

ORDINANCE NO. P-11
PASSED AND ADOPTED February 21, 1998
AMENDED February 3, 1999
AMENDED February 17, 1999
AMENDED February 2, 2000.

MARICOPA COUNTY
ABATEMENT ORDINANCE No. 11

CHAPTER 1 – PURPOSE AND TITLE

101. PURPOSE

The purpose of this ordinance is to provide for the remedy of situations existing on real property which have been determined to have detrimental effects on the public health, safety, and/or general welfare.

102. TITLE

This document shall be referred to and known as “Abatement Ordinance”.

103. SEPARABILITY

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 effect the validity of the remaining portions thereof.

104. REVOCATION

This document shall abolish, replace, and/or supercede any previous amendments, changes or additions to the Weed Abatement Ordinance No. 11 previously approved by Maricopa County.

CHAPTER 2 - ADMINISTRATION

201. PURPOSE

The purpose of this chapter is to provide in one location all administrative authorizations for implementation of this ordinance.

202. ADMINISTRATIVE RESPONSIBILITY

It shall be the responsibility of the abatement officer to enforce the provisions of this ordinance. The abatement officer is hereby authorized to adopt necessary forms, processes and procedures to implement the provisions of this ordinance.

203. AMENDMENT

This document may be amended from time to time. It may be amended by simple motion of the Board of Supervisors, provided all state required legal advertising for amending this code has been satisfied. The abatement officer may correct typographical errors and/or reformat this document without being considered an amendment.

204. ENFORCEMENT PROCESS

The following process shall be followed in the enforcement of this ordinance:

1. Receipt of complaint or observation by abatement officer
2. Complaint investigation inspection
3. Notice of violation
4. Violation appeal (if requested)
5. Voluntary removal of violation
6. Abatement (if needed)
7. Assessment appeal (if needed and if requested)
8. Lien enforcement (if needed)

205. VIOLATION

A person, firm or corporation shall have committed a violation of this ordinance if such person, firm or corporation without lawful authority:

- a) Allows for rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety to remain upon property of which they are the owner or occupant, or to remain upon sidewalks, streets and alleys contiguous to the property which they are the owner or occupant,
- b) Places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the County which is not owned or under the control of the person, firm or corporation.

206. PENALTY

Any person, firm or corporation committing a violation pursuant to Section 205 of this ordinance shall be subject to penalties and enforcement as follows:

- a) Violation pursuant to Section 205.a shall be a Class 2 Misdemeanor and may be enforced in the same manner as any violation of the Maricopa County Zoning Ordinance.

- b) Violation pursuant to Section 205.b shall be a Class 1 Misdemeanor and may be enforced in the same manner as any violation of the Maricopa County Zoning Ordinance.
- c) Violation pursuant to Sections 205, which relate to rubbish, trash, weeds, filth, and debris, AND/OR dilapidated buildings may be alternatively subject to abatement under the provisions of Sections 405 of this ordinance.

CHAPTER 3 - DEFINITIONS

301. PURPOSE

The purpose of this chapter is to centrally locate all terms specifically defined for use in the administration of this ordinance.

302. DEFINITIONS

In this ordinance, unless the context requires otherwise, the following terms shall be defined as:

Abatement Officer means the Director of the Department of Planning and Development or his/her designated representative.

Contiguous Property includes adjoining property, or property touching at any point along a property boundary.

County means Maricopa County.

Dilapidated building means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public. The Building Official shall determine whether a structure is a dilapidated building. Dilapidated buildings as determined by the Building Official shall include, but not be limited to, those buildings that meet any or all of the following criteria:

- a) The building or structure's interior walls or other vertical structural members, list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- b) The building or structure, exclusive of the foundation, has thirty-three percent or more damage or deterioration to the supporting member or members structural assembly, or fifty-percent damage or deterioration to the non-supporting enclosing or outside walls or covering.

- c) The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.
- d) The building or structure exhibits conditions that present actual hazards or dangers.
- e) The building or structure has been vacant and unsecured for more than forty-eight (48) hours, on more than one (1) occasion, during a previous twelve (12) month period.
- f) The building or structure or their contents represents an imminent health or fire hazard.

