procedure to ensure the fair and orderly conduct of hearings held pursuant to this section.

-
- (H) ANY RESPONSIBLE PERSON(S) WHO WISHES TO DISPUTE THE DETERMINATION THAT THEY ARE LIABLE FOR THE POLICE SERVICE FEE FOR A SECOND OR SUBSEQUENT RESPONSE WITHIN A THREE HUNDRED AND SIXTY-FIVE (365) DAY PERIOD MAY APPEAL TO THE CITY COURT BY SUBMITTING A NOTICE OF APPEAL TO THE CITY WITHIN FIFTEEN (15) DAYS OF SUCH DETERMINATION. THE NOTICE SHALL BE FILED WITH THE POLICE COMMANDER AND ALSO THE CITY CLERK.

Sec. 5-35. Other remedies.

Nothing in this article shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal prosecution for any violation of the provisions of the City Code or state law arising out of the circumstances necessitating the application of this article.

SEC. 5-36 APPEAL PROCEDURES.

A. ANY REQUEST FOR AN APPEAL HEARING MUST BE IN WRITING, CONTAIN A COPY OR DESCRIPTION OF THE NOTICE OF EXCLUSION, AND A STATEMENT OF THE BASIS ON WHICH THE DECISION TO EXCLUDE IS INVALID, UNAUTHORIZED, OR OTHERWISE IMPROPER.

B. THE POLICE COMMANDER OR CITY COURT SHALL SCHEDULE A HEARING ON THE APPEAL WITHIN 15 BUSINESS DAYS OF RECEIVING THE REQUEST, UNLESS THE APPELLANT REQUESTS A LATER DATE. NOTICE OF THE HEARING TIME AND DATE SHALL BE GIVEN TO THE APPELLANT AND TO THE PERSON ISSUING THE EXCLUSION NOTICE.

C. AT THE HEARING, THE APPELLANT MAY CONTEST THE VALIDITY OF THE POLICE SERVICE FEE AND MAY PRESENT EVIDENCE. THE CITY SHALL HAVE THE BURDEN OF PROVING THE VALIDITY OF THE POLICE SERVICE FEE BY A PREPONDERANCE OF THE EVIDENCE. THE CITY MAY PRESENT EVIDENCE EITHER BY TESTIMONY OR BY WRITTEN REPORT OF THE OFFICER OR EMPLOYEE. IF THE CITY'S EVIDENCE IS PRESENTED ONLY BY WRITTEN REPORT AND THE HEARING OFFICER CANNOT RESOLVE A QUESTION BY INFORMATION CONTAINED IN THE REPORT, THE HEARING MAY BE HELD OPEN FOR A REASONABLE TIME TO COMPLETE THE RECORD.

D. IF THE HEARING OFFICER FINDS THE CITY HAS PROVED EACH ELEMENT NECESSARY TO IMPOSE THE POLICE SERVICE FEE, AND IF THE DECISION IS OTHERWISE IN ACCORDANCE WITH LAW, THE POLICE SERVICE FEE SHALL BE UPHeld.

E. THE DETERMINATION OF THE HEARING OFFICER IS A FINAL DECISION.

EXHIBIT B, ORDINANCE O2025XX AMENDMENTS TO TEMPE CITY CODE,
CHAPTER 21

New Article 1-A to be inserted at the conclusion of Article 1:

ARTICLE I-A COMMUNITY IMPACT/CHRONIC NUISANCE PROPERTIES

SECTION 21-14A. DEFINITIONS

FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING WORDS, TERMS AND PHRASES SHALL HAVE THE MEANING RESPECTIVELY ASCRIBED TO THEM AS FOLLOWS, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

- A. **COMMUNITY IMPACT PROPERTY:** ANY PARCEL OF REAL PROPERTY OR CONDOMINIUM UNIT OR MOBILE HOME UNIT WITHIN THE CITY OF TEMPE MEETING ONE OR MORE OF THE FOLLOWING CRITERIA:
1. THREE OR MORE COMMUNITY RISK ACTIVITIES HAVE OCCURRED AT SUCH PROPERTY OR UNIT WITHIN ANY CONSECUTIVE 60-DAY PERIOD OR SEVEN OR MORE COMMUNITY RISK ACTIVITIES WITHIN ANY CONSECUTIVE 12-MONTH PERIOD.
 2. SUCH PROPERTY OR PERSONS PRESENT AT SUCH PROPERTY OR UNIT HAVE BEEN FOUND RESPONSIBLE FOR THREE OR MORE VIOLATIONS OF A NUISANCE PARTY AND/OR UNLAWFUL GATHERING AS SPECIFIED IN CHAPTER 5, ARTICLE III OF THIS CODE WITHIN A CONSECUTIVE ~~SIX~~-TWELVE-MONTH PERIOD.
 3. A PROPERTY OR UNIT THAT HAS BEEN THE SUBJECT OF TWO OR MORE DETERMINATIONS BY A COURT OF COMPETENT JURISDICTION, WITHIN ANY CONSECUTIVE 12-MONTH PERIOD, ESTABLISHING PROBABLE CAUSE FOR THE PRESENCE OF ONE OR MORE PERSONS SUBJECT TO AN ARREST WARRANT OR FOR THE OCCURRENCE OF ILLEGAL ACTIVITIES INCLUDING THE POSSESSION, MANUFACTURE, OR DISTRIBUTION OF CONTROLLED SUBSTANCES AND/OR ALL OTHER FELONY OFFENSES AS OUTLINED IN ARS TITLES 4, 13, 28, 36 AND/OR ANY FEDERAL LAWS/STATUTES.
 4. AN EGREGIOUS INCIDENT HAS OCCURRED AT SUCH PROPERTY WITHIN THE PRECEDING 24-MONTH PERIOD.
- B. **EGREGIOUS INCIDENT:** AN INCIDENT OR SERIES OF INCIDENTS INVOLVING ONE OR MORE OF THE OFFENSES LISTED IN SUBSECTION 21-15A(1) THAT IS DETERMINED BY THE CHIEF OF POLICE TO POSE OR HAS ~~POSES OR~~ POSED A SIGNIFICANT THREAT TO THE CONTINUING SAFETY OF THE COMMUNITY OR PUBLIC SAFETY PERSONNEL (POLICE/TFMR).
- C. **EXCESSIVE CALL-FOR-SERVICE:** ANY POLICE OR OTHER LAW ENFORCEMENT CALL FOR SERVICE INVOLVING A COMMUNITY RISK

