

ORDINANCE NO. 2019-875

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, ADDRESSING CLERICAL MATTERS IN ORDINANCE 2019-862, AMENDING THE CHINO VALLEY TOWN CODE TITLE VIII, HEALTH AND SAFETY, SECTION 84.08, ABATEMENT PROCEDURES, RELATING TO THE PROPERTY MAINTENANCE CODE, AND TITLE XV, LAND USAGE, CHAPTER 154, UNIFIED DEVELOPMENT CODE, SECTION 1.6.2, POWERS AND DUTIES, RELATING TO DUTY OF THE ZONING ADMINISTRATOR TO ADMINISTER DEVELOPMENT GUIDELINES.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") adopted Ordinance 2019-862, providing for a new property maintenance code for the Town of Chino Valley (the "Town"); and

WHEREAS, certain provisions of the Town Code modified by Ordinance 2019-862 require amendments to ensure consistency in enforcement and in application of timeframes for abatement of the violations thereunder; and

WHEREAS, Ordinance 2019-862 inadvertently deleted the provisions of the former paragraph 1.6.2(2) of the Town's Unified Development Ordinance relating to the duty of the Zoning administrator and Assistant Zoning Administrator to administer the Town's Development Guidelines; and

WHEREAS, the Town Council desires to make the necessary changes and corrections to the Town Code to address code enforcement and to restore the erroneously-deleted provisions.

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

Section 1. The recitals above are incorporated as if fully set forth herein.

Section 2. The Chino Valley Town Code Title VIII (Health and Safety), Section 84.08 (Abatement Procedures), Subsection A (Notice to Abate) is hereby amended as follows:

(A) *Notice to Abate.*

(1) If, after an inspection, the town finds one or more violations of this Title, and the town elects to use the abatement process, the town shall, in writing, notify the person in control of the property. ~~If the person in control is not the owner, notice shall be sent to the owner as shown on the most recent records of the Yavapai County Assessor's Office. Such notice shall be actual notice, as evidenced by a signed certified mail return receipt or affidavit of service.~~

(2) The notice to abate shall set forth the following information:

(a) The person in control has ~~30~~ 35 CALENDAR days from the DATE OF ~~mailing~~ of the notice to abate or correct the violation.

(b) Location of the property in violation by street address if known and, if ~~unknown~~, by LEGAL DESCRIPTION FROM A RECORDED SUBDIVISION PLAT OR BY book, map and parcel number.

(c) Statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s).

(d) An estimate of the cost of abatement by the town plus 10% for the costs of inspection and other incidental costs associated with abating the nuisance.

(e) Re-inspection date and time.

(f) Name, address and telephone number of the town compliance agent who sent the notice to abate.

(g) A warning stating that if the violation is not corrected within ~~30~~ 35 days of the date of the notice, the town may abate the nuisance and assess the person in control the cost of such abatement and record a lien against the property for payment of the assessment.

(h) A statement that the person in control may appeal the abatement order in writing to the Town Council within ~~15~~ 20 CALENDAR days from the date of the notice.

~~(i) The 15 calendar day notice set forth in this section shall not apply to emergency abatements.~~

(3) The Town Manager may extend the time limits set forth in subsection (A)(42) of this section if the person in control demonstrates to the satisfaction of the Town Manager that complying with the notice of violation or notice to abate is a hardship and if the person in control agrees in writing to a schedule for correcting the violation bringing the property into compliance with the requirements of this title and complies with the schedule.

(4) The notice requirements set forth in this subsection (A) do not apply in an emergency abatement situation.

Section 3. The Chino Valley Town Code Title VIII (Health and Safety), Section 84.08 (Abatement Procedures), Subsection B (Service of Notices) is hereby amended as follows:

(B) *Service of notices.*

(1) Any notice required to be given under this section shall be accomplished by a compliance agent of the town delivering the notice to the person in control of the property, or by mailing the notice to the person in control by certified mail, return receipt requested. If the property owner is not the occupant or person in control, a duplicate noticeS shall be mailed to him or her by certified return receipt requested mail at his or her last known address AND TO THE ADDRESS AS SHOWN ON THE MOST RECENT RECORDS OF THE YAVAPAI COUNTY ASSESSOR'S OFFICE, IF DIFFERENT.

(2) Notice is deemed effective on the date it is hand delivered or FIVE CALENDAR DAYS AFTER IT IS deposited in the United States mail.

(3) Nothing herein shall preclude the town from giving additional oral or written notice at its discretion. If the town elects to give additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

Section 4. The Chino Valley Town Code Title VIII (Health and Safety), Section 84.08 (Abatement Procedures), Subsection G (Conflicting Provisions; Special Assessment), Paragraph 2 (Special Assessment Lien), Subparagraph (a), is hereby amended as follows:

(a) If the town is required to correct or abate a violation pursuant to this section, the town shall prepare a verified statement and account of the actual cost of such correction or abatement, including an additional 10% of the actual costs for inspection and other incidental costs incurred in connection with such correction or abatement. The verified statement and account shall be an assessment upon the property on which the town corrected or abated the violations and shall be collected at the same time and in the same manner as other town assessments are collected. Such assessment shall be recorded in the office of the Yavapai County Recorder and from the date of its recording shall be a lien on the property. Such lien shall be ~~subject to and inferior to the lien~~ **PRIOR AND SUPERIOR TO ALL OTHER LIENS, OBLIGATIONS, MORTGAGES OR OTHER ENCUMBRANCES, EXCEPT LIENS for general taxes and to all prior recorded mortgages.** A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure and order of sale. The town may institute an action to enforce the lien in the Yavapai County Superior Court at any time after the recording of the assessment. Failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.

Section 5. The Chino Valley Town Code Title XV (Land Usage), Chapter 154 (Unified Development Code), Section 1.6 (Zoning Administrator and Assistant Zoning Administrator), Subsection 1.6.2 (Powers and Duties), is hereby amended as follows:

1.6.2 POWERS AND DUTIES

The Zoning Administrator and Assistant Zoning Administrator shall perform the following functions:

1. Enforce this Ordinance by ensuring that all activities, construction, and development within the Town are in conformance with the Town zoning regulations.
2. Accomplish all administrative tasks required by this Ordinance including receiving and processing applications for all persons requesting a rezone, use permit, plan review, Zoning Administrator, appeal, or other action of the Commission, Board of Adjustment, or Town Council.
3. Subject to the policies of the Commission and Town Council, interpret this Ordinance to members of the public, Town departments, and other branches of government.

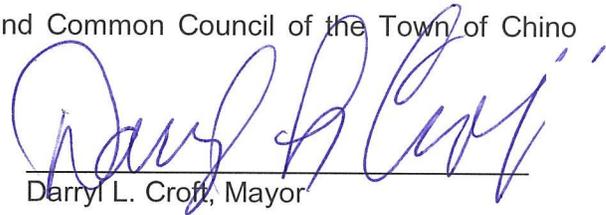
4. Serve as planning staff to Council and Commission, and, as necessary, attend meetings of these and other organizations and agencies.

5. ADMINISTER THE TOWN'S DEVELOPMENT GUIDELINES AS MAY BE ADOPTED FROM TIME TO TIME BY THE TOWN COUNCIL.

Section 6. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of November, 2019.



Darryl L. Croft, Mayor

ATTEST:



Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:



Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Ordinance No. 2019-875 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on November 12, 2019, and that quorum was present, and that the vote thereon was 6 ayes and 0 nays and 0 abstentions. 1 Council members were absent or excused.



Jami C. Lewis, Town Clerk