

ORDINANCE NO. 99-A152

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, ESTABLISHING A CIVIL ENFORCEMENT PROCEDURE FOR VIOLATIONS OF THE ZONING AND BUILDING CODES

WHEREAS, municipalities may under ARS 9-240.B.28(c) elect to classify ordinance violations as either criminal or civil offenses, and

WHEREAS, the Magistrate Court has jurisdiction over local ordinance violations under ARS 22-402.B, and may collect fines as judgments pursuant to ARS 22-406, as amended, and

WHEREAS, the Town now has adopted a planning and zoning ordinance (Ord. 87-A23), mining ordinance (Ord. 92-A74), uniform building codes and related public codes (Ord.94-A90), and amendments thereto, and

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

WHEREAS, in addition to the criminal offenses, the Town 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 Common Council of the Town of Camp Verde, that there shall be civil zoning and code enforcement as an alternate to criminal misdemeanor citations established under the following procedures:

- 1. Designation of Civil Offense.** Violations of the above zoning and code ordinances of the Town 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.
- 2. Hearing Officer.** The Council shall periodically appoint a hearing officer to hear and determine zoning and code violations under the civil violation procedure. The term of the hearing officer shall be for one year, renewable at the option of the Council. The hearing officer shall not be an employee or member of any Town board or commission.
- 3. Filing of Complaint.** Civil complaints shall be filed using either the uniform Arizona Traffic Ticket and Complaint form, or one substantially similar, 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 Town. The citation shall contain the date and time of the alleged violation, and direct the defendant to appear before the Hearing Officer at a 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 \$250 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 ARS 13-4072.

4. Hearing Procedures. 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 Town 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 sanctions imposed up to \$250 per 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.

5. Appeals. The defendant may appeal the decision of the hearing officer to the Town Magistrate, pursuant to ARS 22-402.B, who shall conduct a review of the matter limited to whether the ordinance or code has been correctly interpreted or applied by the complainant. It shall not be a trial *de novo* unless the Court determines that the record is insufficient, or there is no record preserved. A record for purposes of this section consists of audio tape recordings, any written rulings of the Hearing Officer, and exhibits admitted at the hearing. Further appeal to the Superior Court, either pursuant to the civil traffic rules or through ARS 12-124.A. is hereby granted, but may be discretionary with the Court.

Passed and adopted this 15 day of DECEMBER, 1999.

Barbara Miller, Mayor:

Barbara Miller

Attest:

[Signature]

Town Clerk

Approved as to form:

[Signature]

Town Attorney

[Large handwritten mark]

PUBLISH:

1/12/2000 and 1/19/2000

POSTED: _____ (Date/Time)

BY: _____