ACTIVITY TO A PROPERTY DESIGNATED AS A COMMUNITY IMPACT PROPERTY OR HIGH RISK COMMUNITY IMPACT PROPERTY UNLESS SUCH CALL FOR SERVICE IS DETERMINED TO BE EXEMPT BY THE CHIEF OF POLICE OR DESIGNEE.

- D. **HIGH-RISK RESIDENTIAL/COMMERCIAL PROPERTY/BUSINESS:** A COMMUNITY IMPACT PROPERTY DESIGNATED AS HIGH RISK AT THE DISCRETION OF THE CHIEF OF POLICE DUE TO ONE OR MORE CALLS FOR SERVICE INCLUDING AN EGREGIOUS INCIDENT(S) CAUSING SIGNIFICANT DISRUPTION OR SAFETY CONCERNS IN THE SURROUNDING COMMUNITY.
- E. **SECURITY AGREEMENT:** A LEGALLY BINDING DOCUMENT REQUIRED FOR RESIDENTIAL COMMUNITY IMPACT PROPERTIES DESIGNATED AS HIGH RISK BY THE CHIEF OF POLICE THAT MANDATES SPECIFIC SAFETY PROTOCOLS AND PREVENTIVE MEASURES TO ADDRESS CRIMINAL ACTIVITY, DISTURBANCES OR OTHER COMMUNITY RISK ACTIVITIES TO HELP ENSURE COMMUNITY SAFETY. THE SECURITY AGREEMENT MAY INCLUDE PROVISIONS FOR PROPERTY MANAGEMENT AND GUEST CONDUCT.
- F. **SECURITY PLAN:** A LEGALLY BINDING DOCUMENT REQUIRED FOR BUSINESS OR COMMERCIAL COMMUNITY IMPACT PROPERTIES DESIGNATED AS HIGH RISK BY THE CHIEF OF POLICE. THE SECURITY PLAN SHALL CONFORM TO CHAPTER 26, ARTICLE V.- SECURITY PLANS OF THIS CODE.
- G. **UNREASONABLE MEDICAL CALL FOR SERVICE:** ANY CALL FOR SERVICE INVOLVING THE CITY'S FIRE/MEDICAL RESCUE DEPARTMENT TO A PROPERTY OR BUSINESS LICENSED OR ENGAGED IN ACTIVITY REQUIRED TO BE LICENSED UNDER CHAPTER 36 OF THE ARIZONA REVISED STATUTES AND THE FIRE CHIEF OR DESIGNEE DETERMINES THAT THE CALL FOR SERVICE TO SUCH PROPERTY OR BUSINESS WAS ONLY NECESSITATED BY THE FAILURE OF THE OPERATOR OF SUCH PROPERTY OR BUSINESS TO MAINTAIN ADEQUATE STAFFING AS REQUIRED BY CHAPTER 36 OF THE ARIZONA REVISED STATUTES OR THE RULES AND REGULATIONS PROMULGATED THEREUNDER.

21-15A. ADDITIONAL DEFINITIONS.

1. COMMUNITY RISK ACTIVITIES. EXCEPT AS SET FORTH BELOW, CALLS FOR SERVICE INCLUDING THE FOLLOWING OFFENSES, OCCURRENCES, AND ACTIVITIES ARE DEFINED AS *COMMUNITY RISK ACTIVITIES* UNDER THIS ORDINANCE:

- A. HOMICIDE AND RELATED OFFENSES (ARS TITLE 13, CHAPTER 11).
- B. ASSAULT, THREATS, AND ENDANGERMENT (ARS TITLE 13, CHAPTER 12).

