

**TOWN OF CAVE CREEK, ARIZONA
CODE OF ORDINANCES**

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PUBLISHER'S ACKNOWLEDGEMENT

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

AMERICAN LEGAL PUBLISHING CORPORATION

Stephen G. Wolf, Esq.

President

ADOPTING ORDINANCES

Ordinance No. O2000-08

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CAVE CREEK, MARICOPA COUNTY, ARIZONA ENACTING A CODE OF ORDINANCES FOR THE TOWN OF CAVE CREEK, ARIZONA REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE TOWN OF CAVE CREEK, ARIZONA DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY

WHEREAS, the present general and permanent ordinances of the Town of Cave Creek, Arizona are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Arizona empower and authorize the Town of Cave Creek, Arizona to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Town of Cave Creek, Arizona has authorized a general compilation, revision and codification of the ordinances of the Town of Cave Creek, Arizona of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF CAVE CREEK, ARIZONA:

Section 1. The general ordinances of the Town of Cave Creek, Arizona as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the Town of Cave Creek, Arizona."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following titles:

TOWN OF CAVE CREEK, ARIZONA

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Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

PASSED AND ADOPTED by the Mayor and the Town Council of the Town of Cave Creek, Arizona, this 24th day of July, 2000.

Vincent Francia /s/

VINCENT A. FRANCIA, Mayor

ATTEST:

Carrie A. Dyrek /s/

Carrie A. Dyrek, Town Clerk

APPROVED AS TO FORM:

Fredda Bisman /s/

Fredda Bisman, Town Attorney

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the Town of Cave Creek, Arizona," and may be so cited. Such code may also be cited as "The Cave Creek Town Code."

(`87 Code, Art. 1-1)

§ 10.02 INTERPRETATION.

(A) The rules and the definitions set forth in this chapter shall be observed in the construction of this code and the ordinances of the town unless such construction would be inconsistent with either the manifest intent of the Council or the context of this code or the ordinances of the town.

(`87 Code, Art. 1-2)

(B) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(‘87 Code, § 1-3-1)

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels, as measured on a sound level meter, using the a-weighting network in accordance with the sound level measurement criteria set forth in § 130.07(C). The level so read is designated as dBA.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNCIL. The Common Council of the Town of Cave Creek, Arizona.

(‘87 Code, § 1-3-4)

COUNTY. Maricopa County, Arizona.

DAY. The period of time between any midnight and the midnight following.

(‘87 Code, § 1-3-5)

DAYTIME. The period of time between sunrise and sunset.

(‘87 Code, § 1-3-6)

DECIBEL (dB). A unit for measuring the volume of a sound equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter), denoted as dB.

DEPARTMENT, BOARD, COMMISSION, OFFICE, OFFICER, or EMPLOYEE. Whenever any department, board, commission, office, officer, or employee is referred to, it shall mean a department, board, commission, office, officer, or employee of the town unless the context clearly indicates otherwise.

(‘87 Code, § 1-3-7)

EMERGENCY VEHICLE. Vehicles of the Fire, Police, and Public Service Departments and legally authorized ambulances and emergency vehicles of the State of Arizona, Maricopa County, or any political subdivisions thereof, and vehicles of public service corporations.

EMERGENCY WORK. Any work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency, which has or may result in a disruption of service, and which is necessary to protect the health, safety and welfare of persons or property.

EXCESSIVE NOISE. Any sound measured according to the criteria in § 130.07(C), which exceeds the levels set out in § 130.07(D). In the absence of specific maximum noise levels, a noise level is excessive if it exceeds the allowable noise level for the zoning district in which it is located.

IN THE TOWN or **WITHIN THE TOWN.** Means and includes all territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

(`87 Code, § 1-3-9)

JOINT AUTHORITY. All words purporting to give a joint authority to three or more town officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

(`87 Code, § 1-3-10)

Leq. The constant level that over a given period transmits to the receiver the same amount of acoustic energy as the actual time-elapsed sound.

MAJORITY. When used in reference to the Town Council means 51% of those members in attendance provided that a quorum of the Council is also present.

(`87 Code, § 1-3-11)

MONTH. A calendar month.

(`87 Code, § 1-3-12)

MOTOR VEHICLE. Every self-propelled device in, upon, or by which any person or property is, or may be, transported upon a public highway, excepting devices used exclusively upon stationary rails or tracks and aircraft.

MUFFLER. A device for abating the sound of escaping gases from an internal combustion engine.

NIGHTTIME. The period of time between sunset and sunrise.

(`87 Code, § 1-3-6)

NOISE. The same meaning as "sound pressure level," as hereinafter defined.

OATH. Includes affirmation or declaration.

(`87 Code, § 1-3-13)

OFFENSIVE NOISE. Any sound emitted across a property line within any residential or commercial development, and which exceeds the allowable noise level for the zoning district in which it is located.

PERSON. Shall extend and be applied to firms, corporations, or voluntary associations, as well as to individuals, unless plainly inapplicable.

(`87 Code, § 1-3-15)

PERSONAL PROPERTY. Includes every species of property, except real property as defined in this section.

(`87 Code, § 1-3-16)

PRECEDING or **FOLLOWING.** The words **PRECEDING** and **FOLLOWING** mean next before and next after, respectively.

(`87 Code, § 1-3-17)

PROPERTY. Shall include real and personal property.

(`87 Code, § 1-3-18)

REAL PROPERTY. Shall include lands, tenements, and hereditaments.

(`87 Code, § 1-3-19)

SHALL or **MAY**. **SHALL** is mandatory and **MAY** is permissive.

(`87 Code, § 1-3-20)

SHALL HAVE BEEN. Includes past and future cases.

(`87 Code, § 1-3-21)

SIGNATURE or **SUBSCRIPTION.** Includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his or her own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

(`87 Code, § 1-3-22)

SITE-SPECIFIC SOURCE OF NOISE. A source of sound found on a specific site or parcel of land, which is confined to that site even though the specific source of the sound generation may be mobile on the site or parcel.

SOUND. Temporal and spatial oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that causes progressively alternative compression and rarefaction of that medium, and which propagates at finite speed to distant points and can evoke an auditory sensation.

SOUND LEVEL METER. An instrument, including a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks, used to measure sound pressure levels.

SOUND PRESSURE. The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space as produced by sound energy.

SOUND PRESSURE LEVEL. Twenty times the logarithm to the base ten of the ratio of RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-n}/m$). The **SOUND PRESSURE LEVEL** is denoted LP or SPL, and is expressed in decibels (dBA).

STATE. The State of Arizona.

(`87 Code, § 1-3-23)

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or **OCCUPANT.** When applied to a building or land shall include any person holding a written or an oral lease or who occupies the whole or part of such building or land, either alone or with others.

(`87 Code, § 1-3-24)

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, except where otherwise provided.

(`87 Code, § 1-3-31)

(Am. Ord. O-2005-02, passed 2-22-05; Am. Ord. O-2007-02, passed 3-19-07)

Statutory reference:

Definitions and construction of statutes generally, see A.R.S. §§ 1-211 through 1-215

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) *And/or.* "Or" may be read "and," and "and" may be read "or," if the context requires it.

(`87 Code, § 1-3-14)

(B) *Acts by agents.* When this code or an ordinance requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(`87 Code, § 1-3-2)

(C) *Gender; singular and plural; tenses.* Words of the masculine gender include the feminine; words in the singular number include the plural, and words in the plural number include the singular. The present tense includes the past and future tenses, and the future includes the present.

(`87 Code, §§ 1-3-8 and 1-3-25)

(D) *General terms.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses, and phrases of this code shall be severable, and if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provisions of the code.

(`87 Code, Art. 1-7)

§ 10.08 REFERENCE TO CHAPTERS AND SECTIONS.

(A) All references to chapters or sections are to the chapters and sections of this code unless otherwise specified.

(`87 Code, § 1-4-2)

(B) Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME; CALCULATION OF TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done as provided in this code or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday, or holiday it shall be excluded; and when such time is expressed in hours, the whole of Saturday, Sunday, or a holiday, from midnight to midnight, shall be excluded.

('87 Code, § 1-3-26)

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code, except as otherwise provided in § 10.14. However, all rights, duties and obligations created or imposed by the repealed ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

('87 Code, § 1-9-1)

§ 10.14 ORDINANCES UNAFFECTED.

The adoption and enactment of this code shall not be construed to repeal or in any way to modify or affect:

(A) Any special ordinance or ordinances regarding franchises, annexations, dedications, or zoning.

(B) Any ordinance making an appropriation.

(C) Any ordinance affecting any bond issue or by which any bond issue may have been authorized.

(D) The running of the statute of limitations in force at the time this code becomes effective.

(E) The continued existence and operation of any department, agency, commission, or office heretofore legally established or held.

(F) Any bond of any public officer.

(G) Any taxes, fees, assessments, or other charges incurred or imposed.

(H) Any ordinances authorizing, ratifying, confirming, approving, or accepting any compact or contract with any other municipality, the State of Arizona or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

(I) Ordinance 86-9-04 and any amendments of such ordinance.

('87 Code, § 1-9-2)

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause, or provision unless it shall be expressly so provided. The repeal of an ordinance shall not affect

any punishment or penalty incurred before the repeal took effect nor any suit, prosecution, or proceeding pending at the time of the repeal for any offense committed under the ordinance repealed.

(`87 Code, Art. 1-6)

§ 10.17 CONFLICTING PROVISIONS.

If any provision of this code conflicts with any other provision of this code, any other local legislation, or any state or federal law, the provision which is more stringent or restrictive in nature shall apply unless the context clearly requires or indicates otherwise.

(`87 Code, §§ 1-4-3 and 1-4-4)

§ 10.18 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.19 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. **Example:** (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. **Example:** (A.R.S. § 9-240) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. **Example:**

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see A.R.S. § 39-121

(C) If a section of this code is derived from the previous code of ordinances of the town published in 1987 and subsequently amended, the 1987 code section number shall be indicated in the history by "(`87 Code, § ____)."

§ 10.99 GENERAL PENALTY.

(A) Any person found responsible, pursuant to Chapter 31, § 31.28 of this code, for violating any provisions of this code, except as otherwise provided in this code, shall be responsible for a civil code infraction, and upon such finding of responsibility therefor may be punished by a civil sanction not to exceed \$500. Each day that a violation continues shall be a separate offense punishable as herein provided.

(1) In addition to any monetary civil sanction, the Civil Hearing Officer shall order the defendant to abate the civil code infraction, unless it has been abated by the date of a finding of responsibility therefor.

(2) The Civil Hearing Officer shall have the authority, within his or her discretion, to suspend the payment of any civil sanction imposed.