Lessee means a person, firm or corporation who rents the property of another whether by oral or written lease or rental agreement or any person, firm or corporation who is a tenant on the property of another by permission.

Leinholder means a person who has a recorded claim on the property of another as security for the payment of a just debt.

Occupant means any person who has actual use, possession or control of the property, but does not mean any corporation or association operating or maintaining rights of way for and on behalf of the United State of America, either under contract or under federal law.

Owner shall include, but not be limited to, any person or corporation possessing legal or equitable title to the property whether for that person, corporation or another and includes persons or corporations holding or expecting title under a contract for the sale of real property.

Rubbish, trash, filth or debris shall include, but not be limited to: ordinary litter, refuse, waste, or rubble and any remains thereof and similar material including the waste or rubble of any dilapidated building.

Weeds shall include any uncultivated vegetation of a combustible nature with an associated fire hazard which cannot be reasonably contained on the property where it exists and shall include, but not be limited to: dried grass higher than six (6) inches; or other dried vegetation higher than six (6) inches; tumbleweeds, branches or clippings; or dead trees, bushes or shrubs.

CHAPTER 4 – GENERAL REGULATIONS

401. PURPOSE

The purpose of this chapter is to provide in one location the general regulations to be used in this abatement process.

402. COMPLAINT PROCESSING

a. Receipt of Complaint

Upon receipt of a complaint that a violation as set out in Section 205 of this Ordinance has occurred, the abatement officer shall conduct an inspection of the subject property to determine if the complaint is valid.

b. Violation Determined

If a violation is determined to exist, either through an inspection or observation by the abatement officer, notice in writing shall be served upon the owner, any leinholder, occupant, or lessee by Certified United States mail or in person at their last known address, or at the address on file in the Maricopa County Assessor's Office. If the owner does not reside upon the property, a copy of the notice shall be mailed to the owner by certified United States Mail to the owner's last known address or may be served by any other means reasonably calculated to provide the owner with notice.

c. Content of Violation Notice

The notice of violation shall include the following:

1. The date on which the notice is issued;
2. The name of the person(s) served with the notice;
3. The address of the person served;
4. The address or legal description of the lot, parcel or tract where the violation was determined to exist;
5. The date on which the violation occurred;
6. Whether the person served is the owner, occupant or lessee of the property;
7. A description of the specific violation which exists and the specific reasons why the situation constitutes a hazard to public health and safety.
8. The "compliance date" which is the date by which the owner, occupant or lessee must be in compliance with this ordinance, which date must be at least thirty days after the date of the notice;

9. The estimated cost to the county for the removal if the owner, occupant or lessee does not comply. Removal costs will be assessed against the owner, occupant or lessee if the removal involves rubbish, trash, weeds, filth, debris or dilapidated buildings;
10. Notice that the owner, occupant or lessee shall have ten (10) days from the date of the notice to file an appeal of the issuance of the notice and the assessment.

404. FAILURE TO COMPLY

If the owner, occupant, lessee or any person with an interest in the property fails to correct the violation identified by the compliance date set out in the Notice of Violation, or upon issuance of the final decision by the Board of Supervisors in writing upholding the notice of violation after an appeal, the abatement officer may:

1. Issue an Order of Abatement directing the removal of all rubbish, trash, weeds, filth, debris or dilapidated buildings from the lot, parcel, or tract, which was the subject of a notice under Section 3 of this Ordinance. The Order shall be in writing and signed by the Abatement Officer
2. The Order shall include the estimated cost for the removal, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement and associated legal costs.
3. A copy of the Order of Abatement shall be posted upon the subject property on the date of issuance. The Order shall be sent by Certified United States Mail to the owner, leinholder, occupant, or if non-owner occupied, the lessee at their last known address or at the address on file in the Maricopa County Assessor's Office. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

405. ABATEMENT

After ten (10) days have elapsed from the date of issuance of the Order of Abatement, the Abatement Officer may enter upon said property and remove all rubbish, trash, weeds, filth, debris, and/or dilapidated buildings from any lot, parcel, or tract which is the subject of an Abatement Order.