-
- C. KIDNAPPING, SEX TRAFFICKING, AND RELATED OFFENSES (ARS TITLE 13, CHAPTER 13).
 - D. SEXUAL OFFENSES (ARS TITLE 13, CHAPTER 14).
 - E. CRIMES RELATED TO ORGANIZED CRIME, FRAUD, TERRORISM, CRIMINAL SYNDICATES, AND RELATED OFFENSES (ARS TITLE 13, CHAPTER 23).
 - F. PUBLIC ORDER AND DISORDERLY CONDUCT OFFENSES (ARS TITLE 13, CHAPTER 29).
 - G. WEAPONS AND EXPLOSIVE OFFENSES (ARS TITLE 13, CHAPTER 31).
 - H. PROSTITUTION AND RELATED OFFENSES (ARS TITLE 13, CHAPTER 32).
 - I. DRUG-RELATED OFFENSES (ARS TITLE 13, CHAPTER 34, AND ARS TITLE 36, CHAPTERS 28.1 & 28.2).
 - J. CALLS FOR SERVICE TO A PROPERTY OPERATING AS AN UNLICENSED SHORT-TERM RENTAL (STR), AS DEFINED IN TEMPE CITY CODE ARTICLE X.
 - K. NUISANCE PARTY OR UNLAWFUL GATHERING VIOLATIONS, AS SPECIFIED IN TCC ARTICLE III.
 - L. LIQUOR VIOLATIONS (ARS TITLE 4).
 - M. OBSTRUCTING PEDESTRIAN OR VEHICULAR TRAFFIC (TCC SEC. 22-4).
 - N. HINDERING OR INTERFERING WITH POLICE OPERATIONS (TCC SEC. 22-6).
 - O. OPERATING OR MANAGING A SEXUAL ENCOUNTER CENTER (TCC SEC. 22-17).

2. **EXCEPTIONS.** AFTER INVESTIGATION OF THE FACTS AND CIRCUMSTANCES, THE CHIEF OF POLICE OR DESIGNEE MAY DETERMINE THAT ANY CALL FOR SERVICE SHOULD NOT BE INCLUDED AS COMMUNITY RISK ACTIVITY AT A PROPERTY IF EITHER:

- A. SUCH CALL FOR SERVICE IS INITIATED BY A CRIME VICTIM SEEKING ASSISTANCE OR FILING A DELAYED CRIME REPORT; OR
- B. OCCURRENCE OR EXISTENCE OF THE COMMUNITY RISK ACTIVITY COMPLAINED ABOUT IN SUCH CALL CANNOT BE SATISFACTORILY VERIFIED; OR
- C. A POLICE LIEUTENANT OR COMMANDER DETERMINES THAT CATEGORIZATION OF SUCH CALL FOR SERVICE AS ONE INVOLVING A COMMUNITY RISK ACTIVITY WOULD NOT FURTHER THE GOALS AND PURPOSES OF THIS ARTICLE.

21-16A. HIGH RISK COMMUNITY IMPACT PROPERTIES.

A HIGH RISK COMMUNITY IMPACT PROPERTY SHALL BE SUBJECT TO THE FOLLOWING:

-
- A. THE CHIEF OF POLICE OR DESIGNEE MAY REQUIRE THAT THE OWNER AND/OR TENANTS OF A RESIDENTIAL HIGH RISK COMMUNITY IMPACT PROPERTY ENTER A SECURITY AGREEMENT WITH THE CITY.
 - B. THE CHIEF OF POLICE OR DESIGNEE MAY REQUIRE THAT THE OWNER AND/OR TENANTS OF A BUSINESS OR COMMERCIAL HIGH RISK COMMUNITY IMPACT PROPERTY ENTER A SECURITY PLAN WITH THE CITY.
 - C. FOLLOWING NOTIFICATION FROM THE CHIEF OF POLICE, THE OWNER AND/OR TENANT OF ANY PROPERTY DESIGNATED AS A HIGH RISK COMMUNITY IMPACT PROPERTY SHALL ENTER INTO EITHER A SECURITY AGREEMENT OR SECURITY PLAN ACCEPTABLE TO THE CHIEF OF POLICE OR DESIGNEE WITHIN THIRTY (30) DAYS OF RECEIVING NOTICE OF SUCH DESIGNATION.
 - D. NO PERSON SHALL OPERATE OR ALLOW THE OPERATION OF A USE, WHICH REQUIRES A SECURITY AGREEMENT OR SECURITY PLAN, IN THE ABSENCE OF SUCH REQUIRED SECURITY AGREEMENT OR PLAN OR IN A MANNER WHICH VIOLATES A SECURITY AGREEMENT OR PLAN REQUIRED BY THIS ARTICLE.

21-17A. EXCESSIVE CALLS FOR SERVICE/REMEDIES.