(3) In any case involving a civil code infraction relating to the occupancy or use of land, any monetary civil sanction imposed pursuant to this section upon a defendant who holds an ownership interest in such land shall be recordable as a lien upon such land and shall run with the land. The town, at its sole option, may record a notice of civil sanction and abatement order with the Maricopa County Recorder and thereby cause compliance by any person(s) or entity thereafter acquiring such property. When the property is brought into compliance by the owner or responsible party, a satisfaction of notice of civil sanction and abatement order shall be filed at the request and expense of the owner or responsible party. It shall be the property owner's responsibility to secure the satisfaction of notice of civil sanction and abatement order from the town.

(B) Any violation of or failure or refusal to do or perform any act required by Title VII of this code constitutes a civil traffic offense which shall result in a civil penalty not to exceed \$250. In addition, the court shall levy penalty assessments pursuant to A.R.S. §§ 12-116.01 and 12-116.02. Civil traffic violations are subject to the provisions of A.R.S. §§ 28-1592 et seq., as amended.

(C) Any person found guilty of violating any provision of this code which is classified as a Class 1 misdemeanor, upon conviction thereof, may be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years, or by any combination of such fine, imprisonment, and probation.

(D) Notwithstanding any other provision of this code, any person found to have violated any provision of this code or amendments thereto, which pursuant to this section is classified as a civil code infraction, and who has been twice previously found to have violated such provision within the preceding 24 months, shall, in addition to any penalty prescribed for such civil code infraction, be guilty of a Class 1 misdemeanor and shall be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years, or by any combination of such fine, imprisonment, and probation.

(`87 Code, Art. 1-8) (Ord. O-2005-07, passed 6-20-05)

Statutory reference:

Maximum penalty for civil traffic violations, see A.R.S. § 28-1598

Misdemeanor penalty authorized, see A.R.S. § 9-240(28)(b)

Cross-reference:

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TOWN COUNCIL

§ 30.01 COMPOSITION.

The elected officers of the town shall be a Mayor and six Council Members. The Mayor and Council Members shall constitute the Council and shall continue in office until the assumption of the duties of office by their duly elected successors.

(`87 Code, § 2-1-1(A)) (Am. Ord. 89-09, passed 5-1-89; Am. Ord. 95-07, passed 6-12-95)

Statutory reference:

Town Council, see A.R.S. § 9-231

§ 30.02 TERM OF OFFICE.

Commencing with the primary or general election of 1997, the regular term of office for the Mayor and Council Members shall be two years or until their successors are elected and qualified.

(`87 Code, § 2-1-1(B)) (Am. Ord. 89-09, passed 5-1-89; Am. Ord. 95-07, passed 6-12-95)

Statutory reference:

Term of office, see A.R.S. § 9-301

§ 30.03 POWERS.

The corporate powers of the town shall be vested in the Town Council and shall be exercised only as directed or authorized by law. All powers of the Town Council shall be exercised by ordinance, resolution, order, or motion.

(`87 Code, § 2-1-2)

§ 30.04 DUTIES.

Council Members shall assume the duties of office at the regularly scheduled Town Council meeting next following the date of the general election at which, or effective as of the date of which, the Council Members were elected.

(`87 Code, § 2-1-3)

Statutory reference:

Qualifications of members, see A.R.S. § 9-232

§ 30.05 VACANCIES.

The Town Council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason.

(`87 Code, § 2-1-4)

Statutory reference:

Vacancies, see A.R.S. § 9-235

§ 30.06 COMPENSATION.

The compensation of elective officers of the town shall be fixed from time to time by resolution of the Town Council, but such resolution shall be effective only after the election of a subsequent Town Council.

(`87 Code, § 2-1-5)

Statutory reference:

Compensation, see A.R.S. § 9-232.01

§ 30.07 OATH OF OFFICE.

Immediately prior to assumption of the duties of office, each Council Member shall, in public, take and subscribe to the oath of office.

(`87 Code, § 2-1-6)

Statutory reference:

Oath of office, see A.R.S. §§ 9-232 and 38-231

§ 30.08 BOND AND LIABILITY.

Prior to taking office, every Council Member shall execute and file an official bond, enforceable against the principal and his or her sureties, conditioned on the due and faithful performance of his or her official duties, payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his or her official capacity. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in A.R.S. § 38-260. Bonds shall be in such sum as shall be provided by resolution, and the premium for such bonds shall be paid by the town.

(`87 Code, § 2-1-7)

Statutory reference:

Bond, see A.R.S. § 9-302

§ 30.09 FINANCIAL DISCLOSURE STATEMENT.

The Mayor and each Member of the Town Council shall file by January 31 of each year a financial disclosure statement on a form prescribed by the Clerk and with such information as provided by resolution of the Town Council and pursuant to state law.

(`87 Code, § 2-1-8)

Statutory reference:

Financial disclosure statement, see A.R.S. § 38-545

MAYOR

§ 30.20 ELECTION.

Beginning with the election to be held on the second Tuesday in March in 1997, the Mayor of the town shall be directly elected by the qualified electors of the town.

(`87 Code, § 2-2-1) (Am. Ord. 90-23, passed 7-2-90; Am. Ord. 95-07, passed 6-12-95; Am. Ord. 96-11, passed 9-3-96)

Statutory reference:

Direct election of Mayor, see A.R.S. § 9-232.03

§ 30.21 VICE MAYOR.

At the first regular meeting in June of each odd-numbered year, the Mayor and Members of the Town Council shall designate one of the Council Members as Vice Mayor. The Vice Mayor shall serve at the pleasure of the Town Council and shall perform the duties of the Mayor during the Mayor's absence or disability.

(`87 Code, § 2-2-2) (Am. Ord. 95-07, passed 6-12-95)

Statutory reference:

Appointment of member to act in absence of Mayor, see A.R.S. § 9-236

§ 30.22 ACTING MAYOR.

In the absence or disability of both the Mayor and Vice Mayor, the Town Council may designate another of its members to serve as acting Mayor who shall have all the powers, duties, and responsibilities of the Mayor during such absence or disability.

(`87 Code, § 2-2-3)

§ 30.23 POWERS AND DUTIES OF MAYOR.

(A) The powers and duties of the Mayor shall include the following:

(1) The Mayor shall be recognized as head of the town government for all ceremonial purposes and by the governor for purposes of martial law, but shall have no regular administrative duties.

(2) The Mayor shall be the Chairperson of the Town Council and preside over its meetings. He or she may make and second motions and shall have a voice and vote in all the Town Council's proceedings.

(3) The Mayor shall execute and authenticate by his or her signature such instruments as the Town Council or any statutes, ordinances, or this code shall require.

(4) The Mayor shall make such recommendations and suggestions to the Town Council as he or she may consider proper.

(5) The Mayor shall govern the town by proclamation during times of riot, civil insurrection, major disaster, and great public danger.

(B) The Mayor shall perform such other duties as are required by state statute and this code.

(`87 Code, § 2-2-4) (Am. Ord. 88-06, passed 6-6-88; Am. Ord. 90-25, passed 7-2-90; Am. Ord. 96-16, passed 10-21-96)

Statutory reference:

Duties of Mayor, see A.R.S. § 9-236

§ 30.24 ABSENCE; VACANCY IN OFFICE.

The Mayor shall not be absent from the town for a period greater than 15 days without the consent of the Town Council. In case of the Mayor's death, resignation, or vacation of office for any reason, the Members of the Town Council will appoint a Member of the Town Council to serve the remainder of the Mayor's term and make an appointment to fill that individual's seat on the Town Council.

(`87 Code, § 2-2-5) (Am. Ord. 95-07, passed 6-12-95)

§ 30.25 FAILURE TO SIGN DOCUMENTS.

If the Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand, or other document or instrument requiring his or her signature for five days consecutively, then a majority of the Members of the Town Council may, at any regular or special meeting, authorize the Vice-Mayor or, in the Vice-Mayor's absence, an acting mayor to sign such ordinance, resolution, contract, warrant, demand, or other document or instrument, which when so signed shall have the same force and effect as if signed by the Mayor.

(`87 Code, § 2-2-6)

PROCEDURE

§ 30.35 MEETINGS.

(A) *Regular meetings.* The Town Council shall hold regular meetings on the first and third Monday of each month at 7:00 p.m., provided that when the day fixed for any regular meeting of the Town Council falls upon a day designated by law as a legal holiday, the meeting shall be held at the same hour on the next succeeding day which is not a holiday. All regular meetings of the Town Council shall be held at the Town Hall.

(`87 Code, § 2-4-1) (Am. Ord. 91-18, passed 7-9-91; Am. Ord. 97-12, passed 8-18-97; Am. Ord. 97-20, passed 11-17-97)

(B) *Special meetings.* The Mayor, or the Clerk upon the written request of four Members of the Town Council, may convene the Town Council at any time by notifying the Members of the date, hour, and purpose of such special meeting. Notice of such meeting shall be made pursuant to state law. In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances.

(`87 Code, § 2-4-2)

Statutory reference:

Meetings, see A.R.S. § 9-233

§ 30.36 OPEN MEETING RULE.

All proceedings of the Town Council shall be open to the public, except that upon approval by a majority vote of the Town Council, the Town Council may meet in a closed executive session pursuant to the provisions of state law.

(`87 Code, § 2-4-3)

Statutory reference:

Open meetings, see A.R.S. §§ 38-431 et seq.

§ 30.37 QUORUM.

A majority of the Council Members shall constitute a quorum for transacting business, but a lesser number may recess or adjourn from time to time and compel the attendance of absent members.

(`87 Code, § 2-4-4)

Statutory reference:

Quorum, see A.R.S. § 9-233

§ 30.38 AGENDA.

(A) At least six calendar days prior to each Town Council meeting, or as required by law, the Clerk, in consultation with the Mayor and Town Manager, shall collect all written reports, communications, ordinances, resolutions, contracts, and other documents to be submitted to the Town Council, prepare an agenda according to the order of business, post the agenda in the manner provided by law for such notice to the public, make a copy of the agenda and submission documents available for public inspection at the Town Hall, and provide a copy of the agenda and submission documents to each Council Member, the Mayor, and the Town Attorney. The agenda may include a consent agenda of one or more items.

(B) The Mayor, or the Town Clerk upon the written request of two members of the Town Council, may include an item on the agenda.

(C) To fully effect the intent of this section, all information required for submittal of the action item to the Town Council shall be provided to the Town Clerk no less than seven days prior to the Town Council meeting at which the action item is to be considered.

(D) The Town Manager, with concurrence of the Mayor, may waive the agenda or submission deadline set forth in this section for routine administrative changes.

