

**RESOLUTION NO. 2007-\_\_\_**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, ESTABLISHING AS A PUBLIC RECORD THE PROPOSED AMENDMENT TO THE SEDONA CITY CODE ADDING A NEW CHAPTER, "STORM WATER", TO REGULATE ACTIVITIES TO PREVENT AND /OR MINIMIZE POLLUTION FROM STORM WATER RUNOFF; PROVIDEING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA that the provisions set forth in that document attached hereto as Exhibit A and entitled "STORMWATER ORDINANCE", constitutes a public record to be incorporated by reference, pursuant to A.R.S. § 9-802 into Ordinance No. 2007-\_\_\_.

At least three (3) copies of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

APPROVED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this \_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Pud Colquitt, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

# EXHIBIT A

## STORMWATER ORDINANCE

**AN ORDINANCE OF THE CITY OF SEDONA, ARIZONA, AMENDING THE SEDONA CITY CODE BY ADDING A NEW CHAPTER, CHAPTER 14, STORM WATER, TO REGULATE ACTIVITIES TO PREVENT AND /OR MINIMIZE POLLUTION FROM STORM WATER RUNOFF; PROVIDEING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.**

**WHEREAS**, the Clean Water Act, among other things, regulates storm water and urban runoff to protect water quality; and,

**WHEREAS**, the City of Sedona has adopted a Storm Water Management Plan in order to comply with the Clean Water Act (33 U.S.C. 1151 et seq.) and its implementing regulations for storm water management (40 C.F.R. Part 122), and to comply with the Arizona Pollutant Discharge Elimination System (AZPDES) permit issued by the Arizona d\Department of Environmental Quality (ADEQ); and,

**WHEREAS**, the City of Sedona Water Management Plan provides that the Town will adopt ordinance(s) intended to prohibit, prevent and/or minimize pollution resulting from storm water runoff, on or before December 19, 2007.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA AS FOLLOWS:**

### CHAPTER 14 – STORM WATER

#### ARTICLE 14 – 1 STORM WATER DISCHARGE

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### **14 – 1 – 1 FINDING OF FACT**

Illicit discharges occur due to illicit connections to the Municipal Separate Storm Sewer System (“MS4”) from residential, business, industrial or commercial establishments. As a result of illicit connections, contaminated storm water, wastes or wastewater enters into storm drains or directly into local waters without receiving treatment from a wastewater treatment plant. Illicit connections may be intentional or may be unknown to the property or business owner. Illicit discharges to the City of Sedona stormwater system can cause excessive discharges of pollutants to surface waters and groundwater. These discharges can negatively impact public health, welfare, and the environment by transporting and depositing pollutants.

### **14 – 1 – 2 PURPOSE AND INTENT**

The purpose of this chapter is to provide for health, safety, and general welfare within the City of Sedona (“City”) through the regulation of non-Storm Water discharges to the MS4 to the Maximum Extent Practicable (“MEP”) as required by federal and state law. To this end this Chapter requires that unless expressly authorized or exempted by this Chapter, no person shall cause, participate in, or allow the discharge to a public right-of-way or public storm drain system of any substance that is not composed entirely of storm water. To further this end this Article establishes authority to conduct and require inspection, monitoring, reporting, and enforcement activities to address the prevention, identification, and remediation of illicit discharges to the MS4.

It is the intent of this chapter to comply with AZPDES regulations for Storm Water discharges, to be consistent with the Storm Water quality provisions of the Federal Clean Water Act (33 U.S.C. § 1342), and to enable the City to comply with all applicable Storm Water quality provisions of federal, state, and local laws and regulations to ensure the future health, safety, and general welfare within the City of Sedona, as well as the protection and preservation of the local environment.

It is the intent of this Chapter that the standards promulgated by the Chapter are minimum standards; therefore it is not intended or implied that compliance with the provisions of this article by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

### **14 – 1 – 3 DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of words and terms used in this article shall be as set forth below.

“Arizona Department of Environmental Quality” or “ADEQ” means the Arizona state agency established pursuant to Arizona Revised Statutes §49-102.

“Arizona Pollutant Discharge Elimination System (AZPDES)” means the program established by the State of Arizona by provisions in Arizona Revised Statutes Title 49, Chapter 1, Article 3.1 to control the discharge of pollutants to waters in Arizona.

“AZPDES General Permit” means a general permit issued by the ADEQ under authority delegated pursuant to the 33 United States Code 1342(b)

“Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the MS4. BMPs also include treatment requirements, operating procedures, design requirements, and practices to control runoff, spillage, leaks, waste disposal, or pollution of storm drainage flows.

