

## CHAPTER 17 – NUISANCES

### Sec. 17-51. Nuisance; enforcement; violation and penalties.

For purposes of this chapter, the owner of record as recorded in the Maricopa or Yavapai County Recorder's Office records of the property on which a violation of this ordinance exists may be presumed to be a person having lawful Control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land. There shall be a rebuttable presumption that any person residing on the property is doing so with the consent of the recorded owner and such persons shall be jointly liable with any owner for any violation of this Chapter.

(a) The remedies herein are cumulative and the City may proceed under one or more such remedies.

(b) (1) Any owner or responsible party, who causes, permits, facilitates, or aids or abets any violation of any provision of this Chapter or who fails to perform any act or duty required by the Chapter is subject to a civil sanction in accordance with a schedule adopted by the Presiding Judge of Municipal Court, the minimum sanction shall not be less than two hundred dollars or more than two thousand five hundred dollars. All surcharges imposed by this code shall be in addition to the civil sanction. Any owner or responsible party who commits a second violation of this Chapter within thirty-six months of the commission of a prior violation of this Chapter shall be subject to a civil sanction in accordance with a schedule adopted by the Presiding Judge of Municipal Court, the minimum sanction shall not be less than four hundred dollars. All surcharges imposed by this code shall be in addition to the civil sanction. Any owner or responsible party who commits a third violation of the Ordinance within thirty-six months of the commission of a violation of the Ordinance shall be subject to a civil sanction of not less than seven hundred and fifty dollars. All surcharges imposed by this code shall be in addition to the civil sanction.

(2) The thirty-six-month period provision of subsection B (1) of this section shall be calculated by the dates the violations were committed. The owner or responsible party shall receive the enhanced civil sanction upon a finding of responsibility for any violation of this Chapter which was committed within thirty-six months of the commission of another violation for which the owner or responsible party was convicted or found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.

(c) (1) Any owner, responsible party, or other person having control over a structure or parcel of land who causes, permits, facilitates, or aids or abets any

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violation of any provision of the Chapter or who fails to perform any act or duty required by the Chapter is guilty of a Class 1 misdemeanor.

(2) Any person convicted of a violation of the Ordinance shall be sentenced to a fine of not less than two hundred dollars. Any person who is convicted of a second violation of the Ordinance committed within thirty-six months of a prior violation of the Ordinance shall be subject to a fine of not less than four hundred dollars. All surcharges imposed by this code shall be in addition to the civil sanction. Any person who is convicted of a third or subsequent violation of the Ordinance committed within thirty-six months of a prior violation of the Ordinance shall be subject to a fine of not less than seven hundred and fifty dollars. All surcharges imposed by this code shall be in addition to the civil sanction.

(3) The thirty-six-month period provision of subsection (c)(2) of this section shall be calculated by the dates the violations were committed. The owner or responsible party shall receive the enhanced fine upon a conviction of any violation of the Ordinance which was committed within thirty-six months of the commission of another violation for which the owner or responsible party was found responsible or convicted, irrespective of the order in which the violations occurred.

(d) Each day any violation of any provision of this Chapter or the failure to perform any act or duty required by this Chapter exists shall constitute a separate violation or offense.

(e) In addition to any other sanction or penalty authorized under subsections (b) and (c) of this section, the Court may issue an order permitting the City to abate the condition giving rise to the violation. The reasonable costs of any such abatement, plus a ten percent administrative fee, which shall not exceed one thousand dollars shall be the responsibility of the person found responsible or guilty of the violation and may be collected as provided in Section 17-53.

(f) It is an affirmative defense for an owner of record that any violation of this Chapter was caused by an act or acts of a lessee or tenant who was a lawful resident of the property having a right to be on the property on the date of violation alleged in the complaint and that the owner has no legal authority to compel the lessee or tenant to correct the violation. No defense shall be asserted pursuant to this provision unless notice thereof is filed with the Peoria Municipal Court and provided to the Office of the City Attorney at least twenty days in advance of the date set for trial.

(g) If any owner or responsible party is adjudged guilty or responsible for a violation of this Chapter or Chapters 5 and/or Chapter 9 of this code which caused or contributed to the necessity of an order to vacate a dwelling or dwelling unit being issued pursuant to Chapter 5 or Chapter 9 of this Code, the court shall impose a fine or penalty, exclusive of surcharges, no less

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than the greater of two hundred dollars or the amount paid by any governmental agency to re-establish a household for any individuals or families residing in the dwelling or dwelling units ordered to be vacated. In no event shall the maximum fine or penalty for a single offense or violation exceed two thousand five hundred dollars, exclusive of surcharges. In no case shall an owner or responsible party who falls within the provisions of this subsection be eligible for suspension or commutation of a sentence or penalty except in the case of a criminal offense such owner or responsible party is placed on probation with the condition that the minimum mandatory fine be paid.

Cross reference(s) -- Definitions and rules of construction generally, § 1-2.

(Code 1977, § 10-4-1)

(Ord. No. 90-09, 3/13/90)

(Ord. No. 92-39, 10/6/92)

(Ord. No. 98-20, 4/7/98, amended (e))

(Ord. No. 00-14, 3/7/00, Amended to add (b),(c),(e) and (h) SUPP 2000-1)

(Ord. No. 00-20, 5/16/00, Repealed and Reserved) SUPP 2000-2

(Ord. No. 04-212, 12/14/04, Enacted) SUPP 2004-4

(Ord. No. 2010-03, 01/19/2010, Amended) SUPP 2001-1