(E) The Mayor or, in the absence of the Mayor, the Vice-Mayor may waive the seven-day deadline set forth in division (A) above and amend the agenda less than seven days prior to a Council meeting, but more than the 24-hour period required for posting the agenda.

('87 Code, § 2-4-5) (Am. Ord. 96-03, passed 4-1-96; Am. Ord. O-2001-12, passed 12-3-01; Am. Ord. O2009-03, passed 4-6-09; Am. Ord. O2012-02, passed 3-19-12; Am. Ord. O2015-04, passed 6-15-15; Am. Ord. O2017-10, passed 7-17-17)

Statutory reference:

Power to regulate proceedings, see A.R.S. § 9-234

§ 30.39 ORDER OF BUSINESS.

(A) *Agenda.* The business of the Town Council shall be taken up for consideration and disposition in accordance with the agenda as established by the Mayor and Town Manager.

(B) *Consent calendar.* Matters on the consent calendar shall not require separate action but may be acted upon by adoption of the consent calendar. Any Council Member may request that a consent calendar item be removed from the consent calendar, in which case that item will not be acted upon by the adoption of the consent calendar.

(C) *Call to the public.* Unscheduled petitions, remonstrances, communications, and comments or suggestions from citizens present shall be heard by the Town Council. All such remarks shall be addressed to the Town Council as a whole, and to any Member thereof. Such remarks shall be limited to three minutes, unless additional time is granted by the Town Council. No question shall be asked of any Council Member except through the presiding officer. No Town Council action shall be taken on any "call to the public" items.

('87 Code, § 2-4-6) (Am. Ord. 89-14, passed 7-5-89; Am. Ord. 90-10, passed 7-2-90; Am. Ord. 91-12, passed 4-9-91; Am. Ord. O2012-02, passed 3-19-12)

§ 30.40 COMMITTEES AND COMMISSIONS.

The Town Council may create such boards, task forces, committees, and commissions, standing or special, as it deems necessary. They shall consist of as many members and shall perform such duties as the Town Council may require and shall exist at the pleasure of the Town Council.

('87 Code, § 2-4-7) (Am. Ord. 90-11, passed 7-2-90; Am. Ord. 90-30, passed 10-15-90; Am. Ord. 91-02, passed 3-4-91)

§ 30.41 VOTING.

(A) The Mayor shall vote as a member of the Town Council.

(B) Upon the request of any Member, the ayes and nays upon any question shall be taken and entered in the minutes.

(C) A roll call vote shall be taken on passage of any ordinance and on any item regarding any financial consideration.

(`87 Code, § 2-4-8)

§ 30.42 SUSPENSION OF RULES.

Any of the provisions of the rules may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths of the Members present, except that this section shall not be construed to permit any action that is contrary to state statutes.

(`87 Code, § 2-4-9) (Am. Ord. 90-12, passed 7-2-90)

ORDINANCES, RESOLUTIONS, AND CONTRACTS

§ 30.55 PRIOR REVIEW.

All ordinances, resolutions, and contract documents shall, before presentation to the Town Council, have been reviewed as to form by the Attorney and shall, when there are substantive matters of administration involved, be referred to the person who is charged with the administration of the matters. Such person shall have an opportunity to present his or her objections, if any, prior to the passage of the ordinance or resolution or acceptance of the contract.

(`87 Code, § 2-5-1)

§ 30.56 INTRODUCTION.

(A) Ordinances, resolutions, and other matters or subjects requiring action by the Town Council may be introduced by a Member of the Town Council, Attorney, the Manager, or the Manager's designee.

(B) Ordinances shall be read on two different days, both readings will be by title only. For ordinances which require immediate passage, the Town Council may dispense with the rule by an affirmative vote of one-half plus one of the Members of the full Town Council.

(`87 Code, § 2-5-2) (Am. Ord. 88-06, passed 6-6-88; Am. Ord. 96-29, passed 12-2-96; Am. Ord. O2012- 02, passed 3-19-12)

§ 30.57 EFFECTIVE DATES.

No ordinance or franchise shall become operative until 30 days after its passage by the Town Council and approval by the Mayor, except measures necessary for the immediate preservation of the peace, health, or safety of the town, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative and unless it is approved by the affirmative vote of three-fourths of all the Members of the Town Council, taken by ayes and nays.

(`87 Code, § 2-5-4) (Am. Ord. 88-06, passed 6-6-88)

Statutory reference:

Emergency clause, see A.R.S. § 19-142(B)

§ 30.58 PUBLICATION.

Only such orders, resolutions, motions, regulations, or proceedings of the Town Council shall be published as may be required by state statutes or expressly ordered by the Town Council.

(`87 Code, § 2-5-6)

Statutory reference:

Publication, see A.R.S. §§ 9-811 et seq.

§ 30.59 ORDINANCE REQUIREMENTS.

(A) *Form and contents.* Each ordinance should have but one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance, and, in such case, the title of the sections to be amended shall be included in the ordinance.

(‘87 Code, § 2-5-3)

(B) *Signature and attestation.* Every ordinance passed by the Town Council, before it becomes effective, shall be signed by the Mayor and attested by the Clerk.

(‘87 Code, § 2-5-5)

(C) *Posting of ordinances imposing punishment.* Every ordinance imposing any penalty, fine, forfeiture, or other punishment shall, after passage, be posted by the Clerk in three or more public places as set by the Town Council within the town and an affidavit of the person who posted the ordinance shall be filed in the office of the Clerk as proof of posting.

(‘87 Code, § 2-5-7)

Statutory reference:

Posting required, see A.R.S. § 9-813

SPECIAL PROCEEDINGS

§ 30.70 CONDEMNATION HEARINGS.

At least two public hearings shall be posted and held by the Town Council in the manner provided by law regarding the subject matter of any order, resolution, or ordinance which authorizes any condemnation proceeding by or on behalf of the town.

(Ord. 96-06, passed 5-20-96)

CHAPTER 31: TOWN OFFICERS

Section

General Provisions

- 31.01 Creation of offices
- 31.02 Additional offices
- 31.03 Bond
- 31.04 Oath
- 31.05 Vacancies; holding multiple offices
- 31.06 Powers and duties

Officers

- 31.20 Clerk

- 31.21 Marshal
- 31.22 Engineer
- 31.23 Attorney
- 31.24 Magistrate
- 31.25 Manager
- 31.26 Zoning Administrator
- 31.27 Civil Hearing Officer
- 31.28 Commencement of enforcement action on civil code infraction

Cross-reference:

Court Administrator, see § 34.56

Prosecutor, see § 34.55

GENERAL PROVISIONS

§ 31.01 CREATION OF OFFICES.

(A) There are hereby created the offices of Town Clerk, Town Marshal, and Town Engineer, who shall be appointed by the Manager and who shall serve at the pleasure of the Manager.

(B) There are hereby created the offices of Town Magistrate and Town Attorney, who shall be appointed by the Town Council. The Magistrate shall serve for a term of two years with the beginning and ending of the term to be specified at the time of appointment. During such term, a Magistrate may be removed only for cause. The Town Attorney shall serve at the pleasure of the Town Council.

(`87 Code, § 3-1-1) (Am. Ord. 88-07, passed 6-6-88; Am. Ord. 90-17, passed 7-2-90)

Statutory reference:

Officers, see A.R.S. §§ 9-237, 9-303

§ 31.02 ADDITIONAL OFFICES.

The Town Council and Manager may create such other offices as they may deem necessary and that are not provided for in this code or state statute, and the Town Council and Manager may establish the duties of officers created in § 31.01.

(`87 Code, § 3-1-3) (Am. Ord. 88-07, passed 6-6-88)

Statutory reference:

Additional offices, see A.R.S. § 9-239

§ 31.03 BOND.

The Town Council shall require each officer of the town to give bond for the due discharge of his or her duties in such sums and with such security as it may direct and approve as determined by resolution. The town shall pay the costs of such bond.

(`87 Code, § 3-1-4)

Statutory reference:

§ 31.04 OATH.

Each officer and employee of the town shall take and subscribe to the loyalty oath required pursuant to A.R.S. § 38-231.

(`87 Code, § 3-1-5)

§ 31.05 VACANCIES; HOLDING MULTIPLE OFFICES.

Any vacancy that shall occur in any town office shall be filled by appointment by the Manager, provided that one person may hold more than one office and that at the discretion of the Manager the functions of a town official may be validly performed and discharged by a deputy or another town official, or an otherwise qualified individual not holding office but employed at the pleasure of the Manager.

(`87 Code, § 3-1-6) (Am. Ord. 88-07, passed 6-6-88)

Statutory reference:

Vacancies, see A.R.S. § 9-239

§ 31.06 POWERS AND DUTIES.

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties, and hold such other offices as may be provided by the Town Council through ordinance, resolution, or order and by direction of the Town Manager.

(`87 Code, § 3-1-7) (Am. Ord. 88-07, passed 6-6-88)

OFFICERS

§ 31.20 CLERK.

(A) *Records.* The Clerk shall keep a true and correct record of all business transacted by the Town Council and any other records that either pertain to the business of the town or that the Town Council or Manager directs. The Clerk shall number, plainly label, and file separately in a suitable cabinet all resolutions, ordinances, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders, and other documents of whatever nature.

(B) *Public inspection of records.* The Clerk shall keep convenient for public inspection all public records and public documents under his or her control, as provided by state statute.

(C) *Monthly reports.* The Clerk shall prepare and collect from town officers and employees such monthly reports prepared in such manner and to include such information as may be directed by the Town Council.

(D) *Minutes.* The Clerk shall prepare or cause to be prepared all minutes of Town Council proceedings and ensure their correctness and accuracy.

(E) *Ordinances, resolutions, budgets, and notices.* The Clerk shall process, record, file, publish, and, if required by state statute, post all ordinances, resolutions, budgets, and notices that may be passed by the Town Council.

(F) *Duties as Treasurer.* The Clerk shall hold the office of Town Treasurer and receive and secure all monies that shall come to the town and pay out the same when authorized by the Town Council or Manager as authorized by the Town Council. He or she shall keep a separate record and account of each different fund provided by the Town Council, apportion the monies received among the different funds as prescribed by the Town Council, and keep a complete set of books showing every money transaction of the town, the state of each fund, from what source the money in each fund was derived and for what purpose expended. He or she shall make

monthly reports to the Town Council of all receipts and disbursements and the balance in each fund.

(G) *Election official.* The Clerk shall be the town election official and perform those duties required by state statute.

(H) *Licenses.* The Clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.

(I) *Administrative duties.* The Clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the Town Council or Manager in addition to those specified in this code.