“City” means the City of Sedona, Arizona

“Combined Sewer” means an enclosed sewer system that conveys both sanitary sewage and stormwater flows

“Construction General Permit” means a permit issued by the Permitting Authority that allows discharges to stormwater from construction activities as defined in 40 CFR §122.26.

“Construction Site Operator” means the primary operator of a construction site within the corporate limits of the City.

“CWA” means Clean Water Act or the Federal Pollution Control Act, 22 U.S.C. 1251 et. seq.

“Designee” means a person designated for a specific purpose by the City of Sedona City Engineer

“ Discharge” means any spilling, leaking, pumping, pouring, emitting, emptying, injecting, placing, releasing, leaching, dumping, or disposing into or on any land in a manner that may cause pollution, when used without qualification

EPA: The United States Environmental Protection Agency.

“Erosion” means the wearing away of land due to the actions of water, other liquid, and/or wind.

FACILITY: Any land, building, installation, structure, equipment, device, conveyance, area, source, activity or practice from which there is, or with reasonable probability may be, a discharge.

ILLICIT CONNECTION: Any manmade conveyance connecting an illicit discharge directly to an MS4.

ILLICIT DISCHARGE: Any discharge to the MS4 that is not composed entirely of Storm Water, except for discharges allowed under the AZPDES Permit No. AZG2002-002.

MAXIMUM EXTENT PRACTICABLE (MEP): The technology based discharge standard for municipal separate storm sewer systems to reduce pollutants in Storm Water discharges. A discussion of MEP as it applies to small MS4’s is found at 40 CFR 122.34. CWA section

402(p)(3)(B)(iii) requires that a municipal permit shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including Best Management Practices, control techniques and system design, and engineering methods, and other provisions that the State of Arizona determines appropriate for the control of such pollutants.

“Municipal Separate Storm Sewer System” or “MS4” means a publicly-owned conveyance or system of conveyances designed or used for collecting or conveying stormwater which is not a combined sewer and which is not part of a publicly owned treatment works.

**MUNICIPAL STORM WATER PERMIT:** The AZPDES General Permit *Arizona Pollutant Discharge Elimination System (AZPDES) Storm Water Permit for discharge from Small Municipal Separate Storm Sewer Systems (MS4's) to Waters of the United States*. This permit is issued by the Arizona Department of Environmental Quality (ADEQ) under authority delegated pursuant to 33 United States Code & 1342(b).

“Non-Stormwater Discharges” means a discharge not consisting entirely of stormwater

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)).

“Notice of Intent” or “NOI” means that document submitted to the Permitting Authority in order to obtain coverage under a General Permit.

“Permitting Authority” means the NPDES-authorized state agency or EPA regional office that administers the NPDES stormwater permit program.

**PERSON:** An individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity.

**POLLUTANT:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: contaminants, toxic wastes, chemicals, petroleum products, biological materials, wrecked or discarded equipment, rocks, sand, paints, varnishes and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, heat, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, noxious or offensive matter of any kind, or any other liquid, solid, gaseous, or hazardous substance.

**POLLUTION:** The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the State or waters of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Publicly-Owned Treatment Works (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

“Public storm drain system” means all or any part of the publicly-owned and maintained roads, streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and dry wells located within public easements, right-of-way, parks, common areas, retention areas, or other publicly-owned or maintained real property designed or used for collecting, holding, treating, or conveying storm water.

RECEIVING WATERS: A river, ocean, stream, or other watercourse into which wastewater, Storm Water or treated effluent is discharged.

STORM WATER: Any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation and which is being managed in accordance with BMP appropriate to the facility, pollutant, and quantity of water. Appropriate to the facility shall mean consideration shall be given to the size, location, zoning, and use.

STORM WATER MANAGEMENT PLAN: A document which describes the Best Management Practices and activities to be implemented by the City to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Drainage Systems, and/or Receiving Waters to the Maximum Extent Practicable. This document may also be designated “Storm Water Quality Management Plan”.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the Best Management Practices, including but not limited to processes, devices, and activities, to be implemented by a person or business to identify sources, potential or actual, of pollution or contamination at a site and the action to eliminate or reduce pollutant discharges to Storm Water, MS4, and/or receiving waters to the Maximum Extent Practicable (MEP).

WASTEWATER: Any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.

WATERCOURSE: Any body of water, including but not limited to, lakes, ponds, rivers, streams, and washes whether perennial, intermittent or ephemeral.