IN ADDITION TO ANY OTHER REMEDY UNDER THIS CHAPTER, THE OWNER AND/OR TENANT OF A PROPERTY DESIGNATED AS A COMMUNITY IMPACT PROPERTY SHALL BE SUBJECT TO A CIVIL PENALTY AS FOLLOWS:

- A. \$500 FOR EACH EXCESSIVE CALL FOR SERVICE AT SUCH PROPERTY OR UNIT AFTER BEING NOTIFIED THAT SUCH PROPERTY OR UNIT IS DESIGNATED AS A COMMUNITY IMPACT PROPERTY.
- B. FAILURE TO ENTER INTO OR MODIFY A SECURITY AGREEMENT OR SECURITY PLAN AS REQUIRED BY THIS ARTICLE MAY RESULT IN A FINE, REVOCATION OF ANY EXISTING SECURITY PLAN, LIABILITY FOR EMERGENCY RESPONSES AND CRIMINAL CHARGES, AS SET FORTH IN CHAPTER 26, ARTICLE V SECTION 26-70. EACH INDIVIDUAL DAY OF OPERATION IN VIOLATION SHALL BE A SEPARATE VIOLATION. ALL REMEDIES PRESCRIBED BY CHAPTER 26, ARTICLE V SECTION 26-70 SHALL BE CUMULATIVE AND SUPPLEMENTAL AND THE USE OF ONE (1) OR MORE REMEDIES BY THE CITY SHALL NOT BAR THE USE OF ANY OTHER REMEDY FOR ENFORCING THIS ARTICLE.
- C. \$500 FOR EACH OCCURRENCE OF A PROPERTY OWNER OR TENANT FAILING TO FOLLOW OR ABIDE BY A SECURITY AGREEMENT OR SECURITY PLAN ENTERED IN ACCORDANCE WITH THIS ARTICLE.

-
- D. FOR ANY EXCESSIVE CALL FOR SERVICE THAT RESULTS FROM OR IS RELATED TO THE OWNER OR TENANT’S FAILURE TO FOLLOW A REQUIRED SECURITY AGREEMENT OR SECURITY PLAN UNDER THIS ARTICLE, A FINE IN AN AMOUNT UP TO \$5,000 PLUS AN ADDITIONAL AMOUNT NECESSARY TO COMPENSATE THE CITY AND ANY OTHER JURISDICTION INVOLVED FOR THE REASONABLE COSTS OF ANY PUBLIC SAFETY RESPONSE TO SUCH EXCESSIVE CALL FOR SERVICE INCLUDING ALL COSTS OF PROVIDING POLICE, FIRE FIGHTING, RESCUE, TRANSPORT AND EMERGENCY MEDICAL SERVICES AT THE SCENE OF AN INCIDENT AND INCLUDING THE SALARIES OF THE PUBLIC SAFETY PERSONNEL WHO RESPOND TO THE INCIDENT.
 - E. THE FINES IMPOSED BY THIS SECTION SHALL BE IN ADDITION TO ANY OTHER FINE IMPOSED. PROVIDED, HOWEVER, THE CUMULATIVE FINES IMPOSED AS A RESULT OF ANY SINGLE EXCESSIVE CALL FOR SERVICE SHALL NOT EXCEED THE MAXIMUM JURISDICTION OF THE CITY COURT.
 - F. IMPOSITION OF FINES OR ANY OTHER REMEDY UNDER THIS ARTICLE SHALL BE SUBJECT TO THE PROCEDURES SET FORTH IN ARTICLE III OF THIS CHAPTER.

21-18A. EXEMPTIONS/TERMINATION OF SECURITY AGREEMENT OR SECURITY PLAN.

- A. ANY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY SHALL BE EXEMPT FROM THE PROVISIONS OF THIS ARTICLE.
- B. NO LIABILITY SHALL BE IMPOSED FOR VIOLATIONS OF THIS ARTICLE UNLESS THE NOTICE AND PROCEDURAL REQUIREMENTS OF ARTICLE III HAVE BEEN FOLLOWED.
- C. THE DESIGNATION OF COMMUNITY IMPACT PROPERTY AND/OR HIGH-RISK COMMUNITY IMPACT PROPERTY SHALL AUTOMATICALLY TERMINATE 36 MONTHS AFTER THE DATE OF SUCH DESIGNATION IF THERE HAVE BEEN NO EXCESSIVE CALLS FOR SERVICE AT SUCH PROPERTY OR UNIT WITHIN THAT PERIOD OR IF 36 MONTHS HAVE ELAPSED WITHOUT AN EXCESSIVE CALL FOR SERVICE.
- D. THE CHIEF OF POLICE OR DESIGNEE MAY ELECT NOT TO IMPOSE ANY OF THE REMEDIES PROVIDED BY THIS ARTICLE IF THE SUBJECT COMMUNITY IMPACT PROPERTY HAS ENTERED INTO AN APPROVED SECURITY AGREEMENT OR SECURITY PLAN AND THE OWNER AND TENANT (IF ANY) HAVE ADHERED TO SUCH AGREEMENT OR PLAN.
- E. THE CHIEF OF POLICE OR DESIGNEE MAY TERMINATE THE DESIGNATION OF COMMUNITY IMPACT PROPERTY OR HIGH RISK COMMUNITY IMPACT PROPERTY AT ANY TIME IF THE CHIEF OF POLICE OR DESIGNEE DETERMINES THAT THERE IS A SIGNIFICANT CHANGE OF

CIRCUMSTANCES AT THE PROPERTY OR UNIT AND CONTINUED DESIGNATION IS NO LONGER NECESSARY TO FURTHER THE PUBLIC INTERESTS OF THIS ARTICLE.