(`87 Code, § 3-2-1) (Am. Ord. 88-07, passed 6-6-88)

Statutory reference:

Clerk, see A.R.S. §§ 9-237 and 9-238

§ 31.21 MARSHAL.

The Marshal shall be a law enforcement official and shall be collector of all taxes of the town, provided that the collection of such taxes may be administered by the Clerk. He or she shall perform such duties as may be required of him or her by law and as the Manager may deem necessary.

(`87 Code, § 3-2-2) (Am. Ord. 88-07, passed 6-6-88; Am. Ord. O-2003-05, passed 8-18-03)

Cross-reference:

Marshal, powers and duties, see § 32.02

Statutory reference:

Marshal, see A.R.S. §§ 9-237 and 9-238

§ 31.22 ENGINEER.

The Engineer shall perform such duties as may be required of him or her by law and such other duties as the Manager may deem necessary.

(`87 Code, § 3-2-3) (Am. Ord. 88-07, passed 6-6-88)

Statutory reference:

Engineer, see A.R.S. §§ 9-237 and 9-238

§ 31.23 ATTORNEY.

The Attorney shall act as the legal counselor and advisor of the Town Council and Manager and other town officials and, as such, shall give his or her opinion in writing when requested. He or she shall draft all deeds, contracts, conveyances, ordinances, resolutions, and other legal instruments when required by the Town Council or Manager. He or she shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the Town Council. He or she shall return all ordinances and resolutions submitted to him or her for consideration by the Town Council, with his or her approval or disapproval as to form noted thereon, together with his or her reasons therefor. He or she shall prosecute and defend all suits, actions, or causes where the town is a party and shall report to the Town Council, when required, the condition of any suit or action to which the town is a party.

(`87 Code, § 3-2-4) (Am. Ord. 88-07, passed 6-6-88)

§ 31.24 MAGISTRATE.

The Town Magistrate shall be the presiding officer of the Magistrate's Court and shall be selected by the Town Council and shall perform those functions necessary to the maintenance of the Magistrate's Court as provided by state statute.

Cross-reference:

Magistrate Court, see Chapter 34

Statutory reference:

Magistrate, see A.R.S. § 22-403

§ 31.25 MANAGER.

(A) *Creation; residence.*

(1) The office of the Town Manager (hereinafter called "Manager") is hereby created. The Manager shall be appointed by a majority of the Town Council for an indefinite term. The Manager shall be chosen on the basis of his or her executive and administrative qualifications and his or her knowledge of accepted practice with respect to the duties of this office. The Manager shall hold office at the pleasure of the Town Council.

(2) At the time of appointment, the person appointed as Manager need not be a resident of the town or the state, but shall be required to reside within 15 miles of the town boundaries or a greater distance as authorized by Town Council, within six months of appointment.

(B) *Eligibility.* No Member of the Town Council shall be eligible to be appointed to the office of Manager during the term for which the Member shall have been elected or appointed.

(C) *Bond.* The Manager shall furnish a surety bond to be approved by the Town Council in such sum as may be determined by the Town Council, said bond to be conditioned upon the faithful performance of his or her duties as described herein. The premium for such bond shall be paid by the town.

(D) *Compensation.* The Manager shall receive such compensation as the Town Council shall from time to time determine. In addition, the Manager shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of official duties, or incurred when traveling on business pertaining to the town under direction of the Town Council. Reimbursement shall only be made, however, when a verified, itemized claim has been approved and allowed according to established policy.

(E) *Acting Town Manager.*

(1) If the Manager is temporarily unable to perform his or her official duties, the powers and duties of the office shall devolve upon the Clerk. If the Clerk is unable to perform the duties, the Manager, or the Clerk if the Manager is unable, shall then designate an officer of the town to be acting Town Manager.

(2) If a vacancy in the office of Manager occurs, such as would be created by termination, resignation, or death, the Town Council may assign the powers and duties of the office to another person until the Manager is replaced.

(F) *Removal.* The Manager may be removed only by a majority vote of the Town Council at a regular or special Town Council meeting. In such event, the Manager shall be furnished with a written notice stating the Town Council's intention to remove him or her and the reasons therefor at least 30 days following notice of removal, providing such request is made within seven days from the date of notice of removal. During the interim, the Town Council may suspend the Manager from duty but shall continue his or her salary and, if the removal becomes final, shall pay his or her salary according to his or her employment contract. Should the manager not have a contract, then the severance pay shall be for a maximum of one month.

(G) *Resignation.* The Manager shall give in writing a 30-day notice of his or her intention to resign before leaving, resigning, or quitting the office of Town Manager.

(H) *Powers and duties.* The Manager shall be the chief administrative officer of the town and shall be responsible to the Town Council for the proper administration of all affairs of the town, ensuring that the town shall maintain the highest possible standards of public service. It shall be the Manager's duty to:

(1) Execute, on behalf of the Town Council, general administrative supervision and control of the affairs of the town.

(2) Attend all meetings of the Town Council, unless excused therefrom, and report on any matter concerning activities, departments, and services under his or her supervision about which, in his or her judgment, the Town Council should be informed;

attend, or designate a representative to attend, all board and commission meetings.

(3) Appoint and, when necessary, suspend and remove all employees of the town. With regard to all officers and employees appointed by the Manager, neither the Town Council nor any of its Members shall direct or request the appointment of any person to, or his or her removal or suspension from, such office by the Manager or any of his or her subordinates, or in any manner take part in the appointment or removal of such officers and employees in the administrative services of the town.

(4) Coordinate administrative functions and operations of the various departments, boards, divisions, and services of the town government and, on its behalf, carry out policies, rules, regulations, ordinances, and provisions of the town code relating to the administration of the affairs of such departments, boards, divisions, or services.

(5) Analyze the functions, duties, and activities of the various departments, boards, and services of the town government and of all employees, and recommend to the Town Council any changes which, in his or her judgment, would result in a more efficient town government.

(6) Prepare and submit the proposed annual budget to the Town Council for its approval on dates specified by the Town Council.

(7) Supervise the expenditures of all departments, divisions, or services of the town government, ensuring that no expenditure is made in violation of the Arizona Constitution, the state budget law, and A.R.S. § 42-17106(A)(2) in particular.

(8) Acquire and keep a current inventory of all the personal property owned by the town and recommend to the Town Council the purchase of machinery, equipment, and supplies along with the means by which these should be obtained.

(9) Ensure that all laws and ordinances of the town are enforced, and recommend that the Town Council adopt such measures or ordinances as may contribute to the health, safety, or welfare of the community or improve administrative services.

(10) Investigate all complaints concerning the administration of the government and any contract and/or service maintained by the town, and report all findings to the Town Council, and see that all franchises, permits, and privileges granted by the town are faithfully observed.

(11) Perform such other duties as may be required by the Town Council not inconsistent with the laws of the state or the provisions of the ordinances of the town, and devote full time to the discharge of official duties.

(I) *Policy-making prohibited.* The Town Manager shall not exercise any policy-making or legislative functions nor attempt to commit or bind the Town Council to any action, plan, or program requiring the official action of the Town Council.

(J) *Orders and directions.* The Town Council shall deal with the administrative services of the town only through the Town Manager, except for the purpose of inquiry, and neither the Town Council nor any Members thereof shall give orders to any subordinates of the Town Manager.

(K) *Political activities.*

(1) The Manager is to remain free from any political activity in a town municipal election and may not:

(a) Solicit or attempt to solicit support for a candidate or a political party involved in a town municipal election from any employee or appointed official;

(b) Take part in the campaign of a candidate participating in a town municipal election;

(c) Seek election to public office with the town while still serving as the Manager or employed by the town;

(d) Use his or her position to sell, solicit or distribute any campaign material during working hours and/or using town resources;

(e) Use his or her position to introduce, guide or recommend any candidate for public office on town property;

(f) Be involved in the campaign of any person for election to the office of Mayor or Council Member of the town; or

(g) Advocate for or against or utilize town resources or staff in support of or against referenda or initiatives to be brought to voters.

(2) Nothing in this section shall be read to limit the Manager's right as a citizen to vote (he or she is encouraged to do so), or subject to this section, to express opinions as an individual citizen. However, the Manager may not do so as a representative of the town.

(L) *Agreements on employment.* Nothing in this section shall be construed as a limitation on the power or authority of the Town

Council to enter into any supplemental agreement with the Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this subchapter or of state statutes.

(`87 Code, § 3-2-6) (Am. Ord. 88-05, passed 6-6-88; Am. Ord. 90-18, passed 7-2-90; Am. Ord. 95-22, passed 12-4-95; Am. Ord. 2000-12, passed 1-8-00; Am. Ord. O2013-10, passed 11-4-13)

Statutory reference:

Manager, see A.R.S. § 9-303

§ 31.26 ZONING ADMINISTRATOR.

(A) *Creation.* The office of Zoning Administrator is hereby established for the administration of the zoning ordinances of the town. The Zoning Administrator shall perform such duties as set forth in this section or the zoning code of the town. The duties of the Zoning Administrator may be performed directly by the Town Clerk or by such staff as may be designated by the Manager specifically for the administration of the zoning code of the town. The Zoning Administrator shall perform his or her duties under the direction of the Manager.

(B) *Duties.* It shall be the duty of the Zoning Administrator to:

(1) Receive, process, record, and administer all requests for approvals and permits, as governed by the zoning code of the town.

(2) Advise and recommend to the Planning Commission, the Board of Adjustment, and the Town Council regarding requests for approvals and permits as required by the zoning code of the town.

(3) Direct such inspections, observations, and analyses of any and all erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within the town relating to the regulations and restrictions as set forth by the zoning code of the town.

(4) Take such action as is necessary for the enforcement of the zoning code of the town relating to violations of the regulations and restrictions.

(`87 Code, Art. 3-3) (Am. Ord. 88-07, passed 6-6-88)

§ 31.27 CIVIL HEARING OFFICER.

A Civil Hearing Officer shall be appointed by the Town Manager and may hear civil code infractions and make such orders as may be proper and necessary to dispose of such cases. Such cases shall be heard without a jury. The Civil Hearing Officer shall adopt such local rules of procedure as may be necessary to implement the hearing of civil code infraction cases.

(Ord. O-2004-21, passed 7-8-04)

§ 31.28 COMMENCEMENT OF ENFORCEMENT ACTION ON CIVIL CODE INFRACTION.

(A) ***CIVIL CODE INFRACTION*** means any violation of the town code of ordinances unless such violation is otherwise designated as a misdemeanor or as a civil traffic violation.

