

5

ORDINANCE NO. 00-01

**AN ORDINANCE OF THE COUNTY OF YUMA REGULATING THE
DISCHARGE OF SEWAGE IN THE COUNTY OF YUMA AND
PROVIDING PENALTIES FOR VIOLATIONS**

Be it resolved by the Yuma County Board of Supervisors that this ordinance is adopted to provide for the regulation of the discharge or deposit of any sewage, sewage effluent or other non-hazardous waste whether treated or untreated in the County of Yuma.

§ 00-01-1001. Purpose of ordinance; use; effect

The provisions of this ordinance shall be used in the review, approval, permitting and inspection of onsite sewage disposal systems in Yuma County and the investigation and enforcement of violations to the extent consistent with statutory authority and requirements, and where inconsistent, statutory requirements shall be used. No person shall erect, construct, rebuild, convert or alter any installation of plumbing facilities for the discharge or disposal of sewage, sewage effluent, wastewater or non-hazardous wastes, unless he has first obtained a written approval for such purposes from the Environmental Health Officer in the form of a construction permit. No person shall convert, operate or alter any vehicle used for the collection, transportation or disposal of sewage, sewage effluent, wastewater or non-hazardous wastes, unless he has first obtained approval for such purposes from the Environmental Health Officer in the form of an operating permit.

Source: ARS §49-112.E

§ 00-01-1002. Definitions

- A. "Approval" shall mean the written and signed approval of the Department of Development Services Environmental Health Officer of a plan to construct, reconstruct, rebuild, convert, reuse or alter any sewage disposal system which discharges or disposes of sewage, sewage effluent, or non-hazardous waste.
- B. "Director" means the Director of Yuma County Department of Development Services or the director's designee.
- C. "Discharge" means the direct or indirect addition of any pollutant to the waters or soils of the County from a facility in such a manner that there is a reasonable probability that the pollutant may reach an aquifer.
- D. "Environmental Health Section" means the Environmental Health Section of the Yuma County Department of Development Services.
- E. "Environmental Health Officer" means the Environmental Health Manager of the Yuma County Department of Development Services Environmental Health Section or his designated representative.
- F. "Environmental nuisance" is defined as the creation or maintenance of a condition on or in the soil, air or water that causes, or threatens to cause, harm to the public health or to the environment. Subject to this limitation, the following not all inclusive conditions constitute environmental nuisances:
1. A condition or place in a populated area which constitutes a breeding place for flies, rodents, mosquitoes and other insects which are capable of carrying and transmitting

disease-causing organisms to any person or persons.

2. A place, condition or building which is controlled or operated by any individual or agency and which is not maintained in a sanitary condition.
3. Sewage, human excreta, wastewater or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.
4. A vehicle or container which is used in the transportation of human excreta and which is defective and allows leakage or spillage of contents.
5. The maintenance of an overflowing septic tank or cesspool, the contents of which may be accessible to flies.
6. The pollution or contamination of any domestic waters.
7. The use of the contents of privies, cesspools, or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the Arizona Department of Environmental Quality (ADEQ).
8. The storage, collection, transportation, disposal and reclamation of manure and other objectionable wastes other than as provided and authorized by law.

G. "Existing facility" means a facility which is neither a new facility nor a closed facility.

H. "Facility" means 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.

L. "Gray water" means wastewater that originates from clothes washers, dishwashers, bathtubs, showers, and sinks, except kitchen sinks and toilets

J. "Non-Hazardous waste" means:

1. Any substance not designated pursuant to sections 311(b)(2)(A) and 307(a) of the Clean Water Act
2. Any waste not having the characteristics identified under or listed pursuant to ARS §49-922.

K. "Nonresidential use" means those uses of property other than residential uses.

L. "On-site wastewater treatment plant" encompasses all of the processes, devices, structures, and earthworks used for treating wastewater for disposal and reuse other than septic tanks with a hydraulic capacity less than two thousand (2,000) gallons per day that possess a N.S.F. Class I rating.

M. "On-site wastewater treatment facility" means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site.

N. "Permit" means a written and signed authorization issued by the environmental health officer stating the conditions and restrictions governing a discharge or governing the construction, operation or modification of a facility.

O. "Pollutant" means fluids, contaminants, wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment or vehicles, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any liquid, solid, gaseous or hazardous substance.

P. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.

Q. "Regulated agricultural activity" means the application of nitrogen fertilizer or a concentrated animal feeding operation.