- F. THE TERMINATION OF A DESIGNATION OF COMMUNITY IMPACT PROPERTY AND/OR HIGH RISK COMMUNITY IMPACT PROPERTY SHALL NOT PRECLUDE FUTURE DESIGNATION OF THE SAME SHOULD THE PROPERTY QUALIFY FOR SUCH RE-DESIGNATION BASED ON EVENTS OCCURRING FOLLOWING TERMINATION.

21-19A UNREASONABLE MEDICAL CALLS FOR SERVICE – HEALTHCARE

A. IN ADDITION TO ANY OTHER REMEDY UNDER THIS CHAPTER, THE OWNER OR OPERATOR OF A PROPERTY OR BUSINESS WHICH CAUSES THE OCCURRENCE OF AN UNREASONABLE MEDICAL CALL FOR SERVICE BE SUBJECT TO A CIVIL PENALTY OF \$500.00 FOR EACH SUCH CALL.

Amendments to Article III

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Sec. 21-41. Commencement of action.

- (a) EXCEPT WHERE CLEARLY DESIGNATED OTHERWISE, the Community Development Department is assigned the primary responsibility of enforcing this chapter and is granted the authority expressly and impliedly needed and necessary for enforcement.
- (b) Nothing in this section shall preclude employees of the Community Development Department from seeking voluntary compliance with the provisions of this chapter or from enforcing this chapter, proactively or reactively, through warnings, notices to comply, or other such devices designed to achieve compliance in the most efficient and effective manner under the circumstances.
- (c) The Community Development Department is authorized to recommend reasonable and necessary rules and regulations to carry out the provisions of this article which shall be approved by resolution of the City Council.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2009.38, 10-22-09; Ord. No. 2010.02, 2-4-10)

Sec. 21-42. Remedies and penalties.

- (a) *Cumulative remedies.* The remedies herein are cumulative when there are separate violations and the City may proceed under one (1) or more of such remedies when there is more than one (1) violation. Remedies and penalties will be pursued by the City in conformance with the rules and regulations adopted pursuant to this chapter.

-
- (b) *Civil sanction.* Any person who causes, permits, facilitates or aids or abets any violation of any provision of this chapter or who fails to perform any act or duty required by this chapter is subject to a civil sanction as enumerated in the fine schedule adopted by the City Council. UNLESS OTHERWISE STATED IN ARTICLE I-A, ~~no circumstances shall~~ the fine SHALL NOT be less than the current fine schedule and total fines shall not exceed two thousand dollars (\$2,000.00) per day for each property. In addition to the amount of the fine imposed, there is imposed a default penalty in the amount of fifty dollars (\$50.00) should the defendant fail to appear and answer for a violation of this chapter within the time period stated on the citation or fails to appear at the time and place set by the court for a matter arising under this chapter.
 - (c) *Criminal misdemeanor.* Notwithstanding the provisions of subsection (b) above, any person who causes, permits, facilitates or aids or abets any violation of any provision of this chapter or who fails to perform any act or duty required by this chapter is guilty of a Class 1 misdemeanor. The City Prosecutor is authorized to file a criminal misdemeanor complaint in the Tempe Municipal Court for violation of this chapter. The rental agent or property manager may avoid criminal liability by forwarding a copy of the notice to comply to the owner if it is sent by certified mail/return receipt requested within two (2) days of receiving the notice to comply.
 - (d) *Separate offenses.* Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter exists, shall constitute a separate violation or offense.
 - (e) *Property owner.* For the purpose of enforcement of this chapter, the owner of record, as recorded by the Maricopa County Recorder's Office, of the property upon which the violation exists, shall be presumed to be a person having lawful control over the property. If more than one (1) person shall be recorded as the owner of the property, said persons shall be jointly and severally presumed to be persons having lawful control over the property. This presumption shall not prevent enforcement of the provisions of Article II against any person specified in subsection (b) or (c) of this section. FOR PURPOSES OF ENFORCEMENT OF ARTICLE I-A, THE PROPERTY OWNER AND ANY TENANTS OF SUCH PROPERTY MAY BE FOUND JOINTLY AND SEVERALLY LIABLE FOR ANY VIOLATIONS.
 - (f) *Abatement.* In addition to any other sanction or penalty authorized under subsection (b) or (c) of this section, the designated hearing officer may issue an order directing the owner, occupant, rental agent, property manager or responsible person to abate the violation or authorize the City to abate the condition giving rise to the violation. The costs of such abatement shall be the responsibility of the owner of the property where the violation occurred and may be collected as an assessment against the property found to be in violation.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2007.80, 12-13-07; Ord. No. 2009.38, 10-22-09)

Sec. 21-43. Notice to comply.