ACTIONS PRIOR TO ABATEMENT

- 1) Prior to the removal or abatement of any significant waste or rubble of any dilapidated buildings of reasonably possible historic value, the Abatement

Officer shall consult with the Arizona State Historic Preservation Office to determine if the waste or rubble is of historic value.

- 2) THE Abatement Officer may request that the Maricopa County Department of Environmental Services, the Arizona Department of Environmental Quality or the United States Environmental Protection Agency inspect for environmental risks or hazards on any buildings, grounds, lots, contiguous sidewalks, streets and alleys prior to, or at any time during or after, any removal or abatement.

406. ASSESSMENT

Within thirty (30) days after the Abatement Officer has removed the rubbish, trash, weeds, filth or debris or dilapidated buildings from any lot, parcel, or tract pursuant to this ordinance, the Abatement Officer shall issue an Order of Assessment. The Order shall be in writing and shall list the common address, legal description and tax parcel number of the property.

The Order shall also list the actual cost of removal, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement and associated legal costs and the total cost. The Order shall indicate that the entire cost is due and payable in full within thirty (30) days from the date of issuance of the Order and that the assessment will become delinquent on that date.

The Order shall be signed by the Abatement Officer and shall be recorded in the Office of the Maricopa County Recorder. A copy of the Order of Assessment shall also be provided to the Office of the Maricopa County Treasurer and Maricopa County Assessor.

407. ORDER OF ASSESSMENT CONTENTS

The Order of Assessment shall also contain the following notice in bold print:

NOTICE: THIS ORDER OF ASSESSMENT, PURSUANT TO A.R.S. 11-268.D., SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF MARICOPA COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

Lien position of any lien filed pursuant to this ordinance shall be in accordance with A.R.S. § 11-268.

The Order of Assessment shall indicate that the owner, leinholder, occupant, or if non-owner occupied. The lessee shall have ten (10) days from the date of issuance to appeal the amount of assessments levied by the County.

408. STATUS OF ASSESSMENTS

Assessments that are imposed under this chapter run against the property until they are paid and are due and payable in equal annual installments as set forth in A.R.S. § 11-268.

CHAPTER 5 - APPEALS

501. PURPOSE

The purpose of this chapter is to provide in one location all regulations relating to appeals authorized under this ordinance.

502. APPEAL OF NOTICE OF VIOLATION

The owner, leinholder, occupant or lessee shall have ten (10) days to appeal a notice of violation to the Board of Supervisors. All appeals shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the Clerk of the Board of Supervisors and may be filed in person or by mail. If mailed, the date of mailing of the appeal shall be the filing date of the appeal.

503. VIOLATION APPEAL HEARING

The Board of Supervisors shall hear the appeal within sixty (60) days after receipt of an appeal. The Board of Supervisors shall provide written notice of the hearing to the appropriate County departments. The Board of Supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the owner does not reside on the property, a copy of the notice shall be mailed to the owner's last known address.

The Board of Supervisors may take testimony to consider evidence presented by the appellant and the appropriate County Departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether a violation of the ordinance has occurred and shall issue its findings in writing upholding, reversing, or amending the Notice of Violation. The decision of the Board of Supervisors shall be final.

504. APPEAL OF ASSESSMENT

The owner, leinholder, occupant, lessee shall have ten (10) days from the date of the issuance of the Order of Assessment to appeal the amount of the assessment levied by

the County. All appeals shall be in writing and shall specify the grounds for the appeal. The appeal shall be filed with the Clerk of the Board of Supervisors and may be filed in person or by mail. If mailed, the date of the mailing of the appeal shall be the filing date of the appeal.

505. ASSESSMENT APPEAL HEARING

The Board of Supervisors shall hear the appeal within sixty (60) days of receipt. The Board of Supervisors shall provide written notice of the hearing to the appropriate County Departments of the time and place of the hearing. The Board of Supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the owner does not reside on the property, a copy of the notice shall be mailed to the last known address.

The Board of Supervisors may take testimony to consider evidence presented by the appellant and the appropriate County departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this ordinance and state statute and whether the amount actually covers the costs incurred by the county. The decision of the Board of Supervisors shall be final.