WATERS OF THE UNITED STATES:

Notwithstanding the determination of an area’s status by the City, State or Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. Subject to other determination by EPA, Waters of the United States shall be deemed to be traditionally navigable waters and their tributaries which have at a minimum continuous seasonal flow or have a significant nexus regarding the chemical, physical or biological integrity of the navigable water. Generally roadside ditches and small washes and gullies characterized by low, infrequent, or low duration flows will not be considered Waters of the United States.

#### **14 – 1 – 4      APPLICABILITY**

The provisions of this Article are applicable to all water entering the public storm drain system, Waters of the United States, and water watercourses within the City limits, whether generated on any developed or undeveloped lands, unless explicitly exempted by an AZPDES General Permit.

#### **14 – 1 – 5      RESPONSIBILITY FOR ADMINISTRATION**

The City Engineer shall administer, implement, and enforce the provisions of this Article. The City Engineer may designate other employees to exercise powers and perform duties under the provisions of this ordinance. The authorities granted to the City Engineer under the provisions of this section are subject to Sedona City Code Section 3-2-4 B as to relationship to the City Manager. In the case of overlapping authority regarding wastewater discharge as defined in Sedona City Code Article 13 and the authority regarding discharge under this article the Director of Wastewater is authorized to act on behalf of the City Engineer.

#### **14 – 1 – 6      SEVERABILITY**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

#### **14 – 1 – 7      DISCHARGE PROHIBITIONS**

All illicit discharges to the public storm drain system are prohibited. These include, but are not limited to:

1. Discharges that are a source of pollutants, including discharges through connections that are a source of pollutants.
2. Discharge of soil, rock, trash, garbage and other waste
3. Maintaining, establishing, or using a connection that allows a discharge
4. Discharge from commercial car washing, mobile car washing, or impervious surface pressure washing operations
5. Discharge from concrete washing
6. Discharge of oils, fuels, paints, greases
7. Discharge of grit and sand from grinding
8. Discharge from carpet cleaning
9. Discharge of chlorinated water from spas, swimming pools and similar facilities
10. Discharge resulting from misrepresentation of the nature of discharge on an application, a plan, permit, or certification.
11. Discharge not disclosed on an application, plan, permit or certification
12. Discharge of wastewater as defined in Sedona City Code Article 13 and this Article.
13. Continuing a discharge that has not been permitted by the City of Sedona

The prohibition regarding illicit discharge includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of construction.

#### **§ 14-1-8 Permitted Non-Stormwater Discharges**

The City of Sedona has determined that the following discharges are not significant contributors of pollutants to the municipal MS4s and are considered allowable Non-Stormwater Discharges, unless the City determines in specific instances that the discharge contributes to a violation of the AZPDES General Permit or other permit(s) under which the City of Sedona is permitted to operate its MS4:

- a. Water line flushing
- b. Landscape irrigation
- c. Diverted stream flows
- d. Rising ground waters
- e. Uncontaminated ground water infiltration
- f. Uncontaminated pumped groundwater
- g. Discharges from potable water sources
- h. Foundation drains
- i. Air conditioning condensate
- j. Irrigation water
- k. Springs
- l. Water from crawl space pumps
- m. Footing drains
- n. Lawn watering
- o. Individual residential car washing
- p. Discharges from riparian habitats and wetlands
- q. De-chlorinated swimming pool and spa discharges
- r. Street wash water, and
- s. Discharges of flows from emergency fire fighting activities

The City permits discharges allowed under the AZPDES De Minimus General Permit, and the City will rely on the State of Arizona to enforce the provisions regarding these discharges under that permit. The City may, however, require a person to demonstrate that a discharge is subject to that permit.

Discharge allowed under separate permits issued by ADEQ are allowed provided that the permit conditions are adhered to.

Discharges which have been managed using BMP that are appropriate to the facility at the time of the discharge and properly maintained shall be considered allowable.



It shall be the responsibility of the person discharging to demonstrate through testing, records, plans, and other documents that the discharge is allowable under this Chapter. The City may require such demonstration for any facility connected to the MS4 directly or indirectly.

#### **§ 14-1-9 Plan Review, Inspections, Access, and Reports**

The City shall require that any person submitting a grading, building, or other improvement plan disclose if illicit discharge, stormwater, or permitted non-stormwater discharge of any type to the MS4 may occur as a result of, or in conjunction with the implementation of the plan. To the extent that the discharge would be an illicit discharge, if connected to the MS4, the plan shall include BMP measures to remove or prevent the illicit discharge during and after construction of the improvement or project. The BMP shall be subject to approval of the City Engineer.