- (a) *Notification.* EXCEPT IN CASES OF COMMUNITY IMPACT PROPERTIES, if the City finds a violation of this chapter, in the first instance, in any given twelve (12) month period, the City shall notify the responsible person through the issuance of a notice to comply.
- (b) *Contents of notification.* A notice to comply issued pursuant to this Code shall include:
 - (1) Identification of the property in violation;
 - (2) Statement of violation in sufficient detail to allow the owner, occupant, rental agent, property manager or responsible person to identify and correct the problem;
 - (3) Compliance date which shall be a reasonable time period as determined by the inspector or adopted by resolution of the City Council;
 - (4) Name and phone number of the inspector;

-
- (5) Criminal and civil penalties for failing to correct the violation; and
 - (6) City authority to abate the violation should the owner neglect, fail or refuse to correct the violation within thirty (30) days and to assess the property for the cost of abatement.
- (c) *Service of notice.* The notice to comply may be served and shall be deemed proper and complete by any of the following methods:
- (1) Delivered in person to the owner, occupant, manager or agent of the premises where the violation has occurred, or to the person responsible for the violation;
 - (2) Posted on or about the entrance of the premises where the violation occurred;
 - (3) By first class mail, postage prepaid, addressed to the owner, occupant, agent, manager or responsible person at the last known address. Service by mail is deemed complete upon deposit in the U.S. mail.
 - (4) Serving the owner, occupant, agent, manager or responsible person in the same manner as provided by the Arizona Rules of Civil Procedure.
- (d) *Additional notice; notice not required.* Nothing herein shall preclude the City from giving additional verbal or written notice at its discretion, but it is not obligated to notify the same person as to a second (or additional) violation which has been the subject of a notice to comply within the previous twelve (12) month period. 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. Nothing in this section shall require the issuance of a second notice to comply within twelve (12) months prior to commencement of civil or criminal violation proceedings.
- (e) *Notification—Habitual offender.* Complaints on properties owned by habitual offenders will proceed through an expedited process. The expedited process applies to any person who meets the definition of habitual offender, whether or not the person has been convicted under Section 21-4(b). Habitual offenders are not entitled to a time period to cure infractions or other written or formal notice of violations. Upon discovering that a property is owned by a habitual offender, the code inspector may:
- (1) Initiate court or abatement action without providing written or formal notice to the responsible party;
 - (2) Issue a formal notice of violation or civil infraction citation, including notification that the responsible party has been deemed a habitual offender; or
 - (3) Initiate abatement action or criminal proceedings against the responsible party.
- (F) NOTIFICATION FOR COMMUNITY IMPACT PROPERTIES. TO THE EXTENT APPLICABLE, THE CITY WILL PROVIDE NOTICE TO COMMUNITY IMPACT PROPERTIES AS SET FORTH IN SUBSECTIONS (A) THROUGH (E). HOWEVER, COMMUNITY IMPACT PROPERTIES SHALL NOT BE ENTITLED TO ADVANCE NOTICE OR OPPORTUNITIES TO CURE EXCEPT AS MAY BE PROVIDED IN ARTICLE I-A. THE NOTICE OF DESIGNATION OF A COMMUNITY IMPACT PROPERTY OR HIGH-RISK COMMUNITY IMPACT PROPERTY SHALL:
- 1. IDENTIFY THE PROPERTY THAT IS THE SUBJECT OF THE NOTICE BY STREET ADDRESS AND LEGAL DESCRIPTION, AND, IF THE PROPERTY HAS MULTIPLE UNITS, IDENTIFY THE DWELLING UNIT OR COMMERCIAL UNIT;
 - 2. STATE THE NUMBER OF POLICE RESPONSES IN THE CALENDAR YEAR TO DATE AND STATE ADDITIONAL POLICE RESPONSES TO THE UNIT OR PROPERTY MAY RESULT IN IMPOSITION OF FEES UNDER THIS CHAPTER;
 - 3. STATE THE PERSON SHALL BE LIABLE FOR A FEE FOR EACH EXCESSIVE CALL FOR SERVICE TO THE PROPERTY DURING THE CALENDAR YEAR, UNLESS, WITHIN 30 DAYS, ANY PERSON TAKES APPROPRIATE CORRECTIVE ACTION PROMPTLY AND GIVES WRITTEN NOTICE TO THE POLICE DEPARTMENT.
 - 4. STATE THE AMOUNT OF THE FEE PER EXCESSIVE CALL FOR SERVICE; AND

5. STATE THE NAME AND TELEPHONE NUMBER OF A REPRESENTATIVE OF THE TEMPE POLICE DEPARTMENT TO CONTACT CONCERNING THE NOTICE.

- (G) THE INITIAL DESIGNATION OF A PROPERTY OR UNIT AS A COMMUNITY IMPACT PROPERTY OR HIGH RISK COMMUNITY IMPACT PROPERTY MAY BE APPEALED TO THE CITY MANAGER BY FILING A NOTICE OF APPEAL WITH THE CITY MANAGER'S OFFICE WITHIN 15 DAYS OF RECEIPT OF NOTICE BY THE PROPERTY OWNER OR APPLICABLE TENANT. THE CITY MANAGER OR DESIGNEE SHALL AFFORD THE APPEALING PARTY AN OPPORTUNITY FOR A DUE PROCESS HEARING AFTER REASONABLE NOTICE AND SHALL DECIDE THE APPEAL WITHIN 90 DAYS UNLESS GOOD CAUSE PREVENTS A DECISION FROM REASONABLY BEING MADE WITHIN THAT TIME.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2007.80, 12-13-07; Ord. No. 2009.38, 10-22-09)

Sec. 21-44. Jurisdiction.