(B) An enforcement action on a civil code infraction shall be commenced by the filing of a complaint with the town Civil Hearing Officer, substantially in the form set forth in Appendix A, attached to Ord. O-2005-07, or on a Uniform Arizona Traffic Ticket and Complaint, as specified in the Arizona Rule of Procedure in civil traffic violation cases. The complaint form shall be in at least triplicate, in dimensions of approximately 8-1/2 inches by 11 inches, consisting of the original complaint, violator/defendant copy, and enforcement copy. The complaint form shall contain a notice of hearing specifying a location, date, and time at least ten days following issuance of the complaint, at which the defendant shall appear to admit or deny the allegations contained therein. The complaint shall specifically identify the defendant, the date and time of the alleged civil code infraction(s), the location of the alleged civil code infraction(s), and the civil code infraction(s) alleged by the town code or ordinance section number and description. The complaint shall be signed by the complainant, who shall certify, under penalty of perjury, that he/she has reasonable grounds to believe that the named defendant committed the civil code infractions described in the complaint and that a copy of the complaint has been served on the defendant pursuant to this section.

(C) The complaint and notice of hearing may be served upon the defendant and will be deemed proper and complete by any of the following means:

- (1) By having the defendant(s) sign the complaint with and acknowledgment of receipt of a copy thereof;
- (2) By hand delivery to the person or persons listed on the complaint;
- (3) By certified mail with return receipt, addressed to the person or persons listed on the complaint; or
- (4) By any means authorized in the Arizona Rules of Civil Procedure.

(D) Where the defendant is a corporation, partnership, or association the words **DEFENDANT** or **PERSON** in subdivisions (C) (1), (2), (3), and (4) above shall mean a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process.

(E) Any town official or employee with responsibility to enforce or administer the particular area of the town code or a town ordinance for which the enforcement action is brought, or any peace officer, may file an enforcement action on a civil code infraction and may serve the complaint and notice of hearing in the manner set forth in subdivisions (C)(1), (2), (3), or (4) above. The Civil Hearing Officer may enter an award in favor of the town for the actual costs of service if a civil code infraction is found, whether or not a civil penalty is assessed.

(F) The Town Attorney or the Town Prosecutor may file a complaint alleging a civil code infraction with the Civil Hearing Officer. Such complaint shall specifically identify the defendant, the date and time of the alleged civil code infractions(s), the location of the alleged civil code infraction(s), and the civil code infraction(s) alleged by town code or ordinance section number and description. The complaint shall be signed by the Town Attorney or Town Prosecutor before the Civil Hearing Officer upon the Town Attorney's or Town Prosecutor's avowal that he/she has reasonable grounds to believe that the named defendant committed the civil code infractions described in the complaint. When a complaint alleging a civil code infraction has been filed by the Town Attorney or Town Prosecutor, the Civil Hearing Officer shall issue a notice of hearing which shall specify a location, date, and time at least ten days following the filing of the complaint, at which the defendant shall appear to admit or deny the allegations contained therein. The Civil Hearing Officer shall then cause the notice of hearing, together with a copy of the complaint, to be served on the defendant in the manner set forth in subdivisions (C)(1), (2), (3), or (4) above.

(G) A person served with a notice of hearing for a civil code infraction shall appear at the time and place set forth in the notice of hearing or may appear prior to the time and upon the directions contained in the notice of hearing to admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted.

(H) If the allegations are admitted, the Civil Hearing Officer shall enter judgment for the town and may impose a civil sanction pursuant to § 10.99(A) and costs of service against the defendant. The Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of a finding of responsibility therefor.

(I) If the defendant(s) denies any allegation contained in the complaint, the Civil Hearing Officer shall set the matter for a civil code infraction hearing. Civil code infraction hearings shall be informal and held without a jury, and the town is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence shall not apply in such hearings, except for rules concerning relevancy and privileged communications. If the defendant elects to be represented by counsel, the defendant shall so notify the Civil Hearing Officer at least ten days prior to the hearing date. In cases where the defendant elects to be represented by counsel, the town may also be represented by the Town Attorney or Town Prosecutor, provided that the Town Attorney or Town Prosecutor notifies the Civil Hearing Officer and defendant's counsel at least three days prior to the hearing date. Hearings shall be electronically recorded by the Civil Hearing Officer. If the Civil Hearing Officer finds in favor of the defendant, the Civil Hearing Officer shall enter an order dismissing the complaint. If the Civil Hearing Officer finds in favor of the town, the Civil Hearing Officer shall enter judgment for the town and may impose a civil sanction pursuant to § 10.99(A) and costs of service against the defendant. The Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of entry of such judgment.

(J) If a person served with a complaint and notice of hearing fails to appear on or before the date and time directed in the notice of hearing, or at such other time as may be directed by the Civil Hearing Officer, the allegations contained in the complaint shall be deemed admitted, and the Civil Hearing Officer shall enter judgment for the town and may impose a civil sanction pursuant to § 10.99(A) and costs of service against the defendant.

(K) Any person against whom judgment is entered for a civil code infraction, or against whom a civil sanction is imposed for such infraction, may seek judicial review of such judgment or sanction by way of special action to the Maricopa County Superior Court.

(Ord. O-2005-07, passed 6-20-05)

Section

Contract for Law Enforcement

32.01 Authority

32.02 Powers and duties of Marshal

Statutory reference:

Joint exercise of powers, see A.R.S. §§ 11-951 et seq.

Mutual aid agreements generally, see A.R.S. § 13-3872

Cross-reference:

Marshal, see § 31.21

CONTRACT FOR LAW ENFORCEMENT

§ 32.01 AUTHORITY.

The town may enter into an intergovernmental agreement or contract with the County Sheriff's Office, or any other authorized agency, for the provision of law enforcement services.

(Ord. 98-06, passed 7-20-98; Am. Ord. O-2003-05, passed 8-18-03)

Statutory reference:

Authority to provide police protection, see A.R.S. § 9-240(B)(12)

§ 32.02 POWERS AND DUTIES OF MARSHAL.

(A) It shall be the duty of the Marshal to:

(1) Enforce this code and the statutes of the state within jurisdictional limits as conferred by law and to arrest and charge the violators thereof.

(2) Take charge of all prisoners and all those who are sentenced to labor on the streets or public works of the town and to see that orders and sentences with reference to such are fully executed and complied with.

(3) Deliver any person who may be confined to jail upon conviction of a crime committed under the jurisdiction of the Magistrate's Court to any authorized officer who shall at any time demand such prisoners.

(4) Render such account of the Town Marshal's Department and its duties as may be required by the Town Council and keep records of the office open to inspection by the Town Council, except those records as may be exempted by state or federal law. In the event a Council Member or any of his or her family is under investigation, the Council Member shall not have the right of inspection.

(5) Enforce the traffic regulations of the town as specified in this code and enforce the traffic laws of the state within the limits of the town.

(6) Inspect and ascertain the condition of traffic control devices of every description which have been erected within the town on the authority of the Town Council and notify the Town Council of any defects found therein.

(7) Perform such other duties as may be required by the Town Council.

(8) Submit a monthly report to the Town Council and Town Manager with such information as may be required by the Town

Council.

(B) Any peace officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any provision of this code and to serve a copy of the traffic complaint for any alleged civil or criminal violation of this code.

(Ord. 98-06, passed 7-20-98; Am. Ord. O-2003-05, passed 8-18-03)

Cross-reference:

Traffic regulations, see Title VII of this code of ordinances

CHAPTER 33: BOARDS AND COMMISSIONS

Section

Planning Commission

- 33.01 Creation of Planning Commission
- 33.02 Membership
- 33.03 Officers
- 33.04 Procedure
- 33.05 Hearings
- 33.06 Budget
- 33.07 Duties

Board of Adjustment

- 33.20 Creation of Board of Adjustment
- 33.21 Membership
- 33.22 Procedures and officers

Board of Building Code Appeals

- 33.40 Organization
- 33.41 Meetings
- 33.42 Official records
- 33.43 Powers and duties
- 33.44 Applications
- 33.45 Hearings
- 33.46 Disqualification

PLANNING COMMISSION

§ 33.01 CREATION OF PLANNING COMMISSION.

There is hereby created, pursuant to A.R.S. §§ 9-461 et seq., a Planning Commission ("Commission"), herein known as the Town of Cave Creek Planning Commission.

(‘87 Code, § 2-6-1) (Am. Ord. 92-10, passed 10-5-92)

§ 33.02 MEMBERSHIP.

(A) The Commission shall consist of seven members. The members of the Commission shall be residents of the town. The members shall be appointed by the Mayor and the Town Council and serve at their pleasure. The members of the Commission shall serve three-year, staggered terms. The initial terms of three members will be three years, the initial terms of two members will be two years, and the initial terms of two members will be one year.

(B) Commission members shall serve without pay, except that they may be reimbursed for actual expenses incurred in connection with the duties of their office upon prior authorization by the Planning Commission Chair and the Town Manager, provided such expenditures are budgeted.

(‘87 Code, § 2-6-2) (Am. Ord. 91-29, passed 12-16-91; Am. Ord. 92-10, passed 10-5-92; Am. Ord. 96-02, passed 2-20-96; Am. Ord. 99-01, passed 1-25-99; Am. Ord. O2012-02, passed 3-19-12)

§ 33.03 OFFICERS.

(A) The Commission, at its first meeting in January each year, shall elect a Chair and Vice-Chair from among its members who shall serve at the pleasure of the Commission and who shall be eligible for re-election. In the event that both the Chair and Vice-Chair are absent, the members present shall select one from among their number to serve as Chair for that meeting. Vacancies in the offices shall be filled for the unexpired term by a new election.

(B) The Chair shall:

(1) Preside at meetings and exercise all the usual rights, duties, and prerogatives of the head of any similar organization.

(2) Administer oaths and take evidence.

(3) When necessary, limit the number of people permitted to speak on any matter before the Commission and limit the time allotted to each speaker or limit the total time for hearing public testimony provided that such procedure allows for a full hearing on all relevant issues.

(4) Review and approve Commission agendas. Agenda items shall be included when submitted in writing by any two members.

(‘87 Code, § 2-6-3) (Am. Ord. 91-29, passed 12-16-91; Am. Ord. 92-10, passed 10-5-92; Am. Ord. O2017-09, passed 7-17-17)

§ 33.04 PROCEDURE.

(A) Regular meetings of the Commission shall be held at 7:00 p.m. on the third Thursday of each month, as needed, at such place designated by the Chair or majority of the Commission.

(B) Special meetings of the Commission may be held at the call of the Chair by filing a written request with the Town Manager.

(C) All votes taken by the Commission on all matters shall be by voice or by roll call. The minutes shall indicate how each member voted on every action considered.

(D) Four members of the Commission shall constitute a quorum. A majority of the members present may take action on any application brought before the Commission.