The Board of Supervisors shall provide a statement upholding or modifying the amount of the assessments. The statement will include the amount or assessment and surcharge to the owner, leinholder, occupant or, if non-owner occupied, the lessee. The Order of Assessment and the separate statement shall indicate that the assessment shall be paid to Maricopa County.

A prior assessment under this Ordinance is not a bar to a subsequent assessment or assessments under this ordinance and any number of liens pursuant to this ordinance may be enforced in the same action.

CHAPTER 6 – LIEN ENFORCEMENT

601. PURPOSE

The purpose of this chapter is to provide in one location all regulations relating to lien enforcement under this Ordinance.

602. LIEN ENFORCEMENT

The Abatement Officer shall maintain a list of all delinquent assessments made pursuant to this ordinance. All assessments sixty (60) days delinquent shall be reviewed by the Abatement Officer.

If it is determined that the value of the assessment, surcharges and interest, together with the value of all other liens having priority over the assessment does not exceed the value of the property, the County Attorney may be authorized to commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority and the assessment, surcharges, and interest.

If it is determined that the value of the assessment, surcharge, and interest, together with the value of all other liens having priority over the assessment exceeds the value of the property, the County Attorney need not be authorized to commence legal action to foreclose the lien. However, the Abatement Officer, or the County Attorney, shall be empowered to negotiate on the County's behalf with parties holding liens, which have priority on the property. Any agreement waiving part or all of an assessment, surcharge, and interest shall be submitted to the Board of Supervisors for approval.

Upon payment in full of an assessment, surcharge, and interest or upon waiving of an assessment, surcharge, and interest in full by the Board of Supervisors, the County shall record a Notice of Satisfaction of Assessment in the Office of the County Recorder. The Notice shall contain the name of the owner of the property, tax parcel number, common street address, and the legal description of the subject property. The Notice shall refer to the date of the Order of Assessment and the docket page number in the Office of the County Recorder where such Order is recorded.

PASSED AND ADOPTED this 2nd day of February 2000, by the Board of Supervisors of Maricopa County, Arizona.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MARICOPA COUNTY, ARIZONA PROVIDING FOR THE REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, AND DILAPIDATED BUILDINGS; VIOLATION; CLASSIFICATION; REMOVAL BY COUNTY; COSTS ASSESSED; COLLECTION; PRIORITY OF LIEN; DEFINITIONS

WHEREAS, the Board of Supervisors of the County of Maricopa, State of Arizona, is charged by Arizona Revised Statutes (A.R.S.) Section 11-251(17) and (18) with "adopting provisions necessary to preserve the health of the County"; and

WHEREAS, the Board of Supervisors of the County of Maricopa, State of Arizona, is obligated pursuant to A.R.S. Section 11-268 to adopt an ordinance providing for the removal or abatement of rubbish, trash, weeds, filth, debris, and dilapidated buildings, which constitute a hazard to public health and safety, and for providing procedures for this removal and for an appeal to the Board of Supervisors; and

WHEREAS, the unabated depositing or location of rubbish, trash, weeds, filth, debris, or dilapidated buildings in the County of Maricopa has created hazards to public health and safety; and; **NOW**

THEREFORE, BE IT RESOLVED that the Board of Supervisors herein resolves and adopts the following ordinance:

SECTION 1. DEFINITIONS

IN THIS ORDINANCE, UNLESS THE CONTEXT REQUIRES:

- 1.1 "Contiguous" means adjoining, or touching at a point along boundary.
- 1.2 "County" means Maricopa County, any of its departments, offices or agencies or any Countywide special taxing district having the Board of Supervisors acting as its Board of Directors.
- 1.3 "Dilapidated building" means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public. The chief building official shall determine whether a structure is a dilapidated building. Dilapidated buildings as determined

by the chief building official shall include, but not be limited to, those buildings that meet any or all of the following criteria:

- 1.3.1 The building or structure's interior walls or other vertical structural members, list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
 - 1.3.2 The building or structure, exclusive of the foundation, has thirty-three percent or more damage or deterioration to the supporting member or members structural assembly, or fifty-percent damage or deterioration to the non-supporting enclosing or outside walls or covering.
 - 1.3.3 The building or structure is infested by rodents, insects or other noxious pests, rendering it uninhabitable.
 - 1.3.4 The building or structure exhibits conditions that present actual hazards or dangers.
 - 1.3.5 The building or structure has been vacant and unsecured for more than forty-eight hours, on more than one occasion, during a previous twelve-month period.
 - 1.3.6 The building or structure or their contents represents an imminent health or fire hazard.
- 1.4 "Lessee" means a person, firm or corporation who rents the property of another whether by oral or written lease or rental agreement or any person, firm or corporation who is a tenant on the property of another by permission.
 - 1.5 "Occupant" shall mean any person who has actual use, possession or control of the property, but does not mean any corporation or association operating or maintaining rights of way for and on behalf of the United State of America, either under contract or under federal law.
 - 1.6 "Owner" shall include, but not be limited to, any person or corporation possessing legal or equitable title to the property whether for that person, corporation or another and includes persons or corporations holding or expecting title under a contract for the sale of real property.
 - 1.7 "Rubbish", "trash", "filth" or "debris" shall include, but not be limited to: ordinary litter, refuse, waste, or rubble and any remains thereof and similar material including the waste or rubble of any dilapidated building.
 - 1.8 "Weeds" shall include any uncultivated vegetation of a combustible nature with an associated fire hazard which cannot be reasonably contained on the property where it exists and shall include, but not be limited to: dried grass higher than six

(6) inches; or other dried vegetation higher than six (6) inches; tumbleweeds, branches or clippings; or dead trees, bushes or shrubs.

SECTION 2. VIOLATIONS

A PERSON, FIRM OR CORPORATION SHALL HAVE COMMITTED A VIOLATION OF THIS ORDINANCE IF SUCH PERSON, FIRM OR CORPORATION WITHOUT LAWFUL AUTHORITY:

- 2.1 Allows for rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety remain upon property of which they are the owner or occupant, or to remain upon sidewalks, streets and alleys contiguous to the property which they are the owner or occupant.
- 2.2 Places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the County which is not owned or under the control of the person, firm or corporation.

SECTION 3. PENALTY

ANY PERSON, FIRM OR CORPORATION COMMITTING A VIOLATION PURSUANT TO SECTION 2 OF THIS ORDINANCE SHALL BE SUBJECT TO PENALTIES AND ENFORCEMENT AS FOLLOWS:

- 3.1 Violation pursuant to Section 2.1 shall be a Class 2 Misdemeanor and may be enforced in the same manner as any violation of the Maricopa County Zoning Ordinance.
- 3.2 Violation pursuant to Section 2.2 shall be a Class 1 Misdemeanor and may be enforced in the same manner as any violation of the Maricopa County Zoning Ordinance.
- 3.3 Violation pursuant to Sections 2.1 or 2.2, which relate to rubbish, trash, weeds, filth, and debris, dilapidated buildings may be alternatively subject to abatement under the provisions of Sections 5 and 6 of this ordinance.

SECTION 4. RECEIPT OF COMPLAINT, NOTICE OF VIOLATION, NOTICE OF COMPLIANCE DATE

- 4.1 Upon receipt of a complaint that a violation as set out in Section 2 of this Ordinance has occurred, the County shall conduct an inspection of the subject property to determine if a violation of this Ordinance exists.
- 4.2 If a violation is determined to exist, either through an inspection or observation by a code enforcement officer, a notice in writing shall be served upon the owner, any leinholder, occupant, or lessee by Certified United States mail or in person at

their last known address, or at the address on file in the Maricopa County Assessor's Office. If the owner does not reside upon the property, a copy of the notice shall be mailed to the owner by certified United States Mail to the owner's last known address or may be served by any other means reasonably calculated to provide the owner with notice.

