

## MARANA ORDINANCE NO. 2022.006

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RELATING TO DEVELOPMENT; ADOPTING REVISIONS TO TITLE 17 "LAND DEVELOPMENT" OF THE MARANA TOWN CODE, INCLUDING MISCELLANEOUS REVISIONS TO SECTION 17-3-1 (AMENDMENT AND REZONING), CHAPTER 17-4 "ZONING," SECTION 17-11-7 (LANDSCAPE REQUIREMENTS), CHAPTER 17-15 "FLOODPLAIN AND EROSION HAZARD MANAGEMENT CODE", AND CHAPTER 17-16 "STORMWATER MANAGEMENT"; REVISING CHAPTER 17-6 "GENERAL DEVELOPMENT REGULATIONS" TO ADD NEW SECTION 17-6-10 (HEIGHT OF BUILDINGS AND STRUCTURES); REVISING CHAPTER 17-14 "HILLSIDE DEVELOPMENT" TO ADD NEW SECTION 17-14-5 (AVERAGE CROSS SLOPE CALCULATIONS); AND MAKING OTHER VARIOUS REVISIONS TO TITLE 17 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 revisions to Title 17 "Land Development" of the Marana Town Code, including miscellaneous revisions to Section 17-3-1 (Amendment and rezoning), Chapter 17-4 "Zoning," Section 17-11-7 (Landscape requirements), Chapter 17-15 "Floodplain and Erosion Hazard Management Code", and Chapter 17-16 "Stormwater Management"; revisions to Chapter 17-6 "General Development Regulations" to add new section 17-6-10 (Height of buildings and structures); revisions to Chapter 17-14 "Hillside Development" to add new section 17-14-5 (Average cross slope calculations); and other various revisions to Title 17 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. 2022-027 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:

### **17-15-7 Abatement of violations**

- A. Within 30 days of discovery of a violation of this chapter, the floodplain administrator shall submit a report to the floodplain board which shall include all information available to the floodplain administrator which is

pertinent to the violation. Within 30 days of receipt of this report, the floodplain board shall do one of the following:

1. Take any necessary action to effect the abatement of such violation.
2. Issue a floodplain variance to this chapter in accordance with the provisions of section 17-15-11.
3. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the floodplain administrator within 30 days of such order and the floodplain administrator shall submit an amended report to the floodplain board within 20 days. At the next regularly scheduled public meeting, the floodplain board shall either order the abatement of said violation or they shall grant a floodplain variance in accordance with the provisions of section 17-15-11.
4. For FEMA regulated special flood hazard areas, submit to FEMA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the national flood insurance act of 1968 as amended.

B. The town may withhold the issuance of permits, including building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the same ownership.

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

A. Inspections [no penalty clauses]

B. Enforcement and penalties

1. When inspections by town staff reveal deficiencies in the implementation of the SWPPP, a written inspection report will be provided to the owner and operator within 30 days of the inspection.
2. Charges or penalties levied pursuant to this chapter shall be collected and utilized for public education and outreach in compliance with the town's MS4 permit.
3. 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.
4. 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.

5. 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 third 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.

6. 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.

7. 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.

8. Civil penalties. A person who violates any requirement of this chapter shall be civilly liable to the town for a sum not to exceed \$2,500 per day for each violation.

9. 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.

10. 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.

11. 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.

12. 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.

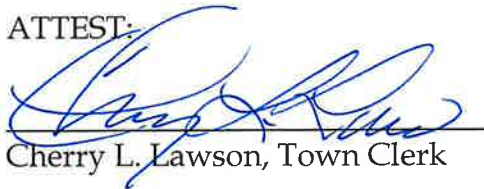
SECTION 6. This ordinance is effective on the 31<sup>st</sup> day after its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 15<sup>th</sup> day of March, 2022.



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Mayor Ed Honea

ATTEST:



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Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:



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Jane Fairall, Town Attorney

