

ORDINANCE NO. 2022-913

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, DECLARING THE DOCUMENT ENTITLED “TOWN OF CHINO VALLEY FEBRUARY 2022 AMENDMENTS TO TITLE V: PUBLIC WORKS” AS A PUBLIC RECORD; ADOPTING THE “TOWN OF CHINO VALLEY FEBRUARY 2022 AMENDMENTS TO TITLE V: PUBLIC WORKS” BY REFERENCE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, the Town Council desires to update its property maintenance standards, its standards and requirements related to water and sewer connections, and its process to abate public nuisances, for the benefit of the Town;

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

Section 1. The above recital is hereby incorporated as if fully set forth herein.

Section 2. That certain document entitled “Town of Chino Valley February 2022 Amendments to Title V: Public Works,” (the “2022 Amendments”) of which one paper copy and one electronic copy are maintained, in compliance with ARIZ. REV. STAT. § 44-7041, on file in the office of the Town Clerk as required by ARIZ. REV. STAT. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record, and said copies are hereby ordered to remain on file with the Town Clerk.

Section 3. The Chino Valley Town Code is hereby amended by amending Chapter 50 (General Provisions) and Chapter 51 (Water and Sewers) as set forth in the 2022 Amendments, which document is hereby adopted by reference and incorporated herein by reference as if fully set forth in this Ordinance.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or with any part of the 2022 Amendments adopted herein by reference are hereby repealed.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the 2022 Amendments adopted herein by reference 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 6. The Mayor, the Town Manager, the Town Clerk, and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

Section 7. Except as otherwise provided, any person found responsible for violating any provisions of this Ordinance shall be guilty of a civil violation, punishable by imposition of a civil sanction not to exceed \$500.00. Each day a violation continues shall be considered a separate violation. A person who commits a violation of this Ordinance after previously having been found responsible for committing two or more civil violations of this Ordinance within a 24-month period, whether by admission, by payment of the sanction, by default, or by judgment after hearing, shall be guilty of a class one misdemeanor. The following specific penalties are set forth in the 2022 Amendments:

§ 50.31 INTERFERENCE, DIGGING AND TAMPERING PROHIBITED.

Any person who in any way interferes with any employees of the Departments in the discharge of the employee's duties, either in the tapping a water or sewer pipe, main or lateral belonging to the town, or the cleaning, laying or connection of a pipe or main or lateral, or the inspection of a construction or discharging facility, or who digs up, or causes to be dug up, any street, alley or easement in the town for the purpose of connecting with the water or sewer system of the town without first obtaining a permit from the Department, or who, having a permit, digs up any portion of any street, alley or easement of the town for the purpose of connecting to the water or sewer system of the town and fails or neglects to place the street, alley or easement in its original or better condition, or who shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal water and Sanitary Sewer System shall be guilty of a misdemeanor, except where the damages or/and penalties as may be assessed on the town total over \$5,000 in which case the person shall be guilty of a felony.

§ 51.077 UNAUTHORIZED CONNECTIONS WITH WATER MAINS.

No person shall connect any pipe, tube or other instrument with any main, service pipe, conduit or flume for the purpose of taking and conducting water belonging to the town, without a permit or authorized service connection from the Utility Department. Violators shall be guilty of a misdemeanor.

§ 51.120(A)(2) REMEDIES

The Public Works Director may:

After three (3) days' written notice impose a civil penalty not to exceed 1,000%/billing period on the charges for all water used beginning from the date the corrective action was required and until the corrective action has been completed by the customer to the satisfaction of the town.

§ 51.275 INTERFERENCE WITH OR OBSTRUCTING FACILITIES.

Any person who in any manner willfully defaces, illegally uses, obstructs or interferes with the operation of any well, pump, storage tank, hydrant, valve, pipe, construction trench, or any other water works facility, or any cleanout, manhole, pipe, pump station, treatment plant, recharge facility, construction trench or any other wastewater works facility, or anyone who pollutes the potable water supply or recharge water supply of the town, or violates any provision of this chapter shall be guilty of a misdemeanor, or a felony if the total value of the damage and expense is sufficient to reach such threshold. Any expense caused to the town for the repair, replacement or cleanup of damaged, stolen or misused water and wastewater works facilities shall be charged against and collected from the person or persons who caused the expense. The violation of any provision of this chapter, or failure to pay for damages to town facilities, shall be sufficient cause for the Public Works Director to discontinue town water and/or wastewater service to any property owned or used by the person or persons.

§ 51.278 CRIMINAL PENALTY.

Any person who violates any provision of this chapter, other than the sections designated as civil violations in § 51.279, shall be guilty of a misdemeanor, except for such violations as may exceed felony damage thresholds. Each day a violation continues shall constitute a separate violation.

§ 51.279 CIVIL PENALTY.

(A) Any person who violates any provision §§ 51.176 *et seq.*, 51.215 *et seq.* and/or 51.230 *et seq.* shall be civilly liable to the town for a sum as adopted by resolution per day for each violation. Each day a violation continues may constitute a separate offense. In seeking the assessment of a civil penalty, the following criteria contained in A.R.S. § 49-391(C) shall be considered:

- (1) The seriousness of the violation;
- (2) The economic benefit, if any, resulting from the violation;
- (3) Any history of such, or other, violations;
- (4) Any good faith efforts to comply with the applicable requirements;
- (5) The economic impact of the penalty on the violator; and/or
- (6) Such other factors as justice may require.

(B) In addition to the civil penalty imposed herein, the person shall be liable for any civil penalty imposed on the town by other regulatory agencies as a result of the violation.

§ 51.280(A) REMEDIES

In addition to any civil and/or criminal penalty which may be imposed for violations of this chapter, a user shall be liable for all actual costs which may be assessed by the finance Director on a user of the town's Sanitary Sewer System who discharges wastes containing non-permissible quantities of prohibited substances into the sanitary sewer system or contaminates the town's potable water supply, storage and discharge system. The finance Director is authorized to assess charges based on the extra costs incurred by the town in surveillance, sampling and testing, for additional operating and maintenance expenses, including overhead charges, and for any other action required to identify, handle, process or supplement normal activities due to the unauthorized discharge of wastes or system contamination.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 22nd day of February, 2022.



Jack W. Miller, Mayor

ATTEST:

Erin Deskins

Erin N. Deskins, Town Clerk

APPROVED AS TO FORM:

Andrew McGuire

Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify that the foregoing Ordinance No. 2022-913 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on February 22, 2022, and that quorum was present, and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. 0 Council members were absent or excused.

Erin Deskins

Erin N. Deskins, Town Clerk