- 4.3 The notice of violation shall include the following:
- 4.3.1. The date on which the notice is issued;
 - 4.3.2. The name of the person(s) served with the notice;
 - 4.3.3. The address of the person served;
 - 4.3.4. The address or legal description of the lot, parcel or tract where the violation was determined to exist;
 - 4.3.5. The date on which the violation occurred;
 - 4.3.6. Whether the person served is the owner, occupant or lessee of the property;
 - 4.3.7. A description of the specific violation which exists and the specific reasons why the situation constitutes a hazard to public health and safety.
 - 4.3.8. The "compliance date" which is the date by which the owner, occupant or lessee must be in compliance with this ordinance, which date must be at least thirty days after the date of the notice;
 - 4.3.9. The estimated cost to the county for the removal if the owner, occupant or lessee does not comply. Removal costs will be assessed against the owner, occupant or lessee if the removal involves rubbish, trash, weeds, filth, debris or dilapidated buildings;
 - 4.3.10. Notice that the owner, occupant or lessee shall have ten (10) days from the date of the notice to file an appeal of the issuance of the notice and the assessment,

SECTION 5. REMOVAL AND ASSESSMENTS FOR WEEDS AND DILAPIDATED BUILDINGS

IF THE OWNER, OCCUPANT, OR LESSEE OR ANY PERSON WITH AN INTEREST IN THE PROPERTY FAILS TO CORRECT THE VIOLATION IDENTIFIED BY THE COMPLIANCE DATE SET OUT IN THE NOTICE OF THE VIOLATION OR UPON ISSUANCE OF THE FINAL DECISION OF THE BOARD OF SUPERVISORS IN

WRITING UPHOLDING THE NOTICE OF VIOLATION AFTER AN APPEAL, THE COUNTY SHALL:

- 5.1 Issue an Order of Abatement directing the removal of all rubbish, trash, weeds, filth, debris or dilapidated buildings from the lot, parcel, or tract, which was the subject of a notice under Section 3 of this ordinance. The Order shall be in writing and signed by the Director of the Planning and Development Department or his/her designee. The Order shall include the estimated cost for the removal, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement and associated legal costs.
- 5.2 A copy of the Order of Abatement shall be posted upon the subject property on the date of issuance. The Order shall be sent by Certified United States Mail to the owner, leinholder, occupant, or if non-owner occupied, the lessee at their last known address or at the address on file in the Maricopa County Assessor's Office. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.
- 5.3 Prior to the removal or abatement of any significant waste or rubble of any dilapidated buildings of reasonably possible historic value, the Planning and Development Department shall consult with the Arizona State Historic Preservation Office to determine if the waste or rubble is of historic value.
- 5.4 Planning and Development Department may request that the Maricopa County Department of Environmental Services, the Arizona Department of Environmental Quality or the United States Environmental Protection Agency inspect for environmental risks or hazards on any buildings, grounds, lots, contiguous sidewalks, streets and alleys prior to, or at any time during or after, any removal or abatement by the County.
- 5.5 After ten (10) days have elapsed from the date of issuance of the Order of Abatement, the County, or its employees may enter upon said property and remove all rubbish, trash, weeds, filth, debris, or dilapidated buildings from any lot, parcel, or tract which is the subject of a notice issued under this ordinance.
- 5.6 Within thirty (30) days after the County or its employees have removed the rubbish, trash, weeds, filth or debris or dilapidated buildings from any lot, parcel, or tract pursuant to this ordinance, the County shall issue an Order of Assessment. The Order shall be in writing and shall list the common address, legal description and tax parcel number of the property. The Order shall also list the actual cost of removal, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement and associated legal costs and the total cost. The Order shall indicate that the entire cost is due and payable in full within thirty (30) days from the date of issuance of the Order and that the assessment will become delinquent on that date. The Order shall be signed by the Director of the Planning and Development

Department or his/her designee and shall be recorded in the Office of the Maricopa County Recorder. A copy of the Order of Assessment shall also be provided to the Office of the Maricopa County Treasurer and Maricopa County Assessor.

- 5.7 The Order of Assessment shall also contain the following notice in bold print:

NOTICE: THIS ORDER OF ASSESSMENT, PURSUANT TO A.R.S. 11-268.D., SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF MARICOPA COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

- 5.8 The Order of Assessment shall indicate that the owner, leinholder occupant, or if non-owner occupied. the lessee shall have ten (10) days from the date of issuance to appeal the amount of assessments levied by the County.