R. "Remediation" means either:

1. The treatment or removal of contaminated soils to meet predetermined risk levels or site specific risk levels. Or,
2. Soils that meet predetermined risk levels or site specific risk levels as determined by a risk assessment.

S. "Sewage or Sewage Effluent" means waste or wastewater as defined in AAC 18.9.101(12,13) and Human Excreta, used washwater, or other liquid or solid organic wastes.

T. "Sewage Facilities" means subsurface sewage disposal systems, sanitary sewer connections, holding tanks, alternative systems, experimental systems or other methods of disposing of sewage as approved by the Environmental Health Officer.

U. "Safe Drinking Water Act" means the federal Safe Drinking Water Act, as amended (P.L. 93-523; 88 Stat. 1660; 95-190; 91 Stat. 1393).

V. "Standards" means water quality standards, pretreatment standards and toxicity standards.

W. "Standards of performance" means performance standards, design standards, best management practices, technologically based standards and other standards, limitations or restrictions established by rule or by permit condition.

X. "Septic Tank" means a stationary watertight device, including a sump, that is constructed of concrete, fiberglass, or other non-earthen material that provides substantial structural support, and that is designed to contain an accumulation of solid, liquid and gaseous materials.

Y. "Vadose zone" means the zone between the ground surface and any aquifer.

Z. "Waters of the County" means all waters within the jurisdiction of this County including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on Yuma County.

AA. "Well" means a bored, drilled or driven shaft, pit or hole whose depth is greater than its largest surface dimension.

§ 00-01-1003 Intent and Purpose

A. It shall be unlawful for any person to discharge or deposit or cause or permit to be discharged or deposited any sewage, sewage effluent or other non-hazardous waste whether treated or untreated in or upon any territory of the County of Yuma, except at authorized sewage sludge disposal sites, including any deposit or discharge of sewage into streams or bodies of water above or below the ground. When sewage, other than the discharge from an approved sewage treatment plant, is overflowing or being discharged upon the surface of any premises, the Environmental Health Officer may order the occupant or occupants thereof who

contribute to such overflow or discharge to abate the same forthwith.

Source: ARS §49-140.

B. It shall be unlawful for any person to install or alter plumbing facilities or drainage systems for the discharge or deposit of any sewage, sewage effluent, or non-hazardous waste from any dwelling, house or building or appurtenance thereof in or upon territory of the County of Yuma, or into streams or bodies of water above or below the surface where the same is, or may be carried through, or upon, territory of said County, without first securing, in the manner hereinafter provided, an approval in the form of a Permit from the Environmental Health Officer of said County, issued in accordance with design criteria approved by the State of Arizona contained in the current editions of the approved State of Arizona Uniform Plumbing Code, Arizona Administrative Codes Title 18 and Arizona Revised Statutes Title 49.

Source: ARS §49.

§ 00-01-1004 Permit required to discharge

A. Unless otherwise provided, any person who discharges or who owns or operates a facility that discharges shall obtain a permit from the Director or the Environmental Health Officer.

B. Unless exempted under ARS §49-250, or unless the Director or the Environmental Health Officer determines that the facility will be designed, constructed and operated so that there will be no migration of pollutants to the aquifer or to the vadose zone, the following are considered to be discharging facilities and shall be operated pursuant to an aquifer protection permit issued by ADEQ and/or an operating permit, issued by the county, including agricultural general permits:

1. Surface impoundments including holding, storage settling, treatment or disposal pits, ponds and lagoons.
2. Solid waste disposal facilities except for mining overburden and wall rock that has not been and will not be subject to mine leaching operations.
3. Injection wells.
4. Land treatment facilities.
5. Facilities which add a pollutant to a salt dome formation, salt bed formation, dry well or underground cave or mine.
6. Mine tailings piles and ponds.
7. Mine leaching operations.
8. Underground water storage facilities.
9. Point source discharges to navigable waters.
10. Sewage treatment facilities, including on-site wastewater treatment facilities.
11. Wetlands designed and constructed to treat municipal and domestic wastewater for underground storage.