Unless otherwise specified, the Municipal Court of the City of Tempe shall have jurisdiction of all proceedings to enforce this chapter.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-45. Transfer of property after notice.

- (a) *Written assumption of responsibility.* The transfer of any or all property interest in any manner, including but not limited to, the sale, trade, lease, gift or assignment of any real property against which a notice to comply has been issued or allegations of violations have been filed with the court shall not relieve the parties unless the legal entity assuming interest in such property, in writing, assumes responsibility for compliance with the notice to comply or alleged violations and a copy of such writing is presented to the City.
- (b) *Criminal violation.* Any legal entity, real or statutory, who transfers the ownership interest in real property, against which a notice to comply has been issued or allegations of violations have been filed with the court, shall be guilty of a Class 1 misdemeanor unless they have obtained a written acceptance of responsibility for compliance with the notice or court action from the new owner.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-46. Vacation of tenants; reoccupancy.

- (a) *Comply even if vacated.* An owner, agent or manager served with a notice to comply or enforcement proceeding for violations of Article II of this chapter shall not be relieved from responsibility to comply because the tenant(s) have vacated the rental housing unit.
- (b) *Compliance before reoccupancy.* The owner, agent or manager of a rental housing unit shall not lease, rent or otherwise make available for occupancy by tenants any unit against which a notice to comply has been issued or an enforcement action has been instituted until the violations contained in the notice to comply or enforcement proceeding have been corrected.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-47. Commencement of civil action.

- (a) After issuing a notice to comply and if the violation(s) is not corrected within the designated time, the Community Development Director or designee is authorized to commence a civil action under this chapter

FOR VIOLATIONS OF ARTICLE I OR ARTICLE II by issuing a citation to the occupant of the property where the violation has occurred, the owner, agent or manager of record, or any person responsible for the violation. AFTER DESIGNATION AS A COMMUNITY IMPACT PROPERTY OR HIGH RISK COMMUNITY IMPACT PROPERTY, THE CHIEF OF POLICE OR DESIGNEE IS AUTHORIZED TO COMMENCE A CIVIL ACTION UNDER THIS CHAPTER FOR VIOLATIONS OF ARTICLE I-A BY ISSUING A CITATION TO THE OCCUPANT OF THE PROPERTY WHERE THE VIOLATION HAS OCCURRED, THE OWNER, AGENT OR MANAGER OF RECORD, OR ANY PERSON RESPONSIBLE FOR THE VIOLATION. THE FIRE CHIEF OR DESIGNEE IS ALSO AUTHORIZED TO COMMENCE A CIVIL ACTION FOR VIOLATIONS OF SECTION 21-19A.

- (b) The citation form will be substantially in the same form as the Arizona traffic citation currently in use and shall direct the defendant to appear in Tempe Municipal Court or pay the fine imposed pursuant to this chapter within fourteen (14) days after issuance of the citation. The citation shall contain the date and location of the violation, reference to the City Code provision violated, and notice that within fourteen (14) days from the date on which the citation was issued, the fine for the violation must be paid to and received by the Tempe Municipal Court or a request for a hearing be made to and received by the Tempe Municipal Court. The form shall also contain a schedule of fines and penalties that are imposed by this chapter. The fines and penalties schedule shall be adopted by resolution of the City Council.
- (c) *Service of citation.* The citation shall be served by delivering a copy to the defendant by any of the following means:
 - (1) By service upon the defendant;
 - (2) By posting the citation on the property where the violation has occurred or upon the property of the person responsible for the property where the violation has occurred;
 - (3) By first class mail, postage prepaid, addressed to the defendant at the last known address. Service by mail is deemed complete upon deposit in the U.S. Mail; or
 - (4) By any of the methods described in Rules 4, 4.1 or 4.2, Arizona Rules of Civil Procedure.
- (d) *Default.* The citation shall state that if the defendant fails to appear within the time specified, and either pay the fine for the violation or request a hearing, judgment by default will be entered in the amount of the fine designated on the citation for the violation charged plus a penalty amount as established by this chapter for the defendant's failure to appear.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2009.38, 10-22-09; Ord. No. 2010.02, 2-4-10)

Sec. 21-48. Appearance or payment by mail.

- (a) The defendant shall, within fourteen (14) days of the issuance of the citation, appear in person or through his attorney in the Tempe Municipal Court, and shall either admit or deny the allegations contained in the citation, or defendant may proceed as provided in subsection (b) below. If the defendant admits the allegations, the court shall immediately enter judgment against the defendant in the amount of the fine for the violation charged as set by this chapter. If the defendant denies the allegations contained in the citation, the court shall set a date for a hearing on the matter.
- (b) The defendant may admit the allegation in the citation and pay the fine indicated by mailing the citation together with a check for the amount of the fine to and made payable to the Tempe Municipal Court. Appearance by mail will be deemed complete by the postmarked date on the mailing.
- (c) Any defendant who appears in the Tempe Municipal Court and denies the allegations as provided in subsection (a) above shall be deemed to have waived any objection to service of the citation, unless such objection is affirmatively raised by the defendant at the time of the first appearance in relation to the citation.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-49. Default judgment.

