

## MARANA ORDINANCE NO. 2021.010

RELATING TO DEVELOPMENT; ADOPTING COMPREHENSIVE REVISIONS TO AND REFORMATTING AND CONSOLIDATING MARANA LAND DEVELOPMENT CODE SECTION 05.01 (ESTABLISHMENT OF ZONES), SECTION 05.02 (REGULATIONS WITHIN ZONES A-E), SECTION 05.03 (SIGNIFICANT LAND USE CHANGE (APPLIES ONLY TO ZONES A-E)), SECTION 05.05.08 (MANUFACTURED HOMES IN ZONE A, B, & C), SECTION 05.06 (ZONE F - SPECIFIC PLANS), SECTION 05.10 (NEW ZONES ESTABLISHED), SECTION 08.06 (RESIDENTIAL DESIGN), SECTION 08.07 (COMMERCIAL DESIGN STANDARDS), TITLE 17 (ENVIRONMENTAL RESOURCE PRESERVATION, NATIVE PLANT PROTECTION AND LANDSCAPE REQUIREMENTS), TITLE 19 (STANDARDS FOR GRADING AND RELATED SITE WORK), AND TITLE 20 (PROTECTION OF CULTURAL RESOURCES) INTO TITLE 17 (LAND DEVELOPMENT) OF THE MARANA TOWN CODE; REFORMATTING TITLE 24 (OVERLAY DISTRICT REGULATIONS) OF THE MARANA LAND DEVELOPMENT CODE INTO TITLE 17 (LAND DEVELOPMENT) OF THE MARANA TOWN CODE; ADOPTING COMPREHENSIVE REVISIONS TO MARANA TOWN CODE CHAPTERS 17-1 (TITLE, INTENT, PURPOSE AND DEFINITIONS), 17-5 (SUBDIVISIONS) AND 17-6 (GENERAL DEVELOPMENT REGULATIONS); AND ADOPTING OTHER VARIOUS REVISIONS TO CHAPTERS 17-3 (ADMINISTRATION AND ENFORCEMENT), 17-9 (PARKING), 17-15 (FLOODPLAIN AND EROSION HAZARD MANAGEMENT CODE), AND 17-16 (STORMWATER MANAGEMENT) OF THE MARANA TOWN CODE; AND DESIGNATING AN EFFECTIVE DATE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. The comprehensive revisions to and reformatting and consolidation of Marana Land Development Code Section 05.01 (Establishment of Zones), Section 05.02 (Regulations Within Zones A-E), Section 05.03 (Significant Land Use Change (Applies only to Zones A-E)), Section 05.05.08 (Manufactured Homes in Zone A, B, & C), Section 05.06 (Zone F - Specific Plans), Section 05.10 (New Zones Established), Section 08.06 (Residential Design), Section 08.07 (Commercial Design Standards), Title 17 (Environmental Resource Preservation, Native Plant Protection and Landscape Requirements), Title 19 (Standards for Grading and Related Site Work), and Title 20 (Protection of Cultural Resources) into Title 17 (Land Development) of the Marana Town Code; the reformatting of Title 24 (Overlay District Regulations) of the Marana Land



Development Code into Title 17 (Land Development) of the Marana Town Code; the comprehensive revisions to Marana Town Code Chapters 17-1 (Title, Intent, Purpose and Definitions), 17-5 (Subdivisions) and 17-6 (General Development Regulations); and the other various revisions to Chapters 17-3 (Administration and Enforcement), 17-9 (Parking), 17-15 (Floodplain and Erosion Hazard Management Code), and 17-16 (Stormwater Management) of the Marana Town Code, one paper copy and one electronic copy of which are on file in the office of the Town Clerk, which were made a public record by and attached as Exhibit A to Resolution No. 2021-098 of the Town of Marana, Arizona, are hereby referred to, adopted and made a part of this ordinance as if fully set out here.

SECTION 2. The following penalty clauses are included in Marana Town Code Title 17 (Land Development) as adopted pursuant to this ordinance:

**17-5-6 Violations and penalties**

- A. It shall be a class 1 misdemeanor to record or attempt to record with the county recorder a subdivision plat or minor land division map of any land within the town that has not been approved by the town.
- B. It shall be a class 1 misdemeanor to attempt to achieve a minor land division or to achieve a minor land division or to attempt to establish a subdivision or to establish a subdivision of any land within the town without first having obtained the approval of the town as provided for by this chapter.