(E) The parliamentary authority for the Commission shall be *Robert's Rules of Order*.

(‘87 Code, § 2-6-4) (Am. Ord. 92-10, passed 10-5-92; Am. Ord. 93-07, passed 2-22-93; Am. Ord. O2012-02, passed 3-19-12)

§ 33.05 HEARINGS.

(A) The Commission shall hold public hearings as required by state statute and the town zoning and subdivision codes, and forward

its recommendations over the signature of the Chair to the Town Council.

(B) At least seven calendar days prior to each Commission meeting, or as required by law for preparation and distribution of an agenda, whichever is earlier, staff shall collect all written reports, communications, and other documents which are required to be submitted to the Commission, prepare an agenda according to the order of business, post the agenda in the manner provided by law for such notice to the public, make a copy of the agenda and the submission documents available for public inspection at the Town Hall and to each Commission Member and the Town Attorney, if needed. The agenda may include a consent agenda of one or more items.

(C) To fully effect the intent of this section, persons applying for Commission action on any agenda item shall prepare, collect, and deliver for public inspection all information required for submittal of the action item to the Commission no less than seven days prior to the Commission meeting at which the action item is to be considered.

(D) The Planning Director, with the concurrence of the Planning Commission Chair, may waive the agenda or submission deadline set forth in this section for routine administrative changes.

(`87 Code, § 2-6-5) (Am. Ord. 92-10, passed 10-5-92; Am. Ord. 96-03, passed 4-1-96; Am. Ord. O2012- 02, passed 3-19-12)

§ 33.06 BUDGET.

The Commission shall have no authority to make expenditures on behalf of the town or to obligate the town for the payment of any sums of money, except as herein provided, and then only after the Town Council shall have first budgeted such expenditures. The expenditures of the Commission shall be within the amounts appropriated for the purpose by the Town Council. At the time provided by law and the rules of the Town Council for the submission of annual budget estimates, the Commission shall submit an itemized estimate of its contemplated financial needs for the ensuing year.

(`87 Code, § 2-6-6) (Am. Ord. 92-10, passed 10-5-92)

§ 33.07 DUTIES.

(A) The Commission primarily advises the Town Council on planning and zoning policies, plans, amendments, and regulations as authorized by A.R.S.§§ 9-461 et seq. and A.R.S. §§ 9-462 et seq.

(B) The Commission is the planning agency for the town and has the powers necessary to enable it to fulfill its planning function, in accordance with A.R.S. § 9-461.01(A) and (B), as described in A.R.S. § 9-462, including:

(1) *Annual plan program.* Initiating and providing recommendations to the Town Council on the annual plan program, which coordinates the development review of town land use plans.

(2) *General Plan.* Initiating, developing, and recommending to the Town Council revisions to the town's General Plan.

(3) *Land use plans.* Initiating the development and review process on all other land use plans and, subsequent to plan preparation, providing recommendations to the Town Council on draft plans.

(4) *Rezoning and development-related code amendments.* Initiating and providing recommendations to the Town Council regarding development-related codes, including but not limited to those regulating zoning and subdivisions.

(5) *Capital improvements program.* Annually reviewing the priorities set for the capital improvements program of the town.

(6) *Special planning.* Initiating or, at the request of the Town Council, conducting special studies or performing other functions relating to planning and zoning matters.

(`87 Code, § 2-6-7) (Am. Ord. 90-22, passed 7-2-90; Am. Ord. 92-10, passed 10-5-92; Am. Ord. O2012- 02, passed 3-19-12)

BOARD OF ADJUSTMENT

§ 33.20 CREATION OF BOARD OF ADJUSTMENT.

There is hereby established a Board of Adjustment pursuant to A.R.S. § 9-462.06.

(‘87 Code, § 2-7-1) (Am. Ord. 94-24, passed 12-5-94; Am. Ord. 95-15, passed 9-18-95; Am. Ord. 96-10, passed 9-3-96)

§ 33.21 MEMBERSHIP.

The Board of Adjustment shall consist of five members and two alternate members who are residents of the town. Residency requirements shall be consistent with those placed upon elected officers, as defined in § 30.01. The members shall be appointed by the Mayor and the Town Council and shall, at the pleasure of the Town Council, serve three-year terms. In the absence of any member, the Chair may appoint an alternate to fill that member's seat for that meeting.

(‘87 Code, § 2-7-2) (Am. Ord. 94-24, passed 12-5-94; Am. Ord. 95-15, passed 9-18-95; Am. Ord. 96-10, passed 9-3-96)

§ 33.22 PROCEDURES AND OFFICERS.

Procedures of the Board of Adjustment shall follow those used by the Planning Commission as set forth in §§ 33.01 et seq., except as superseded by A.R.S. § 9-462.06, and as cited below:

(A) Meetings of the Board of Adjustment will be called as needed by the Chair of the Board.

(B) Three members of the Board shall constitute a quorum.

(‘87 Code, § 2-7-3) (Am. Ord. 94-24, passed 12-5-94; Am. Ord. 95-15, passed 9-18-95; Am. Ord. 96-10, passed 9-3-96)

BOARD OF BUILDING CODE APPEALS

§ 33.40 ORGANIZATION.

(A) *Name.* The name of this organization is the Cave Creek Board of Building Code Appeals ("Board").

(B) *Membership.* The Board shall consist of five voting members, all of whom shall be residents of Cave Creek. The members shall be appointed by the Town Council for a term of office of three years. Each member shall possess knowledge in construction practices or be able to demonstrate knowledge of the Adopted Building Code or other relevant technical codes.

(C) *Attendance.* Upon the failure of any member to attend three consecutive meetings, the Board shall recommend termination of that appointment to the Town Council, and the Town Council shall declare that position vacant. The Council shall make the necessary appointment to fill any vacancy.

(D) *Officers.* The Board, as provided for in the Adopted Building Code, shall elect a Chair and Vice- Chair at its first meeting of the calendar year. The Town's Building Official shall serve as an *ex officio* member and shall act as Secretary of the Board. The Vice-Chair shall fill any unfilled term of the office of the Chair should that office become vacant for any reason. The Chair and Vice-Chair shall serve at the pleasure of the Board for one-year terms. Officers may be re-elected.

(E) *Duties.*

(1) The Chair shall preside at meetings, shall decide all points of order or procedure, shall take evidence, and shall as necessary compel the attendance of witnesses. The Vice-Chair shall be the Acting Chair and shall perform all duties of the Chair whenever the Chair is absent.

(2) The Building Official shall be an *ex officio* member of the Board and shall act as Secretary to the Board but shall have no vote on any matter before the Board.

(F) *Legal Counsel.* The Town Attorney, or designee, shall be the legal counsel for the Board.

(Ord. 99-17, passed 10-4-99; Am. Ord. O2012-02, passed 3-19-12)

§ 33.41 MEETINGS.

(A) *Regular meetings.* Regular meetings of the Board shall be held in the Town Council Chamber on the fourth Wednesday of each month at 7:00 p.m., when there is business to conduct.

(B) *Notice to members.* Written notice of all regular meetings shall be provided to members at least three days before the scheduled date of the meeting. Public notice shall be made by the Secretary as required by state law.

(C) *Quorum.* A quorum of the Board shall consist of at least three members. A majority vote of members present shall be necessary to reverse any decision of the Building Official. A tie vote shall be considered an affirmation of the Building Official's decision.

(D) *Public meetings.* All meetings of the Board shall be open to the public.

(Ord. 99-17, passed 10-4-99; Am. Ord. O2012-02, passed 3-19-12)

§ 33.42 OFFICIAL RECORDS.

(A) *Contents.* The official records shall include these bylaws, a tape recording of the meeting, and minutes of the Board, together with all findings, applications, exhibits, decisions and other official actions.

(B) *Recording of vote.* Minutes shall be kept for all meetings of the Board, and shall show the vote of each member on every question on which the Board is required to act, or shall indicate absence or failure to vote. Minutes shall also show records of the Board's discussions and other official actions.

(C) *Public record.* All of the official records of the Board shall be public record, filed in the office of the Building Official by the Secretary of the Board, and open to public inspection during normal working hours. The Board shall conform to all applicable Arizona state law requirements.

(Ord. 99-17, passed 10-4-99)

§ 33.43 POWERS AND DUTIES.

(A) The Board shall have the power and jurisdiction to rule on appeals:

- (1) If the Building Official refuses to approve the mode or manner of construction;
- (2) If the Building Official refuses to approve the materials to be used in the construction;
- (3) Where the applicant claims that the provisions of the Adopted Building Code or other relevant technical code do not apply;
- (4) Where the applicant claims that an equally good or more desirable form of construction can be employed; or
- (5) Where the true intent and meaning of the Adopted Building Code or other relevant technical code or any of the regulations promulgated have been misconstrued or wrongly interpreted.

(B) *Limitation of authority.* The Board shall have no authority relative to interpretation of the administrative provisions of the Adopted Building Code or other technical codes, nor shall the Board be empowered to waive requirements of either the Adopted Building Code or other technical codes.

(Ord. 99-17, passed 10-4-99; Am. Ord. O2012-02, passed 3-19-12)

§ 33.44 APPLICATION.

(A) *Applications required.* No request shall be heard by the Board until and unless an application, signed by the requesting party, has been filed with the Secretary of the Board. Said application shall be filed on a form provided at the Office of the Building Official. The application shall include the name, address, and telephone number, if applicable, of the requesting party, the request, and the justification on which relief is sought. Applications shall be filed and fees paid to the town. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to

appeal and shall not be scheduled by the Secretary of the Board for action by the Board.

(B) *Application fee.* The fee for filing an application is \$250. Application fees may not be waived by any authority.

(C) *Time limits.* Every application for an appeal of a decision of the Building Official shall be filed within ten working days after the date that relief was refused by the Building Official. The Secretary of the Board shall schedule each case at the next regularly scheduled meeting, provided that the completed application is received ten working days prior to the scheduled meeting date.

(D) *Burden of proof.* The burden of proof rests with the applicant, and the applicant must show that he/ she is entitled to the relief requested.

(E) *Submission of evidence.* Evidence supporting the application shall be submitted only with the application or to the Board in public meeting. Strict adherence to judicial rules of evidence is not required.

(F) *Withdrawal of application; continuances.* Any application may be withdrawn upon written notice filed with the Secretary of the Board, but no application shall be so withdrawn after notice of hearing has been transmitted to the Board members. Applications may also be withdrawn or granted a continuance upon request or agreement of the applicant and with the majority of the Board at a regular meeting. If a quorum is not present, all applications must be continued to the next regularly scheduled meeting, but in no instance should a case be extended more than 60 days from the date of first hearing.

