

ORDINANCE NO. (O) 10-14

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING ORO VALLEY TOWN CODE, CHAPTER 15, WATER CODE, ARTICLE 24, STORMWATER, SUBSECTION 15-24-13(K), REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, Oro Valley is a political subdivision of the State of Arizona, is vested with all rights, privileges, and benefits and entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, pursuant to A.R.S. 9-511, *et seq.*, the Town has requisite statutory authority to acquire, own and maintain a Stormwater utility for the benefit of the landowners within and without the Town's corporate boundaries; and

WHEREAS, on June 20, 2001, the Council adopted Ordinance No. (O) 01-15, Article 15-24, Stormwater Utility Ordinance which serves as the Comprehensive Stormwater Management Plan; and

WHEREAS, on November 9, 2007, the Town adopted Oro Valley Town Code, Chapter 15, Article 24, Section 15-24-13, Stormwater Utility Fee System; and

WHEREAS, the current Subsection 15-24-13(K), Stormwater Utility Fee Payable Date; Interest Amount; Lien on Real Property; Abatement of Small Amounts Due, proved unworkable as a mechanism to collect delinquent stormwater utility fees; and

WHEREAS, the Mayor and Council desire to rename Subsection 15-24-13(K) to "Delinquent Stormwater Utility Fee Process/Penalties", and to amend the subsection to clarify the mechanism for collection of delinquent stormwater utility fees.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the Town of Oro Valley, Arizona, that:

SECTION 1. Subsection 15-24-13(K) of the Oro Valley Town Code is hereby amended as follows with additions in ALL CAPS and deletions in ~~strikethrough~~.

15-24-13 Stormwater Utility Fee System

~~K. Stormwater Utility Fee Payable Date; Interest Amount; Lien on Real Property; Abatement of Small Amounts Due.~~

~~1. The invoiced fee is due within thirty (30) days from the date that the bill is issued to the property owner and is overdue after that date. Late fees will be charged in accordance with the Oro Valley Water Utility's delinquency policy.~~

~~2. Any fee, including interest, when overdue, is a lien on real property and may be collected in the same manner as delinquent Oro Valley Water Utility fees.~~

~~3. The Stormwater Utility Administrator may abate the fee, including interest, if the cost of collection is estimated to exceed the amount of the fee, including any interest due.~~

~~4. The Town Engineer, and/or his designee, may institute any appropriate action or proceeding by the issuance of a civil citation or summons pursuant to Article 1-8, Penalties, of the Oro Valley Town Code.~~

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K. DELINQUENT STORMWATER UTILITY FEE PROCESS/PENALTIES. FOR ORO VALLEY RESIDENTS BEING SERVED WATER BY THE ORO VALLEY WATER UTILITY AND CHARGED THEIR STORMWATER UTILITY FEES AS PART OF THEIR WATER UTILITY BILL, THE ORO VALLEY WATER UTILITY REGULATIONS SHALL APPLY TO ALL DELINQUENT FEES.

FOR ALL OTHER ORO VALLEY STORMWATER UTILITY CUSTOMERS, THE FOLLOWING SHALL BE FOLLOWED TO OBTAIN PAYMENT OF DELINQUENT FEES AND PENALTIES.

1. **PROCESS.** STORMWATER UTILITY FEES ARE OVERDUE TWENTY ONE (21) DAYS AFTER THE STORMWATER UTILITY BILL IS ISSUED AND A PENALTY FOR ANY OVERDUE PAYMENTS MAY BE IMPOSED.
 - a) THE STORMWATER UTILITY MANAGER SHALL SEND A DELINQUENCY NOTICE TO PROPERTY OWNERS RESPONSIBLE FOR STORMWATER UTILITY FEES DEMANDING PAYMENT OF THEIR DELINQUENT FEE WITHIN TEN (10) DAYS OF THE DATE OF THE NOTICE.
 - b) IF THERE IS NO REPLY TO THE STORMWATER UTILITY MANAGER'S LETTER, THE TOWN ATTORNEY'S OFFICE SHALL SEND A LETTER DEMANDING PAYMENT OF THE STORMWATER UTILITY FEE FROM PROPERTY OWNERS WHO HAVE NOT REPLIED TO THE FIRST NOTICE. IN THE EVENT THAT THERE IS NO RESPONSE TO THE TOWN ATTORNEY'S LETTER, THE TOWN WILL INITIATE LEGAL PROCEEDINGS IN THE ORO VALLEY MAGISTRATE COURT AFTER TEN (10) DAYS.
 - c) FAILURE TO PAY THE FEE, INCLUDING ANY LATE CHARGES, BY THE DUE DATE SHALL BE CONSIDERED A CIVIL VIOLATION AND A SUMMONS AND COMPLAINT WILL BE SERVED ON THE PROPERTY OWNER. THE SUMMONS AND COMPLAINT WILL BE SERVED ON THE PROPERTY OWNER BY A PROCESS SERVER.
 - d) IN THE EVENT THE DEFENDANT(S) FAIL(S) TO APPEAR IN COURT, THE ORO VALLEY MAGISTRATE IS AUTHORIZED TO ISSUE A DEFAULT