C. The Director or the Environmental Health Officer shall provide public notice and an opportunity for public comment on any request for a determination from the Director or the Environmental Health Officer under subsection B of this section that there will be no migration of pollutants from a facility. A public hearing may be held at the discretion of the Director or the Environmental Health Officer if sufficient public comment warrants a hearing. The Director or the Environmental Health Officer may inspect and may require reasonable conditions and appropriate monitoring and reporting requirements for a facility managing pollutants that are determined not to migrate under subsection B of this section. The Director or the Environmental Health Officer may identify types of facilities, available technologies and technical criteria for facilities that will qualify for such a determination. The Director's or the Environmental Health Officer's determination may be revoked on evidence that pollutants have migrated from the facility. The Director or the Environmental Health Officer may impose a review fee for a determination under subsection B of this

section. Any issuance, denial or revocation of a determination may be appealed pursuant to ARS §49-323.

D. The County shall publish the procedures for permit applications and a fee schedule. All monies collected under this section shall be deposited in the general fund, up to the reasonable and necessary costs of processing and issuing permits and administering the registration program.

§ 00-01-1005 Abatement of environmental nuisances

A. If Yuma county has reasonable cause to believe from information furnished to it or from its own investigation that a person is maintaining an environmental nuisance, the Environmental Health Officer may serve an abatement order on the person requiring the person to abate the nuisance within twenty-four hours at the expense of the owner or occupant. The order may be given to the owner or occupant personally, delivered by certified mail or left at the residence of the owner or occupant. If the owner or occupant fails or refuses to comply with the order within the time specified in the order the Director or the Environmental Health Officer may cause the nuisance to be removed, and the owner, occupant or other person who caused the nuisance shall pay the expenses of removal.

Source: ARS §49-143

B. An abatement order issued pursuant to this section becomes final unless within fifteen days after receipt of the order an appeal is made pursuant to ARS title 41.

C. If a person fails or refuses to comply with an abatement order issued under this section or if the Director or the Environmental Health Officer has reason to believe that a person is creating an actual or potential endangerment to the public health or environment because of acts performed in violation of this ordinance or a rule applicable to any environmental nuisance described in ARS §49-141, the Director or the Environmental Health Officer may file an action in Superior Court to restrain and enjoin the person from further violations, to compel compliance with an order or to abate an environmental nuisance. The court shall proceed as in other actions for injunctions.

Source: ARS §49-142, 143

§ 00-01-1006 Right to enter premises for inspection or abatement

If the Director or the Environmental Health Officer deem it necessary to enter a building, structure or other property within this jurisdiction for the purpose of examining, removing or preventing an environmental nuisance and is refused entrance, any member of the Environmental Health Section or of the Department of Development Services may make complaint of the refusal under oath to a Justice of the Peace. The Justice shall issue a warrant directing the sheriff or other peace officer accompanied by and under the direction of at least one member of the Environmental Health Section or Department of Development Services to examine, remove or prevent, between the hours of sunrise and sunset, the environmental nuisance.

Source: ARS §49-144

§ 00-01-1007 Compliance orders; appeal; enforcement

A. If the Director or the Environmental Health Officer determines that a person is in violation of a rule adopted or a condition of a permit issued pursuant to ARS §49-203, subsection A, paragraph 6, any provision of article 2 or 3, a rule adopted pursuant to article 2 or 3, a discharge limitation or any other condition of a permit issued under article 2 or 3 or is creating an imminent and substantial endangerment to the public health or environment, the Director or the Environmental Health Officer may issue an order requiring compliance within a reasonable time period.

B. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance if applicable and the right to a hearing and the person to contact for any questions.

C. A compliance order shall be transmitted to the alleged violator by certified mail, return receipt requested,

or by personal service.

D. A compliance order becomes final and enforceable in Superior Court unless within thirty days after the receipt of the order the alleged violator requests a hearing before a Hearing Officer. If a hearing is requested, the order does not become final until the Hearing Officer has issued a final decision on the appeal. Appeals shall be conducted according to ARS §49-321.

E. At the request of the Director or the Environmental Health Officer the County Attorney may commence an action in Superior Court to enforce orders issued under this section once an order becomes final.