Persons shall maintain the BMP during and after construction. This shall apply to persons initiating a project and to heirs and assigns. Changes to the BMP approved at the time of a project implementation shall be sent to the City in writing. The revised BMP shall be at least as effective in preventing pollution as the original BMP or as then currently required by the city. The City reserves the right to require changes in BMP as necessary to assure that discharges to the MS4 are of a quantity and quality that the City will not be in violation of the permits under which it is allowed to discharge storm water.

The City of Sedona shall be granted access to all facilities and lands discharging any water or other material to the MS4.

Persons further developing parcels and/or lots that are part of a larger development, regardless of the time elapsed, shall utilize current BMP methods that are at least as effective as those identified in the stormwater pollution prevention plan for the larger development or necessary to comply with regulations, laws, and codes current at the time of further developing, which ever is more stringent. Appropriate permits required by the State shall be acquired by further developers.

Site-specific stormwater pollution prevention plans shall be developed for all construction projects one acre or greater in size. The site specific plan shall identify the minimum BMPs to be utilized upon further development of the project area, when the person submitting the plan will not develop the entire project through building occupancy or other full development intent. Smaller areas may develop a site-specific plan or provide a notice of intent to abide by the City's general stormwater pollution guidelines. The Notice of Intent shall be of a format approved by the City Engineer and shall at minimum contain the following:

1. The name of the development as applicable
2. The name of the property owner
3. The name of the person responsible for compliance with the pollution prevention plan
4. The anticipated time frame for constructing the project
5. A statement to be signed by the responsible person and the property owner stating:  
“ The responsible person and the person owning the property for which this Notice of Intent is submitted agrees to require that all construction work and related

activity be conducted in accordance with the Sedona City Code requires and the requirements of the City of Sedona General Stormwater Pollution Prevention Guidelines. Persons further understands that failure to meet the mentioned requirements will be sufficient cause for the City to restrict or stop work on the property until the requirements are met. Also Persons shall additionally be subject to other actions under law.”

The City Engineer shall develop, publish, and update from time to time general stormwater pollution guidelines. These guidelines shall at minimum address pollution caused by soil erosion, motor oil, trash, and landscape debris.

#### **14 – 1 – 10   SUSPENSION OF MS4 ACCESS**

The City may, without prior notice, suspend MS4 discharge access when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

#### **14 – 1 – 11   INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES**

Any person subject to an industrial or construction activity AZPDES/NPDES Storm Water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required. An authorized representative of the City of Flagstaff shall be permitted to enter and inspect facilities subject to regulation under Industrial or Construction Activity permits at reasonable times and as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in effect which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

#### **14 – 1 – 12   SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGE**

Any person discharging to the MS4 in violation of this chapter may be subject to MS4 access termination if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination date of its MS4 access. The violator may petition the City Storm Water Management Section for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Flagstaff Storm Water Management Section.

#### **14 – 1 – 13   WATERCOURSE PROTECTION**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. All maintenance activities must be in compliance with Federal, State and Municipal regulations.

## **14 – 1 – 14 NOTIFICATION OF SPILLS**

The owner, operator, or the person who has control of the source or location of any potential spill or release, which may result in a discharge that is not in compliance with this chapter, shall:

- A. Have a written Storm Water Pollution Plan or a written corrective action plan utilizing BMP for the involved facility.
- B. Post notices to employees containing information about whom to contact and what procedures to follow in the event of an accidental discharge or spill.
- C. In the event of a spill, promptly take all reasonable safety precautions including, if appropriate, calling 911 and completing the following steps:
  1. Proceed with containment and clean up in accordance with:
    - a. the orders of an involved health and safety agency, or if no such orders have been issued;
    - b. the orders of an authorized representative, or if no such orders have been issued;
    - c. the Storm Water Pollution Prevention Plan or approved corrective action plan utilizing Best Management Practices for the involved facility.
  2. Notify the City of Sedona City Engineer and the Arizona Department of Environmental Quality of the release by telephone before noon of the next working day;
  3. Provide written notification, within five working days, to the City of Sedona City Engineer of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.

