

**MARANA ORDINANCE NO. 2015.021**

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RELATING TO DEVELOPMENT; ADOPTING COMPREHENSIVE REVISIONS TO AND REFORMATTING AND CONSOLIDATION OF MARANA LAND DEVELOPMENT CODE TITLE 1 (TITLE, INTENT, AND PURPOSE); TITLE 2 (ADMINISTRATION); TITLE 3 (DEFINITIONS); TITLE 4 (PLANNING); SECTION 05.04 (NONCONFORMING STRUCTURES AND LAND USES) AND ALL OF SECTION 05.05 (RELATIONSHIPS TO STREETS, OTHER STRUCTURES, AND OTHER PROPERTY) EXCEPT SUBSECTION 05.05.08 (MANUFACTURED HOMES IN ZONE A, B, & C); TITLE 6 (SUBDIVISIONS); TITLE 7 (LARGE SCALE DEVELOPMENTS); ALL OF TITLE 8 (GENERAL DEVELOPMENT REGULATIONS) EXCEPT SECTION 08.06 (RESIDENTIAL DESIGN) AND SECTION 08.07 (COMMERCIAL DESIGN STANDARDS); TITLE 9 (ADMINISTRATION AND ENFORCEMENT); TITLE 10 (PROCEDURES); TITLE 11 (PROHIBITION OF ILLEGAL AND NUISANCE USES); TITLE 12 (CONFLICT OF INTEREST); TITLE 13 (PENALTY); TITLE 14 (SEVERABILITY); TITLE 15 (REPEAL OF OTHER ORDINANCES AND EFFECTIVE DATE); TITLE 21 (FLOOD PLAIN AND EROSION HAZARD MANAGEMENT CODE); AND TITLE 25 (STORMWATER MANAGEMENT) INTO TITLE 17 (LAND DEVELOPMENT) OF THE MARANA TOWN CODE

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 Title 1 (Title, Intent, and Purpose); Title 2 (Administration); Title 3 (Definitions); Title 4 (Planning); Section 05.04 (Nonconforming Structures and Land Uses) and all of Section 05.05 (Relationships to Streets, Other Structures, and Other Property) except Subsection 05.05.08 (Manufactured Homes in Zone A, B, & C); Title 6 (Subdivisions); Title 7 (Large Scale Developments); all of Title 8 (General Development Regulations) except Section 08.06 (Residential Design) and Section 08.07 (Commercial Design Standards); Title 9 (Administration and Enforcement); Title 10 (Procedures); Title 11 (Prohibition of Illegal and Nuisance Uses); Title 12 (Conflict of Interest); Title 13 (Penalty); Title 14 (Severability); Title 15 (Repeal of Other Ordinances and Effective Date); Title 21 (Flood Plain and Erosion Hazard Management Code); and Title 25 (Stormwater Management) into Title 17 (Land Development) of the Marana Town Code, three copies of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, which were made a public record by and attached as Exhibit A to Resolution No. 2015-134 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:

### **17-5-8 Violations and penalties**

- A. It shall be a misdemeanor to record or attempt to record a subdivision plat or minor land division map with the county recorder if such plat or map includes any land within the town and such plat or map has not been given approval by the town.
- B. It shall be a 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.

### **17-15-5 Unlawful acts**

- A. It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.
- B. Any person violating the provisions of this chapter shall be guilty of a class 2 misdemeanor. Each day that a violation continues shall be considered a separate offense.

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

- A. Inspections [no penalty clauses]
- B. Enforcement and penalties
  - 1. Charges or penalties levied pursuant to this chapter shall be collected by the department of public works and utilized for public education and outreach in compliance with the town's MS4 Permit. The town engineer shall make and enforce economic and efficient management and protection of the town's storm sewer system.
  - 2. 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.
  - 3. 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 4 and 6 of this section.

4. 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.
5. 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.
6. 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.
7. Civil penalties. In addition to any other enforcement authority contained in this chapter, the town may issue a civil citation to any person who has violated, or continues to violate, any provision of this chapter or any related laws or regulations. A person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition shall be civilly liable to the town for a sum not to exceed \$2,500 per day for each violation.
8. Criminal penalties. A person who willfully or negligently 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.
9. 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 NPDES or AZPDES stormwater permit condition.

10. 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 NPDES or AZPDES stormwater permit condition.
11. 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.

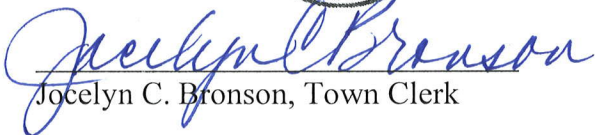
SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.


SECTION 6. This ordinance shall become effective on January 15, 2016.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 15<sup>th</sup> day of December, 2015.

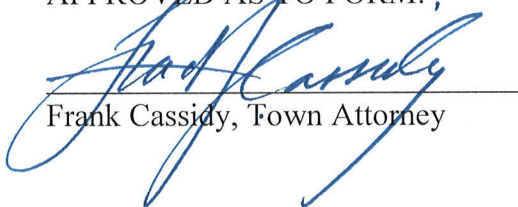


ATTEST:

  
Jocelyn C. Bronson, Town Clerk

  
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Mayor Ed Honea

APPROVED AS TO FORM: ,

  
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Frank Cassidy, Town Attorney