Source: ARS §49-143

§ 00-01-1008 Criminal violations; classification; civil penalties; definition

A. It shall be unlawful to:

1. Discharge without a permit or appropriate authority under this ordinance.
2. Fail to monitor, sample or report discharges as required by a permit issued under this ordinance.
3. Violate a discharge limitation specified in a permit issued under this ordinance.
4. Violate a State or Federal water quality standard. *Source ARS §49-263*

B. A person who knowingly performs an act prohibited under this ordinance is guilty of a class 6 felony.
Source ARS §49-263

C. A person who knowingly or recklessly manifests an extreme indifference for human life in performing an act prohibited under this ordinance is guilty of a class 2 felony. *Source ARS §49-263*

D. A violation of any provision of this chapter for which a penalty is not otherwise prescribed is a class 2 misdemeanor. *Source ARS §49-263*

C. A person who knowingly performs an act prohibited under subsection A of this section is guilty of a class 5 felony. *Source ARS §49-263*

§ 00-01-1009 On-site wastewater treatment facilities; rules; inspections; enforcement

A. The County shall enforce state approved rules relating to the design, construction, operation and maintenance of all existing and proposed on-site wastewater treatment facilities in this County. The rules include:

1. Standards for the design, construction, operation and maintenance of on-site wastewater treatment facilities.
2. Approval of the plans for the facility before construction begins.
3. Inspection of the facility during the construction period.
4. Final inspection by the County of the construction of the facility before the facility is put into operation.
5. Annual routine operation and maintenance inspections.
6. Additional inspections at any time if the County receives information indicating that the facility is being operated in violation of established standards.
7. Fees shall be charged by the County for all inspections it performs in amounts sufficient to cover the actual cost of performing the inspections. Monies from fees shall be deposited in the general fund.

B. Inspections required by subsection A, paragraph 3 of this section shall be performed by a Registered Sanitarian who shall keep records of the design and construction process and make these records available to the public. Final inspections required by subsection A, paragraph 4 shall include inspection of the records as well as inspection of the facility. The facility shall not be operated until the final inspection has been completed and the facility meets established standards. The guidelines provided in ADEQ engineering Bulletin 12 are adopted by reference.

C. If an annual inspection required by subsection A, paragraph 5 reveals that the facility is not being operated in compliance with established standards, the Director or the Environmental Health Officer may allow the owner of the facility ninety days to bring the facility into compliance and reinspect the facility at the end of that period.

D. If the Director or the Environmental Health Officer determines that any on-site wastewater treatment facility has not been approved or does not conform to the original approved construction plans or is being operated in violation of established standards, the Director or the Environmental Health Officer may issue an order to the owner to modify the facility to conform to the approved plans or to cease and desist from operating the facility in violation of those standards or to cease and desist from all operation of the facility.

E. If the Director or the Environmental Health Officer determines that the owner of an on-site wastewater treatment facility has violated the terms of a cease and desist order issued pursuant to subsection D of this section or has knowingly operated a facility in violation of established standards, the Director or the Environmental Health Officer may impose on the owner a civil penalty of two hundred fifty dollars (\$250.00) for each day the violation continues. Civil penalties collected under this subsection shall be deposited in the general fund.

F. If an owner refuses to pay a civil penalty imposed pursuant to subsection E of this section, the Director or the Environmental Health Officer may authorize the county attorney to bring an action in superior court to collect the amount of the penalty and the costs of the action brought to collect the civil penalty.

G. The Director shall hold hearings pursuant to Arizona Revised Statute title 41, chapter 6, article 10 if the owner of a facility requests a hearing in any enforcement proceeding under this section. Decisions of the Director after hearings are subject to judicial review pursuant to title 41, chapter 6, article 10.

H. If the Director or the Environmental Health Officer contracts with a consultant under ARS §49-203, an owner of an on-site wastewater treatment facility may request that the Director or the Environmental Health Officer expedite the review or inspection process by requesting that the department use the services of the consultant and by agreeing to pay to the County the costs of the consultant's services.

I. For the purposes of this section "on-site wastewater treatment facility" or "facility" means a system installed at a site to treat and dispose of domestic wastewater generated at that site.

Source: ARS §49-361

§ 00-01-1010 Remedial action criteria; rules

A. Remedial actions shall:

1. Assure the protection of public health and welfare and the environment.
2. To the extent practicable, provide for the control, management or cleanup of the polluting substances so as to allow the maximum beneficial use.
3. Be reasonable, necessary, cost-effective and technically feasible.