## **14 – 1 – 15 ENFORCEMENT**

### **14 – 1 – 15 . 01 Notice of Violation, Corrective Action, and Penalties**

Upon discovery of a violation of this chapter, the the City Engineer, or authorized representative may issue to the violator a written notice stating the nature of the violation, the corrective action required, the time frame for corrective action, and the penalties for continued non-compliance. The statement shall inform the owner or occupant that failure to pay the penalties will result in a lien against the property. The notice shall be served either by personal service or certified mail, upon the owner, the owner’s agent, the occupant, or the lessee. The Notice may also be delivered by posting upon the facility at location(s) where it is likely to be seen.. The notice may also require the violator to:

1. Submit a corrective action plan to the City Engineer indicating the cause of the violation, corrective actions to prevent recurrence, and a proposed compliance schedule;
2. Pay all costs of sampling and analysis, as well as costs for laboratory sample analysis;
3. Clean up any material that has left the property or has the potential to impact Storm Water runoff, ensure that the clean up has been completed, and make changes in operations to prevent future releases;

4. Obtain and pay for the services of a qualified person to oversee and certify that corrective actions needed to resolve the violation have been completed;
5. Prepare and implement a Best Management Practices Plan to prevent Storm Water pollution, regardless of AZPDES/NPDES requirements;
6. Stop work on clearing, dredging, grading, excavating, storing, transporting, and/or filling of land, new construction, improvements, alterations, or additions;
7. Stop any activity that is in violation of this chapter;
8. Abate, within the time specified in the notice, any condition that is in violation of this chapter; and
9. Abate immediately any condition in violation of this chapter, if the City Engineer or authorized representative determines that such condition presents an immediate threat to public health, safety, or the environment;

If violator refuses or is unable to immediately abate a condition that presents an immediate threat to public health, safety or the environment the City may use all means necessary to abate the incident to protect the public health, safety or the environment and the City may charge all costs of such abatement to the violator.

The City may approve the compliance schedule or corrective action plan utilizing Best Management Practices submitted by the violator, or may require an alternative compliance schedule or corrective action plan utilizing Best Management Practices. This shall be done within the period specified in the notice. If the City discovers a condition that is likely to cause or is causing a discharge that threatens public health, safety or the environment, mitigation may include an immediate cessation of activity and abatement.

The remedies in this Section are cumulative and the City may seek one or more such remedies.

It is a civil infraction for any person to violate this Section or fail to comply with a notice of violation issued under this Section.

Any person violating this Section shall be liable to the City for all damages, costs, fines and penalties incurred by the City as a result, and shall defend, indemnify, and hold harmless the City against any resulting claims, liabilities or damages.

#### **14 – 1 – 15 . 02                      Appeal of Violation**

Any person receiving a notice of violation may appeal the determination. The notice of appeal must be received by the City Engineer within ten (10) calendar days from the date of the notice:

1. The appeal must be in writing, state the objection to the notice of violation, provide a mailing address for a response, and be mailed or delivered to the City Engineer;
2. The City Engineer may, within ten (10) working days of the receipt of an appeal, provide a written response to the person appealing which shall be delivered either by mail or by

personal delivery. No response within 10 working days shall be deemed to be a denial of the appeal.

3. Appeal of the City Engineer response or lack thereof to the Notice of Appeal shall be in accordance with City Code Article 3-7 if the claim is monetary in nature. The cause of action shall be deemed the notice or violation .
4. If the claim or demand is of other than solely monetary in nature appeal of the City Engineer response or lack thereof shall be made to the City Manager. Notice of such appeal shall be mailed to the City Attorney who shall schedule a hearing to be conducted by the City Manager, who shall admit all probative and reliable evidence without regard to formal rules of evidence or procedure. The person requesting an appeal may be heard in person and/or by an authorized representative at such hearing. Following the hearing, the City Manager shall issue a decision as to whether the notice of violation was supported by the evidence;
5. Appeal of the City Manager decision may be made in a court of competent jurisdiction.

#### **14 – 1 – 15 . 03 Cost of abatement of the Violation**

Within thirty (30) calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) calendar days. If the amount due is not paid within fifteen (15) calendar days or by the time in which to file for an appeal is expired, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The assessment shall be recorded in the office of the Yavapai County Recorder or Coconino County Recorder , including the date, amount of the assessment, and the legal description of the property against which the assessment is made. From the date of its recording, the assessment shall be a lien on the property and shall accrue interest at the rate prescribed by Arizona Revised Statutes, Section 44-1201. The City shall have the right to bring an action to enforce the lien in the Superior Court of Yavapai County at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording of the assessment.

#### **14 – 1 – 15 . 04 Injunctive Relief**

It shall be unlawful for any person to violate any provisions or to fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate any provisions of this chapter, the City may petition the Yavapai County Superior Court for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **14 – 1 – 15. 05 Violations Deemed a Public Nuisance**

In addition to the enforcement processes and penalties provided herein, if any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance by the City, such condition

may be immediately abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. Nuisances under this Article are also subject to enforcement under Article 9 of this Code.

**14 – 1 – 15. 06 Remedies Not Exclusive**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Sedona to seek cumulative remedies. The City may recover all attorneys ' fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.