(G) *Jurisdiction.* The Board shall be presumed to have jurisdiction over any application before it unless challenged by any person, including a Board member, opponents of the applicant, or any member of the town staff. Such challenge must be based on applicable provisions of town ordinances. Such a challenge shall rebut the presumptions of jurisdiction, and the Board shall hear arguments and vote the questions when a challenge is raised.

(Ord. 99-17, passed 10-4-99)

§ 33.45 HEARINGS.

(A) Procedure for hearing.

(1) The Building Official, or designee, shall give a brief general explanation of the content of the application. The Chair shall then determine what parties are available to speak on the application and whether the applicant intends to appear or to rely upon his/her application as written. If the applicant fails to appear, the Board may continue the hearing unless the applicant has requested that the Board act without his/ her being present at the hearing.

(2) The Board may then question either the applicant or the Building Official regarding the case.

(3) The parliamentary authority for this Board shall be *Robert's Rules of Order*, except where the Town Code specifically supersedes.

(B) *Notice of decision.* Upon the conclusion of each hearing, the Board shall deliberate and render its decision. The notice of decision shall be signed by the Chair and mailed to the applicant, with a copy provided to the Town Council.

(Ord. 99-17, passed 10-4-99)

§ 33.46 DISQUALIFICATION.

A Board member, including the Chair, shall disqualify himself/herself from voting whenever he/she has a personal or monetary interest in the property under appeal or will be directly affected by the decision of the Board. This section shall apply to any decision made by the Board, whether interim or final.

(Ord. 99-17, passed 10-4-99)

CHAPTER 34: MAGISTRATE COURT

General Provisions

34.01 Creation of Magistrate Court; jurisdiction

Magistrates, Powers, and Duties

34.10 Presiding Magistrate

34.11 Pro Tem Magistrate

34.12 Powers and duties of Town Magistrate's Court

Proceedings

34.25 Procedure generally

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34.43 Nonpayment of fees

Officers and Administration

34.55 Prosecutor

34.56 Court Administrator

GENERAL PROVISIONS

§ 34.01 CREATION OF MAGISTRATE COURT; JURISDICTION.

There is hereby established in the town a police court which shall be called the Town Magistrate's Court and which shall have jurisdiction of all cases arising under town ordinances and this code, and have jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town, to the extent provided by state statute. The Town Council may enter into an intergovernmental agreement with another municipality in Maricopa County to provide the services of a municipal court, including the jurisdiction of all cases arising under the ordinances of the town.

('87 Code, Art. 5-1) (Am. Ord. O2013-08, passed 10-21-13)

Statutory reference:

Establishment and jurisdiction, see A.R.S. § 22-402

MAGISTRATES, POWERS, AND DUTIES

§ 34.10 PRESIDING MAGISTRATE.

The presiding officer of the Town Magistrate's Court shall be the Presiding Magistrate, who shall be appointed by the Town Council for a term of two years as set forth in § 31.01. The Presiding Magistrate shall control the calendar, supervise the activities of the

Court Administrator, and interview qualified candidates for appointment as Pro Tem Magistrate and make all recommendations to the Town Council for appointment of qualified candidates for Pro Tem Magistrate. The Presiding Magistrate shall make all sitting assignments for Pro Tem Magistrates. The Presiding Magistrate shall serve for such salary or other compensation as the Town Council may determine by contract.

('87 Code, § 5-2-1) (Am. Ord. 88-11, passed 6-20-88; Am. Ord. 90-20, passed 7-2-90; Am. Ord. 95-14, passed 11-6-95; Am. Ord. 2001-06, passed 8-6-01)

Statutory reference:

Presiding officer, see A.R.S. § 22-403

Cross-reference:

Magistrate, see § 31.24

§ 34.11 PRO TEM MAGISTRATE.

(A) *Generally.* The Pro Tem Magistrate is hereby created, without limitation as to the number of Pro Tem Magistrates that may be appointed. The Pro Tem Magistrates shall be appointed by the Town Council for a term of two years each. The Pro Tem Magistrates shall serve for such salary or other compensation as the Town Council may determine. Upon appointment by the Town Council the Pro Tem Magistrates shall exercise all powers and duties of magistrates when the Magistrate assigns (the "sitting assignment") the Pro Tem Magistrates to preside in the Town Magistrate's Court. The Magistrate shall have sole discretion over making any sitting assignment. The Pro Tem Magistrates may perform such other duties as authorized by the Magistrate.

(B) *Appointment.*

(1) Upon request of the Town Magistrate, the town may advertise for Pro Tem Magistrates. The Town Magistrate shall interview qualified candidates for the office of Pro Tem Magistrate and recommend candidates for appointment by the Town Council. Thereafter the Town Magistrate shall submit the names of at least three qualified candidates to the Town Council, provided that the Magistrate shall submit all of the interviewees' names to the Town Council if less than three candidates have applied for the Pro Tem Magistrate position.

(2) The Town Council may appoint candidates from the list submitted by the Magistrate. Upon appointment by the Town Council the Town Manager, or the Town Manager's designee, and the Town Attorney shall negotiate a contract with each appointee. The appointment shall be complete upon approval of the contract by the Town Council and Town Attorney. The contracts shall provide that the appointment is not an exclusive services contract and that the appointee shall receive such sitting assignments, if any, as determined by the Magistrate in his or her sole discretion.

('87 Code, §§ 5-2-2, 5-2-3) (Am. Ord. 88-09, passed 6-6-88; Am. Ord. 95-14, passed 11-6-95)

§ 34.12 POWERS AND DUTIES OF TOWN MAGISTRATE'S COURT.

The powers and duties of the Town Magistrate and the Town's Magistrate Court shall include:

(A) The powers and duties set forth and conferred under the provisions of the state constitution and statutes, this code, and all ordinances and resolutions of the town.

(B) The keeping of a docket in which shall be entered each action and the proceedings of the court therein.

(C) The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees, forfeitures, and other monies as provided by law.

(D) Payment of all fees, fines, penalties, and other monies collected by the court to the Town Treasurer, and payment of all surcharges levied thereon by the state to the State Treasurer, as required by law.

(E) Issuance of execution against the property of any defendant failing to pay any fine imposed for violation of a town ordinance or this code. Such execution shall be in favor of the town and shall be issued and enforced like executions in civil actions.

(F) Concurrent with the powers and duties of the Civil Hearing Officer as set forth in §§ 10.99(C) and 31.27, the hearing and

determination of any civil action brought by the town to recover a penalty or forfeiture provided for the violation of any town ordinance or this code. Such action shall be brought and conducted like civil actions in justice of the peace courts.

(G) Submitting a monthly report to the Town Council summarizing court activities for that month, as well as a monthly statistical report to the administrative director of the courts, as required by Supreme Court order.

(H) Preparation of schedules of traffic violations, not involving the death of a person, and civil traffic violations, listing the specific bail or deposit payable for each such traffic or civil traffic violation.

(I) Designation of a deputy, other than a law enforcement officer, and a specific location at which the deputy shall, during hours when the Court is not open, set the amount of bail in accordance with the foregoing schedule of traffic violations and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the Court.

(J) Designation of a person, a specific location, and the hours during which such person will be at the location to accept deposits in accordance with the schedule of civil traffic violations for and on behalf of the Court.

(`87 Code, § 5-2-4) (Am. Ord. O-2004-27, passed 9-7-04)

PROCEEDINGS

§ 34.25 PROCEDURE GENERALLY.

The proceedings of the Town Magistrate's Court shall be conducted in accordance with the state constitution, the applicable state statutes, and the rules of the State Supreme Court pertaining to justice of the peace or municipal courts. The proceedings shall also be conducted in accordance with the rules of procedure in civil traffic cases and the rules of criminal procedure, including the provisions thereof regarding bail, issuance of subpoenas, summons and warrants, and punishment for disobedience thereof, so far as applicable and when not otherwise prescribed.

(`87 Code, § 5-3-1(A))

Statutory reference:

Procedure generally, see A.R.S. §§ 22-421 et seq.

§ 34.26 COMPLAINTS, SUMMONSES, AND WARRANTS.

(A) The Town Magistrate Court proceedings for violations of this code and town ordinances shall be commenced by complaint under oath and in the name of the state setting forth the offense charged, with such particulars of time, place, person, and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.

(B) If the Magistrate is satisfied that there exists probable cause to believe that the offense complained of has been committed by the person charged, he or she shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the Magistrate may subpoena and examine witnesses as to the truth of the complaint.

(`87 Code, § 5-3-1(B), (C))

Statutory reference:

Similar provisions, see A.R.S. § 22-421

§ 34.27 BAIL.

Defendants, after arrest and before conviction, shall be admitted to bail, if bailable, and the rules of criminal procedure shall govern the release of all defendants, wherever applicable.

(`87 Code, § 5-3-2)

Statutory reference:

§ 34.28 TRIAL BY JURY; JURORS.

(A) Except for the substitute method allowed by A.R.S. § 21-331(C), the town shall provide for the formation and summoning of juries in the same manner as provided for in courts of record.

(B) For the selection of potential jurors, lists of registered voters shall be furnished by the county recorder or jury commissioner of the county. In addition to the voters list, the municipal court shall use a list of the names and addresses of all persons in the town who are at least 18 years of age and who have been licensed pursuant to A.R.S. Title 28, Chapter 8, Article 4 or 5. Only persons residing within the town limits are eligible for jury service in municipal court.

(C) The drawing and disposition of names and the impaneling of juries shall be accomplished in the same manner as in courts of record.

(A.R.S. 22-426) ('87 Code, § 5-3-3)

FEES AND FUNDS

§ 34.40 JAIL SERVICES RECOVERY FEE.

(A) *Payment of costs of confinement.* Any person who is arrested for an offense within the corporate limits of the town and who, as a consequence, is incarcerated in the County Jail may be required by the Cave Creek Magistrate Court, hereinafter referred to as "Court," to reimburse the town for its actual expenses incurred to the County by reason of such confinement.

(B) *Waiver of costs of indigents.*

(1) No person shall be required to pay the fee established by this section who is found by the Court to be indigent. Prior to determining that a person is indigent for purposes of this section, the Court shall require a sworn statement from the defendant seeking a waiver of the jail services recovery fee which includes, at minimum, the following information:

- (a) All income received by the defendant from any source on a monthly basis.
- (b) The defendant's monthly expenses.
- (c) A list of assets owned by the defendant, including the estimated fair market value.
- (d) A list of debts owed by the defendant.