B. The Director or the Environmental Health Officer shall implement this article when required. Rules adopted pursuant to this subsection include rules for:

1. The selection of remedial actions include the establishment of the level and extent of cleanup at a site or a portion of a site. The selection of a remedial action by comparison of alternative remedial actions, which may include no action, monitoring, source control, controlled migration, physical containment, soil remediation and the consideration of the criteria in subsection C of this section. The selected remedial action shall meet the requirements of this section and the following:

- a. For remediation of soil, the selected remedial action shall be consistent with the Soil Remediation Standards adopted pursuant to ARS §49-152.
- b. For remediation of water, the selected remedial action shall address, at a minimum, any well that at the time of selection of the remedial action either supplies water for municipal,

the Director or the Environmental Health Officer may initiate an action if the facility is not being remediated pursuant to this ordinance.

C. The Director or the Environmental Health Officer may initiate an action to recover natural resource damages under section 107(f) of CERCLA but may recover only the proportionate share of these damages from a defendant who is also a responsible party under this article.

D. Judicial actions initiated pursuant to this section have precedence over all other civil proceedings per ARS 49-287.

E. If there is a release or the threat of a release of a substance which may present an imminent and substantial danger to the public health or welfare or the environment:

1. The Director or the Environmental Health Officer may take such remedial action as is deemed necessary to protect the public health or welfare or the environment.

2. The County Attorney may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health or welfare or the environment from the release.

3. The Director or the Environmental Health Officer may issue an order requiring abatement of such release or threat of a release and appropriate remedial action if the action is consistent with the criteria listed in ARS §49-282 and before taking such action the Director provides written notice to the responsible party, if known, and the owner of the real property where the facility is located if the owner is not a responsible party. The notice shall include:

a. The reasons for the remedial action.

b. A reasonable time for beginning and completing the actions, taking into account the urgency of the actions for protecting public health or welfare or the environment.

c. The steps taken to comply with the criteria listed in ARS §49-282.

d. The intention of the County to take remedial action and the possible liability of the responsible party for the costs of such actions if that action is not taken by the responsible party.

4. The Director or the Environmental Health Officer may take action pursuant to ARS §49-287 through 49-287.07, or enter into a settlement under section 49-292 or any other applicable provision of this article. Actions taken by the Director or the Environmental Health Officer pursuant to sections 49-287.01 through 49-287.07 may substantially affect the rights and obligations of persons who may be liable under this article for the release or threatened release of a hazardous substance at a site or portion of a site for purposes of determining insurance coverage. Any action taken by the Director or the Environmental Health Officer pursuant to sections 49-287.01 through 49-287.07 is not appealable unless otherwise provided in this article.

F. A remedial action order issued under subsection E of this section becomes final and enforceable in Superior Court for purposes of subsections I and J of this section unless, within thirty days after the receipt of the order, the recipient moves to quash or modify the order in Superior Court. If the motion to quash or modify the order raises issues of fact, the recipient of the order and the County are entitled to conduct expedited discovery on application to the court and are entitled to a priority for trial. A party who undertakes the actions prescribed in a remedial action order issued pursuant to this section may obtain a court order to recover the reasonable and necessary costs of the actions if the party demonstrates to the court that the actions required by the order were arbitrary and capricious or otherwise were not in accordance with law, that the party is not a responsible party as prescribed by section 49-283 or for the amount of costs incurred that exceeded the party's share of liability pursuant to section 49-285.

domestic, industrial, irrigation or agricultural uses or is part of a public water system if the well would now or in the reasonably foreseeable future produce water that would not be fit for its current or reasonably foreseeable end uses without treatment due to the release of pollutant. The specific measures to address any such well shall not reduce the supply of water available to the owner of the well.

C. In implementing this section and in selecting remedial actions, the Director or the Environmental Health Officer shall consider the following factors:

1. Population, environmental and welfare concerns at risk.
2. Routes of exposure.
3. Amount, concentration, properties, environmental fate, such as the ability to bioaccumulate, persistence and probability of reaching the waters of the county, and the form of the substance present.
4. Physical factors affecting human and environmental exposure such as hydrogeology, climate and the extent of previous and expected migration.
5. The extent to which the amount of water available for beneficial use will be preserved by a particular type of remedial action.
6. The technical practicality and cost-effectiveness of alternative remedial actions applicable to a site.
7. The availability of other remedial action and enforcement mechanisms, including funding sources established under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), to respond to the release.

D. Notwithstanding, the Director or the Environmental Health Officer may approve a remedial action that may result in water quality exceeding water quality standards after the completion of the remedy if the Director or the Environmental Health Officer finds that the remedial action meets the requirements of this section.

E. Approval pursuant to this section does not affect the classification of an aquifer pursuant to ARS §49-224.

F. Remedial actions required by this article shall be consistent with the requirements of Title 45, Chapter 2, except as provided in ARS §49-290.01.

