

**ORDINANCE NUMBER 08-03**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, ESTABLISHING A CIVIL ENFORCEMENT PROCEDURE FOR VIOLATIONS OF THE ZONING AND BUILDING CODES.**

**WHEREAS**, municipalities may under A.R.S. §9-240(B)(28)(b) elect to classify ordinance violations as either criminal or civil offenses; and

**WHEREAS**, pursuant to A.R.S. §9-500.21, a City that classifies ordinance violations as civil offenses shall establish procedures to hear and determine these violations; and

**WHEREAS**, the Municipal Court has jurisdiction over local ordinance violations pursuant to A.R.S. §22-402(B), and may recover a penalty or forfeiture provided for the violation of an ordinance pursuant to A.R.S. §22-406; and

**WHEREAS**, the City of Maricopa has adopted ordinances regarding zoning and building regulations, and amendments thereto; and

**WHEREAS**, violations of the ordinances have been classified as criminal misdemeanor or petty offenses; and

**WHEREAS**, in addition to the criminal offenses, the City of Maricopa now intends to adopt a civil citation authority and enforcement procedures as an alternate to criminal enforcement, and in some cases expedite the enforcement of the codes and ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, PINAL COUNTY, ARIZONA AS FOLLOWS:**

**SECTION 1.** There shall be civil zoning and code enforcement as an alternate to criminal misdemeanor citations established under the following procedures:

- A. Designation of Civil Offense.** Violations of the ordinances 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.

- B. Hearing Officer.** The City Magistrate or a Judge Pro Tem that has been duly appointed by the City Council shall serve as the hearing officer to hear and determine zoning and code violations under the civil violation procedure.
- C. Filing of Complaint.** Civil complaints shall be filed using either the uniform Arizona Traffic Ticket and Complaint form, or one substantially similar as approved by the Arizona Supreme Court, which shall cite to this Ordinance as well as the particular subsection of the zoning 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 building inspector or zoning code officer for the City. The citation shall contain the date and time of the alleged violation, and direct the defendant to appear before the Hearing Officer at the specified time to enter a plea either admitting or denying the complaint. Citations will be served by personal delivery upon the defendant by the responsible inspector or code enforcement officer, or by registered mail together with a summons, in the manner set forth in Rule 3.4, Rules of Criminal Procedure. The citation will state that if the defendant fails to appear, the Hearing Officer will enter a default judgment against him in favor of the State, and impose sanctions not to exceed \$2500.00 for each alleged violation. Subpoenas for witnesses shall be prepared and signed at the request of either the defendant or the State, and served pursuant to A.R.S. §13-4072.
- D. Hearing Procedure.** 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 complaint will be presented by the City Attorney. The defendant may present evidence *pro per* or through counsel. The defendant will not have a right to a jury trial. If the Hearing Officer finds that the charges are proven by a preponderance of the evidence, judgment shall be entered against the defendant for the State, and penalties imposed in an amount not to exceed \$2,500.00 for violations for each day a violation exists beyond the initial notice constituting a separate offense. If the Hearing Officer finds the charges not proven, the case shall be dismissed. Any sanction shall be imposed immediately, without setting a sentencing date or probationary period, except that the 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.
- E. Appeals.** Pursuant to A.R.S. §12-124(A), appeal to the Superior Court is hereby granted.

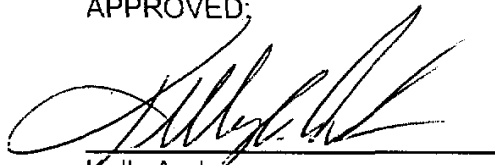
**SECTION 2.** To the extent of any conflict between other City Ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing City Ordinance, Resolution or regulation except as expressly set forth herein.

**SECTION 3.** 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 4.** This Ordinance shall become effective thirty (30) days after its adoption.

**PASSED AND ADOPTED** by the Mayor and City Council of the City of Maricopa, Arizona, this 1<sup>st</sup> day of April, 2008.

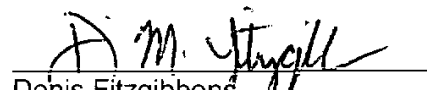
APPROVED:

  
\_\_\_\_\_  
Kelly Anderson  
Mayor

ATTEST:

  
\_\_\_\_\_  
Vanessa Bueras, CMC  
City Clerk

APPROVED AS TO FORM:

  
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Denis Fitzgibbon  
City Attorney