



# City Council Report

**Date:** December 10, 2018  
**To:** City Council  
**Through:** Natalie Lewis, Deputy City Manager  
**From:** Lt. Ryan A. Russell, Code Compliance Administrator  
**Subject:** Nuisance Code Updates (Citywide)

## Purpose and Recommendation

This report is to document the recommended changes to a portion of the Mesa City Code (MCC) Title 8, Chapter 6, Sections 5 through 18, commonly referred to as the enforcement section of the Nuisance Code. The changes impact the service of code compliance citations.

## Background and Discussion

Issuance of Citations by Code Compliance Officer –Prior to 2017, Code Compliance Officers issued citations for nuisance code violations to the violator in person. The current verbiage in Title 8 states, “citations shall be served in accordance with the Arizona Rules of Civil Procedure”. A legal ruling in 2017 clarified the Arizona Rules of Civil Procedures do not allow Code Compliance Officers to serve citations for Title 8 violations. Following that ruling, a civil process server was required to serve all citations for Code Compliance. This procedural change resulted in the City having to pay a civil process server a fee to serve each citation, as well as the civil process server is serving less than 20% of issued citations to the violator. The recommended change would remove the requirement to follow Arizona Rules of Civil Procedure and provide Code Compliance Officer the ability to serve the violator in person under Mesa City Code 1-27-3, or by the City Manager or designee. This verbiage change would eliminate the need to utilize a civil process server and increase the percentage of citations being served.

Consistent Verbiage - In 2016, the City of Mesa reorganized Development and Sustainability Department into Development Services. Throughout the recommended changes to Title 8, it is updated to reflect the current title of Development Services.

## Alternatives

The alternative to the recommended changes regarding Code Officers issuing citations would be to maintain the current verbiage. The option the City has pursued would involve Code Compliance continuing to utilize a process server to serve all code violation citations, or to pursue other options under Arizona Rules of Civil Procedure. The rate of service (using a process server) for the third quarter of 2018 was just below 20%, resulting in +80% of our citations being returned and/or not served to violators.

## **Fiscal Impact**

The fiscal impacts of these changes would end up being in the positive. Currently, the City of Mesa pays a process server a fee of \$15-\$45 to serve or attempt to serve our citations. The City pays upwards of \$16,000 annually for citation service with Intelliquick. As previously stated, their success rates are roughly 20%. By allowing the recommended changes and providing Code Officers the authority to serve citations, the City would save the service fee for each citation. Code Compliance issued 650 citations in FY17/18. With a 20% service rate, that leaves 520 citations as unserved. The impact from those 520 unserved citations is over \$180,000 in missed revenue. Combined with the saving of service fees and the potential positive financial impact could be significant.

## **Coordinated With**

These recommended changes were coordinated with members of Code Compliance Unit and the City Attorney's Office.