

ORDINANCE NO. 12-758

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING CHAPTER 52 "RUBBISH, TRASH AND THE LIKE" OF THE TOWN OF CHINO VALLEY, ARIZONA, CODE OF ORDINANCES, BY AMENDING THE NAME, BY ADDING SECTIONS 52.02 "WATER AND EARTHEN MATERIAL FLOW" AND SECTION 52.03 "CULVERTS."

WHEREAS, numerous bar ditches, road-side ditches and similar types of drainage improvements ("drainage ditches") are situated adjacent to public streets within the Town of Chino Valley ("Town"); and

WHEREAS, such drainage ditches do not directly correlate to a formalized storm water management plan or to a designated flood hazard boundary map (FHBM) area, as described in Chapter 52 of the Chino Valley Town Code; rather, such drainage ditches exist for the general purpose of removing water from public streets during rainstorms, thereby preserving the integrity of said streets and allowing passage by pedestrian and vehicular traffic; and

WHEREAS, the Town constructs drainage ditches, in order to facilitate drainage from and about its roads; and

WHEREAS, the Town allows the installation of driveways within the public right of way, so that people may gain access to their property; and

WHEREAS, safe access to and from property that is adjacent to a public street containing a drainage ditch may necessitate the installation and/or maintenance of a culvert beneath a driveway or similar access path; and

WHEREAS, for a drainage ditch to be operational and effective, any such culvert must not obstruct the flow of water through a drainage ditch; and

WHEREAS, the Town is not obligated to install, maintain, or replace a culvert; and

WHEREAS, pursuant to Arizona Revised Statutes § 9-499, the Town is authorized to "compel the owner [...] of property to remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated structures which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets, and alleys;"

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. Chapter 52 of the Town of Chino Valley, Arizona, Code of Ordinances (“Town Code”), entitled “Rubbish, Trash and the Like” is hereby amended by amending the title of the Chapter to read “Removal of Rubbish, Trash, and the Like, and Culvert Maintenance” and by adding two Subchapters entitled “Water and Earthen Material Flow,” Section 52.02, and “Culverts,” Section 52.03, as follows:

CHAPTER 52: REMOVAL OF RUBBISH, TRASH AND THE LIKE, AND CULVERT MAINTENANCE

§ 52.02 WATER AND EARTHEN MATERIAL FLOW

(A) IT IS UNLAWFUL FOR ANY PERSON TO WILLFULLY OR NEGLIGENTLY PERMIT OR CAUSE THE ESCAPE OR FLOW OF WATER OR EARTHEN MATERIAL ONTO PUBLIC STREETS OR ADJACENT PROPERTIES IN SUCH A MANNER AS TO CAUSE FLOODING OR TO ENDANGER OR IMPEDE VEHICULAR TRAFFIC OR PEDESTRIAN TRAFFIC. EARTHEN MATERIAL SHALL INCLUDE BUT SHALL NOT BE LIMITED TO SOIL, SILT, CLAY, SAND, GRAVEL, ROCK, DIRT, MUD, ORGANIC MATERIAL, OR A COMBINATION THEREOF.

§ 52.03 CULVERTS OR OTHER DRAINAGE INFRASTRUCTURE; INSTALLATION AND MAINTENANCE

(A) ANY PERSON WITH VALID ACCESS TO A PUBLIC STREET, PURSUANT TO THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN, THAT CONTAINS A BAR DITCH, ROAD-SIDE DITCH, OR SIMILAR DRAINAGE IMPROVEMENT (“DRAINAGE DITCH”) MAY (i) BE REQUIRED BY THE CHINO VALLEY PUBLIC WORKS DEPARTMENT TO, UPON SIXTY (60) DAYS NOTICE, INSTALL A CULVERT OR OTHER DRAINAGE STRUCTURE IN OR BENEATH A DRIVEWAY OR SIMILAR ACCESS PATH (“CULVERT”).

(B) ANY PERSON THAT USES AN ACCESS WAY OR DRIVEWAY FROM PROPERTY OWNED OR CONTROLLED BY THEM, WHICH CONTAINS A CULVERT IS RESPONSIBLE FOR MAINTAINING SUCH CULVERT AND SHALL MAINTAIN THE SAME IN A REASONABLE CONDITION. THE TOWN, VIA ITS PUBLIC WORKS DEPARTMENT, MAY PROVIDE WRITTEN NOTICE TO SUCH PERSON, WHO SHALL HAVE THIRTY (30) DAYS FROM THE DATE OF THE NOTICE TO CORRECT THE DEFICIENCIES AND MAINTENANCE OF THE CULVERT.

(C) THE TOWN SHALL NOT BE RESPONSIBLE FOR THE INSTALLATION, MAINTENANCE, OR REPLACEMENT OF A CULVERT.

(D) IT SHALL BE UNLAWFUL FOR A PERSON TO INSTALL OR TO MAINTAIN A CULVERT IN SUCH A MANNER THAT TRAPS WATER OR EARTHEN

MATERIAL IN ANY DRAINAGE DITCH, OR THAT OTHERWISE IMPEDES POSITIVE DRAINAGE ALONG OR AWAY FROM THE PUBLIC STREET.

(E) NOTICE PROVIDED BY THIS CHAPTER 52.02 SHALL BE IN WRITING AND MAILED CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PROPERTY OWNER AND PARTY CONTROLLING THE PROPERTY.

(F) THIS SECTION 52.03 SHALL BE ENFORCED IN THE MANNER PROVIDED IN CHAPTER 10.

Section 2. All other Chapters and Sections of the Town of Chino Valley, Arizona, Code of Ordinances, not herein amended, shall remain in full force and effect.

Section 3. If any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of June, 2012.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Musgrove Drutz & Kack, PC
Town Attorney