Source: ARS §49-282.06

§ 00-01-1011 Enforcement; inspections and information gathering; civil penalties

A. Except as provided in ARS §49-286, the provisions of this article are independent of and are not subject to the enforcement remedies of ARS §49-264.

B. This section does not preclude the Director or the Environmental Health Officer from initiating actions pursuant to Section 505 of the Clean Water Act and Section 1449 of the Safe Drinking Water Act. The Director or the Environmental Health Officer shall not initiate any action under section 107(a) or 107(f) of CERCLA or section 7002 of the resource conservation and recovery act to the extent that the action is inconsistent with this article, except under any of the following circumstances:

1. In an action initiated by the Director or the Environmental Health Officer filing a complaint contemporaneously with a consent decree or any other agreement to provide contribution protection or a covenant not to sue under CERCLA.
2. In an action involving a facility at a site listed on the national priorities list on April 29, 1997. In an action involving a facility at a site on the National Priorities List that is listed after April 29, 1997

G. If there is a release or the threat of a release of any substance which may present an imminent and substantial danger to the public health or welfare, the Director or the Environmental Health Officer may take such remedial action as he deems necessary to protect the public health or welfare or the environment.

H. Any remedial action costs, other than nonrecoverable costs, incurred by the Director or the Environmental Health Officer pursuant to the procedures in subsection E of this section may be recovered in a civil action brought by the County Attorney against any responsible party pursuant to ARS §49-287.07.

I. A responsible party who wilfully violates or fails or refuses to comply with any order of the Director or the Environmental Health Officer under subsection E, paragraph 3 of this section may, in an action brought in Superior Court, be assessed a civil penalty of not to exceed twenty-five thousand dollars (\$25,000.00) per day per violation. A person who violates any condition of a permit issued pursuant to this ordinance is subject to a civil penalty of not to exceed five thousand dollars (\$5,000.00) per day per violation. All civil penalties assessed pursuant to this subsection shall be deposited in the general fund.

J. A responsible party who fails, without sufficient cause, to properly provide remedial action on order of the Director or the Environmental Health Officer pursuant to subsection E, paragraph 3 of this section may be liable to this County for punitive damages in an amount up to three times the amount of any costs incurred by the Director or the Environmental Health Officer as a result of the failure to take proper action. The County Attorney may commence a civil action against the responsible party to recover the remedial action costs and the punitive damages. Any punitive damages received by the County pursuant to this subsection shall be deposited in the General Fund. The failure to comply with the requirements of ARS §49-282.06 or the Director or the Environmental Health Officer's order to take a remedial action that causes the responsible party to incur costs that exceed the responsible party's proportionate share of liability pursuant to ARS §49-285 is a defense to an action for punitive damages and the amount of the punitive damages requested may be reduced, in full or in part.

K. If the Director or the Environmental Health Officer act pursuant to this section, he may undertake such investigations, monitoring, surveys, testing and other information gathering as he may deem necessary or appropriate to identify the existence and extent of the release or threat of a release, the source and nature of the substances and the extent of danger to the public health or welfare or to the environment. In addition, the Director or the Environmental Health Officer may undertake such planning, legal, fiscal, economic, engineering, architectural and other studies or investigations as he may deem necessary or appropriate to plan and direct remedial actions, to recover the costs of remedial actions, other than nonrecoverable costs, and to enforce this article.

Source: ARS §49-286.

§ 00-01-1012. Effective date

This ordinance shall become operative and in force and effect from and after thirty days from the date of adoption by the County of Yuma, by and through the Yuma County Board of Supervisors.

ADOPTED by the County of Yuma, Arizona, by and through the Yuma County Board of Supervisors, sitting in regular session this 2nd Day of October, 2000

AND BE IT DULY ENACTED according to law.

YUMA COUNTY BOARD OF SUPERVISORS

BY Lucy H. Lopez CHAIRMAN
YUMA COUNTY BOARD OF SUPERVISORS

ATTEST

BY Wally Hill
WALLY HILL
CLERK OF THE BOARD

APPROVED AS TO FORM AND DETERMINED AS WITHIN THE SCOPE OF PERFORMANCE
OF DUTY OF THE BOARD OF SUPERVISORS

YUMA COUNTY ATTORNEY

BY John Jute
DEPUTY COUNTY ATTORNEY