SECTION 6. PROCEDURE ON APPEALS

6.1 APPEAL OF NOTICE OF VIOLATION/ASSESSMENT

6.1.1 The owner, leinholder, occupant or lessee shall have ten (10) days to appeal a notice of violation as to either the violation or the assessment to the Board of Supervisors. All appeals shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the Clerk of the Board of Supervisors and may be filed in person or by mail. If mailed, the date of mailing of the appeal shall be the filing date of the appeal.

6.1.2 The Board of Supervisors shall hear the appeal within sixty (60) days after receipt. The Board of Supervisors shall provide written notice of the hearing to the appropriate County departments. The Board of Supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the owner does not reside on the property, a copy of the notice shall be mailed to the owner's last known address. The Board of Supervisors may take testimony to consider evidence presented by the appellant and the appropriate County Departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether a violation of the ordinance has occurred and shall issue its findings in writing upholding, reversing, or amending the Notice of Violation. The decision of the Board of Supervisors shall be final.

6.2. APPEAL OF ASSESSMENT

6.2.1. The owner, leinholder, occupant, lessee shall have ten (10) days from the date of the issuance of the order of assessment to appeal the amount of the assessment levied by the County. All appeals shall be in writing and shall specify the grounds for the appeal. The appeal shall be filed with the Clerk of the Board of Supervisors and may be filed in person or by mail. If mailed, the date of the mailing of the appeal shall be the filing date of the appeal.

6.2.2. The Board of Supervisors shall hear the appeal within sixty (60) days of receipt. The Board of Supervisors shall provide written notice of the hearing to the appropriate County Departments of the time and place of the hearing. The board of supervisors shall further provide written notice of the time and place of the hearing to the appellant by United States mail at their last known address. If the owner does not reside on the property, a copy of the notice shall be mailed to the last known address. The board of supervisors may take testimony to consider evidence presented by the appellant and the appropriate county departments. The appellants may represent themselves or may be represented by an attorney at the appeal hearing. After the hearing, the Board of Supervisors shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this ordinance and state statute and whether the amount actually covers the costs incurred by the county. The decision of the Board of Supervisors shall be final.

6.2.3. The Board of Supervisors shall provide a statement upholding or modifying the amount of the assessments. The statement will include the amount or assessment and surcharge to the owner, leinholder, occupant or, if non-owner occupied, the lessee. The Order of Assessment and the separate statement shall indicate that the assessment shall be paid to Maricopa County.

6.2.4. A prior assessment under this ordinance is not a bar to a subsequent assessment or assessments under this ordinance and any number of liens pursuant to this ordinance may be enforced in the same action.

SECTION 7. LIEN ENFORCEMENT

THE MARICOPA COUNTY PLANNING AND DEVELOPMENT DEPARTMENT SHALL MAINTAIN A LIST OF ALL DELINQUENT ASSESSMENTS MADE PURSUANT TO THIS ORDINANCE:

7.1 All assessments sixty (60) days delinquent shall be reviewed by the Planning and Development Department. If it is determined that the value of the assessment, surcharges and interest, together with the value of all other liens having priority over the assessment does not exceed the value of the property, the County

Attorney may be authorized to commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority and the assessment, surcharges, and interest.

- 7.2 If it is determined that the value of the assessment, surcharge, and interest, together with the value of all other liens having priority over the assessment exceeds the value of the property, the County Attorney need not be authorized to commence legal action to foreclose the lien. However, the Planning and Development Department, or the County Attorney shall be empowered to negotiate on the County's behalf with parties holding liens, which have priority on the property. Any agreement waiving part or all of an assessment, surcharge, and interest shall be submitted to the Board of Supervisors for approval.
- 7.3 Assessments that are imposed under section 5 run against the property until they are paid in full.
- 7.4 Upon payment in full of an assessment, surcharge, and interest or upon waiving of an assessment, surcharge, and interest in full by the Board of Supervisors, the County shall record a Notice of Satisfaction of Assessment in the Office of the County Recorder. The Notice shall contain the name of the owner of the property, tax parcel number, common street address, and the legal description of the subject property. The Notice shall refer to the date of the Order of Assessment and the docket page number in the Office of the County Recorder where such Order is recorded.

PASSED AND ADOPTED this 2nd day of February, 2000, by the Board of Supervisors of Maricopa County, Arizona.