If the defendant fails to appear as directed on the citation, the court, upon request of the Community Development Director or designee, shall enter a default judgment for the amount of the fine indicated for the violation charged, together with a penalty for the defendant's failure to appear as established by this chapter. If a defendant fails to appear at a hearing, the court may enter judgment against the nonappearing defendant for the amount of the fine plus a penalty for failure to appear as established by this chapter. No judgment may be entered against a fictitiously identified defendant, unless the citation is amended to reflect the true identity of the defendant who received the citation.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2009.38, 10-22-09; Ord. No. 2010.02, 2-4-10)

Sec. 21-50. Rules of procedure for civil citations.

The Arizona Rules of Procedure in Civil Traffic Violation Cases may be followed by the Tempe Municipal Court for civil citations issued pursuant to this Code except as modified or where inconsistent with the provisions for this Code or as modified or established for use by the Arizona Supreme Court for the Tempe Municipal Court.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-51. Collection of civil sanction, reinspection fees.

- (a) The court may enforce collection of delinquent fines, fees and penalties as may be provided by law. In addition, any judgment for a civil sanction imposed pursuant to this Code shall constitute a lien against the real property of the owner of the rental housing unit where the violation occurred. The lien may be perfected by recording a copy of the judgment under seal of the City of Tempe with the Maricopa County Recorder. Any judgment for civil sanction pursuant to this Code may be collected as any other civil judgment.
- (b) Any person who neglects, fails or refuses to correct the violations contained within a notice to comply or other similar device issued pursuant to this chapter may be assessed a reinspection fee for inspections which occur after the compliance date. The fee for these reinspections shall be set by resolution of the City Council. Failure to pay reinspection fees within fourteen (14) days of assessment is a violation of this section. Reinspection fees may be collected as a lien against the real property where the violation occurred in accordance with Section 21-53.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-52. Interference with enforcement, abatement.

Any person who interferes with, prevents, or attempts to interfere with or prevent an individual employed by the City or other person contracted for by the City, from investigating an alleged violation of this chapter, or from correcting or abating a violation of this chapter is guilty of a Class 1 misdemeanor.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-53. Abatement.

- (a) *Hearing officer authorized.* When a person is served with a notice to abate in accordance with A.R.S. § 9-499 to comply with the provisions of this Code concerning matters within the scope of A.R.S. § 9-499 and neglects, fails or refuses to abate a violation for more than thirty (30) days from the effective date of the notice, the designated hearing officer shall hold an administrative hearing pursuant to the notice regarding whether an order should be entered authorizing the Community Development Director or designee to abate any condition that constitutes a violation. The hearing officer, after the hearing (or time for hearing should the person fail to appear) shall enter such rulings and orders which it determines to be appropriate including an order authorizing the City to abate the condition, including the authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.
- (b) *Appeals.* Any person aggrieved by a decision of the designated hearing officer may appeal to the city's Board Of Adjustment.
- (c) *Statement of abatement expenses.* The community development director or designee, when so directed by the designated hearing officer to abate a violation of this Code, shall prepare a verified statement and account of all expenses incurred by the City and file such verified statement and account with the designated hearing officer. The verified statement and account shall include the actual cost of such removal or abatement together with an administration charge as set by the City Council by motion or resolution (Appendix A) with the cost of recording an assessment and releases thereof.
- (d) *Collection of abatement expenses.* The person against whom the abatement order is issued shall have fifteen (15) days from the date of delivery or mailing of the statement of abatement expenses to pay. If the person fails to pay within the specified time period, the City Manager or his designee shall prepare a duplicate copy of the statement and account as a notice of assessment and record one copy with the office of the Maricopa County Recorder and within ten (10) days thereafter serve the remaining copy of such notice of assessment upon the owner of the property assessed in accordance with A.R.S. § 9-499. The recorded assessment shall bear interest at the legal rate for judgments in the State of Arizona from the date that the assessment was recorded until it is paid in full. The assessment may be paid as provided in A.R.S. § 9-499(E).
- (e) *Exemption.* The provisions of this section shall not apply to violations of Article I, Section 21-4 of this chapter.

(Ord. No. 2002.06, 5-30-02; Ord. No. 2005.18, 4-7-05; Ord. No. 2007.80, 12-13-07; Ord. No. 2009.38, 10-22-09; Ord. No. 2010.02, 2-4-10)

Sec. 21-54. Conflict of ordinances.

In any case where a provision of this Code is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or Code of the City, existing on the effective date of this Code, the provision which establishes the higher standard for the promotion and protection of the health and safety of the community shall prevail.

(Ord. No. 2002.06, 5-30-02)

Sec. 21-55. Recording a violation.

The City may record a notice of violation with the County Recorder. A recorded notice of violation shall run with the land. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. When the property is brought into compliance, a satisfaction of notice of violation shall be filed at the request of the owner or responsible party at the requestor's expense.

(Ord. No. 2002.06, 5-30-02)

Secs. 21-56—21-60. Reserved.