**17-11-11 Compliance**

- A. Failure to comply with the requirements of the approved native plant program shall cause immediate suspension of all inspection activity. Inspection(s) shall not resume until a sum of money is paid to the town for the purpose of replacing and maintaining protected native plant materials as required in the approved native plant program.
- B. The planning commission shall determine the sum of money to be paid to the town from the following schedule:
  - 1. Protected native trees - \$300 per caliper inch (measured one foot above ground level).
  - 2. Protected native cacti - \$200 per foot.
  - 3. Maximum per plant - \$10,000.
  - 4. Determination of the sum of money to be paid to the town pursuant to this section shall be based upon the type, size, density, distribution, and condition of plant materials that existed on the property prior to the violation, or upon inspection of the remains of destroyed plant materials or other physical evidence as may be available.
- C. The sum of money required by this subsection shall be used to replace removed or damaged plant materials whose retention was required by this ordinance and to maintain replacement plant materials for a period of three

years. Additionally, 15% of the total amount payable shall be kept by the town as payment for the enforcement of these regulations and administration of the agreement specified below.

- D. Prior to issuance of any permits for development of the property on which the violation occurred, the property owner shall enter into an agreement with a landscape installation and maintenance service and the town to ensure replacement and three years maintenance of the replacement plant materials, to provide disbursement of the sum of money for the purposes of replacement and to pay administrative costs. The sum of money paid to the town in excess of the amounts specified in the agreement shall be refunded.

[No penalty clauses in paragraphs E and F]

#### **17-13-11 Enforcement**

##### **A. Permit enforcement.**

1. The enforcement of this chapter and conditions of the permit shall be in accordance with this section.
2. When town staff determines a non-compliance with the conditions of the permit, or work performed without a permit, the town shall issue a stop-work order and hold in abeyance, by written notice, the town review of other submittals related to the development project and the issuance of town permits for any aspect of the development project until remedial actions have received the written approval of the town staff.

##### **B. Stop-work order**

1. Whenever the town determines that grading does not comply with this chapter or the permit conditions, or that the soil or other conditions are not as stated on the permit, the town may order the work stopped by written notice served on any person engaged in doing or causing such work to be done, or written notice posted on the site.
2. Any such person shall immediately stop such work until authorized by the town to proceed with the work.

##### **C. Failure to obtain permit**

1. Unless exempted by this chapter, failure to obtain a permit prior to commencement of grading shall be a violation of this code, subject to a fee as set forth in the comprehensive fee schedule adopted by the town council and amended from time to time.

[No penalty clause in subparagraph 2]

#### **17-16-3 Compliance monitoring**

##### **A. Inspections [no penalty clauses]**

##### **B. Enforcement and penalties**

1. Operator and/or owner of record. The operator performing activities and/or owner of record of the property upon which a violation of this



chapter occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated and documented that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

2. Notice to correct. The town may issue a written notice to correct to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice to correct may result in a notice of violation and/or stop work order as described in subsections 3 and 5 of this section.
3. Notice of violation. The town may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the thirtieth calendar day following the notice of violation. Nothing in this section shall limit the authority of the town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. In appropriate situations the town may notify the person orally either in person or by telephone prior to written notification.
4. Consent orders. The town may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements, or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person to correct the noncompliance within a time period specified by the document, including an identification and description of the best management practices and measures to utilize in implementing the order. Such documents shall have the same force and effect as any other orders issued under this chapter and shall be judicially enforceable.
5. Stop work order. For projects under construction in the town, if the town finds that a person has violated, or continues to violate, any provision of this chapter or any related laws or regulations, or that the person's past violations are likely to recur, the town may issue a stop work order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order issued pursuant to this chapter shall constitute a violation of this chapter.
6. Civil penalties. A person who violates any requirement of this chapter or any applicable stormwater permit condition shall be civilly liable to the town for a sum not to exceed \$2,500 per day for each violation.

7. Criminal penalties. A person who knowingly or intentionally violates any provision of this chapter, or any related laws or regulations shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.
8. Criminal prosecution. Some intentional violations may constitute criminal violations of federal, state, and town law, and that under such circumstances, the town may seek the assistance of the EPA, the state, or the town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter or any applicable AZPDES stormwater permit condition.
9. The town may withhold the issuance of permits including but not limited to building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the ownership of a person or persons in violation of any requirement of this chapter or any applicable AZPDES stormwater permit condition.
10. Liability for costs. The town may assess liability for costs to any person in violation of this chapter for all actual costs incurred by the town in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the town may assess liability for costs to any person whose discharge resulted in a violation of the town's AZPDES stormwater permit.

SECTION 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

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, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. This ordinance is effective on the 31<sup>st</sup> day after its adoption.