JUDGMENT AGAINST THE DEFENDANT(S) IN ACCORDANCE WITH SUBSECTION 2 BELOW.

2. PENALTIES.

A. CIVIL SANCTIONS

1. A PERSON FOUND RESPONSIBLE FOR A VIOLATION OF THIS ARTICLE SHALL BE SANCTIONED BY THE MAGISTRATE OR HEARING OFFICER AS FOLLOWS:
 - a) FIRST VIOLATION WITHIN A TWENTY FOUR (24) MONTH PERIOD: A SANCTION OF NOT MORE THAN ONE HUNDRED DOLLARS (\$100.00).
 - b) SECOND VIOLATION WITHIN A TWENTY FOUR (24) MONTH PERIOD: A SANCTION OF NOT MORE THAN ONE HUNDRED AND FIFTY HUNDRED DOLLARS (\$150.00).
 - c) THIRD OR SUBSEQUENT VIOLATION WITHIN A TWENTY FOUR (24) MONTH PERIOD: A SANCTION OF NOT MORE THAN TWO HUNDRED DOLLARS (\$200.00).
 - d) THE COURT MAY, AT ITS DISCRETION, REDUCE OR SUSPEND THE SANCTION.

SANCTIONS ARE IN ADDITION TO THE DELINQUENT STORM WATER UTILITY FEE, LATE FEES AND CHARGES.

B. DEFAULT JUDGMENT

1. IF AFTER BEING LEGALLY SERVED WITH A SUMMONS AND COMPLAINT, THE PARTY FAILS TO APPEAR AT THE HEARING TIME DESIGNATED IN THE SUMMONS AND COMPLAINT AND/OR TIME DESIGNATED FOR A HEARING BY THE COURT, THAT INDIVIDUAL SHALL BE DEEMED TO HAVE ADMITTED THE ALLEGATION IN THE COMPLAINT AND THE COURT SHALL ENTER JUDGMENT AND IMPOSE A CIVIL SANCTION IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.
2. UPON ENTRY OF THE DEFAULT JUDGMENT THE COURT, IN ADDITION TO THE SANCTIONS, MAY IMPOSE ALL APPLICABLE SURCHARGES, SECURITY FEES, A DEFAULT JUDGMENT FEE AND OTHER COURT FEES AS AUTHORIZED BY STATE LAW OR TOWN ORDINANCE.
3. IF ANY PENALTY ORDERED TO BE PAID BY THE MAGISTRATE OR FORFEITED PURSUANT TO DEFAULT IS NOT PAID WITHIN THIRTY (30) DAYS OF THE MAGISTRATE'S ORDER, A LIEN ON THE REAL

PROPERTY TO WHICH THE DELINQUENT STORMWATER FEES APPLY MAY BE FILED IN THE AMOUNT OF THE JUDGMENT BY THE TOWN ATTORNEY. THE MAGISTRATE MAY ALSO INSTITUTE JUDICIAL PROCEEDINGS AS PROVIDED BY LAW TO COLLECT ANY SUCH PENALTY. ALL PENALTIES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE PAID TO AND BECOME THE PROPERTY OF THE TOWN.

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SECTION 2. All Oro Valley 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.

SECTION 3. 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, such decision shall not affect the validity of the remaining portions thereof.


PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona 17 day of November, 2010.

TOWN OF ORO VALLEY



Dr. Satish I. Hiremath, Mayor

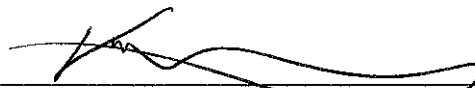
ATTEST:



Kathryn E. Cuvelier, Town Clerk

Date: 11-19-10

APPROVED AS TO FORM:



Tobin Rosen, Town Attorney

Date: 11/17/10