(2) The fees required by this section shall be waived by the Court if the defendant establishes, by sworn statement or otherwise, that he or she receives assistance from one or more of the following government programs:

- (a) The Aid to Families with Dependent Children Program (42 USC §§ 601 et seq.)
- (b) The Food Stamp Program. (7 USC §§ 2011 et seq.)
- (c) The General Assistance Program enacted pursuant to A.R.S. §§ 46-231 et seq.

(3) The Court may also waive the fees required by this section if the Court expressly finds that the defendant has an income which is insufficient or barely sufficient to meet the daily essentials of life and includes no surplus disposable income that could be budgeted for payment of the jail services recovery fee.

(4) The Court shall order the defendant to pay the required fee if, at any time prior to the entry of the final judgment, the Court determines after notice to the defendant and a hearing that the defendant no longer meets the eligibility requirements of division (2) above.

(5) A defendant who has been granted a waiver of the jail services recovery fee pursuant to division (2) above shall promptly notify the Court of any change in financial circumstances during the pendency of the action that affects defendant's ability to pay the fee.

Statutory reference:

Determination of indigency, see Az. R. Crim. Proc., Rule 6.4

§ 34.41 COURT ENHANCEMENT FUND AND FEES.

(A) There is hereby created a Court Enhancement Fund, which shall be used exclusively to enhance the technological and operational capabilities of the Magistrate Court, including but not limited to the operation of a Judicial Collection Program.

(B) (1) The Court Enhancement Fund shall be funded by the following:

- (a) A court enhancement fee /defendant fee in the amount of \$25 per defendant.
- (b) A minimum default fee of \$25 or as determined by the Magistrate.
- (c) Checks returned to the Court for NSF in the amount of \$25.
- (d) Bond forfeitures not applied to fines.

(2) Pursuant to A.R.S. § 22-404(E), the fees shall be charged by the Magistrate Court to each person against whom a sanction, fine, penalty, forfeiture, or diversion is entered.

(C) The Court Enhancement Fund established herein shall be maintained as a separate account within the town. The Magistrate Court shall collect a court enhancement fee, and/or default fee, NSF, and/or bond forfeiture, and deposit them in the Court Enhancement Fund account. The monies in the fund shall be invested in the same manner as other town funds. Interest earned on fund monies shall be deposited in the fund, and any balance remaining in such account at the end of the fiscal year shall carry over into the subsequent fiscal year.

(D) The Magistrate Court shall administer the fund and may make expenditures from the fund for the purpose provided in this section. Monies from the fund shall supplement monies already provided to the Magistrate Court for the general purposes stated in this section.

(E) The Magistrate Court shall, through the Town Treasurer, annually submit to the Town Council a report detailing the amount of money collected and expended during the fiscal year and the progress made in court enhancement.

(‘87 Code, § 5-3-4(C)) (Am. Ord. 96-14, passed 10-21-96; Am. Ord. 97-19, passed 12-2-97; Am. Ord. 98-13, passed 8-31-98; Am. Ord. 99-16, passed 10-4-99; Am. Ord. O2010-10, passed 12-6-10)

§ 34.42 COLLECTION OF FEES AND COSTS.

(A) Any fee or cost assessed pursuant to the procedures specified in this subchapter article may be collected as any other civil judgment in municipal courts in the state.

(B) The defendant, in addition to the amount owed to the Court, shall pay fees charged by a collection agency for recovery of outstanding fines due.

(‘87 Code, § 5-3-4(E)) (Am. Ord. 96-14, passed 10-21-96; Am. Ord. 97-19, passed 12-2-97; Am. Ord. 98-13, passed 8-31-98; Am. Ord. 99-16, passed 10-4-99)

§ 34.43 NONPAYMENT OF FEES.

(A) If a defendant sentenced to pay a fine, restitution, a jail services recovery fee, or other court fee or cost defaults in the payment of such or of any installment, the Clerk of the Court shall notify the Prosecutor, the Court, and any person entitled to payment pursuant to a court order. The Court, on motion of the Prosecuting Attorney, on petition of any person entitled to payment pursuant to a court order, or on its own motion, may require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for the defendant's appearance.

(B) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the Court or an intentional refusal on the defendant's part to make a good faith effort to obtain the monies required for the payment, the Court shall find that the default constitutes contempt and may order the defendant incarcerated until the payment, or a specified part thereof, is paid, or revoke the defendant's probation or parole and sentence the defendant pursuant to law.

(C) If the Court finds that the default is not intentional, but that the defendant cannot pay despite sufficient good faith efforts to obtain the monies, the Court may take any lawful action, including any of the following:

(1) Modifying the manner in which the payment is to be paid.

(2) Entering any reasonable order which would assure compliance with the order to pay.

(3) Authorizing any person or entity entitled to payment pursuant to a court order to take whatever measures for the collection thereof of the unpaid balance as are authorized for the collection of an unpaid civil judgment entered against the defendant in an action on a debt. Any levy or execution for collection does not discharge a defendant incarcerated for non-payment until the amount of the fine, restitution, jail services recovery fee, or other fee or cost is fully collected.

(D) If a fine, restitution, jail services recovery fee, or other fee or cost is imposed on an enterprise, it is the duty of the person or persons authorized to make disbursement from the assets of the enterprise to pay from those assets and their failure to do shall be held a contempt unless they make the showing required in division (B) above.

(`87 Code, § 5-3-4(F)) (Am. Ord. 91-22, passed 12-16-91; Am. Ord. 93-16, passed 11-1-93; Am. Ord. 96-14, passed 10-21-96)

Statutory reference:

Failure to pay fine, see Az. R. Crim. Proc., Rule 26.12(c)

OFFICERS AND ADMINISTRATION

§ 34.55 PROSECUTOR.

The Manager may appoint a Chief Prosecutor and one or more Associate Prosecutors to serve at the pleasure of the Manager, and the compensation of each Prosecutor shall be as determined by the Town Council. The Prosecutor's duties will be to represent the state or the town in contested matters where the defendant is represented by counsel or in cases where the Prosecutor's participation is requested by the Town Council or one of the town officers, and to assist the Presiding Magistrate and the Court Administrator in the proper functioning of the Town Magistrate's Court, as requested by the Presiding Magistrate with the approval of Town Council.

(`87 Code, Art. 5-4) (Am. Ord. 88-09, passed 6-6-88; Am. Ord. 2001-06, passed 8-6-01)

§ 34.56 COURT ADMINISTRATOR.

(A) *Appointment and compensation.* The Town Magistrate's Court shall have a Court Administrator appointed by the Town Magistrate. The Court Administrator shall be an employee of the town, who shall serve at the pleasure of the Presiding Magistrate. The Court Administrator shall serve for such salary as may be determined by the Town Council, in consultation with the Presiding Magistrate.

(B) *Duties of Court Administrator.* The duties of the Court Administrator are the following, subject to the overall supervision of the Presiding Magistrate with regard to their performance:

(1) To prepare, accept and file all summonses, complaints, pleadings, motions, records, judgments, and other documents presented to, or issued by, the Town Magistrate Court in the exercise of its jurisdiction.

(2) To prepare and maintain the Town Magistrate Court's dockets, calendar, and other records of its proceedings.

(3) To issue any Town Magistrate Court process.

(4) To receive and collect all funds in payment of fines, bail, and costs and to deposit, disburse, and account for the same as required by state statutes and Supreme Administrative Rules.

(5) To prepare all statistical, State Treasurer and Council reports required to be maintained or filed by the Town Magistrate Court.

(6) To perform such other services as may be directed by the Magistrate in the exercise and administration of the Town Magistrate Court's jurisdiction.

(7) To furnish all administrative services required in the exercise of the jurisdiction of the Town Magistrate Court.

(C) *Assistant Court Administrator.* The Presiding Magistrate may appoint one or more Assistant Court Administrators from among its employees who, subject to the supervision of the Presiding Magistrate, may perform the duties of the Court Administrator when the Court Administrator is unavailable to do so.

(`87 Code, Art. 5-5) (Am. Ord. 88-09, passed 6-6-88; Am. Ord. 90-29, passed 10-15-90; Am. Ord. 2001-06, passed 8-6-01)

CHAPTER 35: ELECTIONS

Section

Election of Town Council

35.01 Ballots; election procedures; voting districts

Initiative and Referendum

35.20 Reservation of power; time of vote

35.21 Signature requirements

35.22 Filing of petition

35.23 Sample ballots and publicity pamphlets; arguments

ELECTION OF TOWN COUNCIL

§ 35.01 BALLOTS; ELECTION PROCEDURES; VOTING DISTRICTS.

(A) *Ballots.* Nothing on the ballot in any election shall be indicative of the support of the candidate.

(`87 Code, § 2-3-2)

(B) *Primary election.* Any candidate who shall receive at the primary election, to be held on the second Tuesday of March in odd-numbered years, a majority of all the votes cast shall be declared elected to the office for which he or she is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate, provided that if more candidates have a majority than there are offices to be filled then, those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.

(`87 Code, § 2-3-1)

(C) *General election.* If at any primary election held as above provided there be any office or offices for which no candidate is elected, then as to such office or offices the election shall be considered to be a primary election for nomination of candidates for such office or offices, and the second or general municipal election shall be held to vote for candidates to fill such office or offices. Candidates to be placed on the ballot at such second or general municipal election shall be those not elected at such first election, shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election ballot, and persons who receive the highest number of votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this chapter, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving an equal number of votes shall likewise become candidates for such office. The general election shall be held on the third Tuesday in May in every odd-numbered year.

(‘87 Code, § 2-3-3)

(D) *Election to office.* The candidates equal in number to the persons to be elected who received the highest number of votes shall be declared elected and shall take office at the first regular Town Council meeting in June of each odd-numbered year.

(‘87 Code, § 2-3-4) (Am. Ord. 88-23, passed 10-3-88; Am. Ord. 96-11, passed 9-3-96)

(E) Each candidate shall file a financial disclosure statement on a form prescribed by the Clerk when such candidate files a nomination paper. The statement shall contain such information as required by resolution of the Town Council pursuant to state law.

(‘87 Code, § 2-3-5) (Am. Ord. 96-30, passed 12-9-96)

(F) In view of the fact that two or more Maricopa County voting precincts together encompass not only all of the qualified electors who reside within the town limits of Cave Creek but also include voters who reside outside the town limits, there is created one voting district which shall encompass all qualified electors presently residing within the town limits of Cave Creek and those qualified electors subsequently becoming town residents by reason of being hereafter annexed into the town. Nothing in this section shall prohibit the Town Clerk from establishing, prior to any special, primary, or general election, more than one polling place within the voting district herein created if, in the Clerk's discretion, multiple voting places would be more convenient to the public or more manageable to the Clerk and election officials.

(‘87 Code, § 2-3-6) (Ord. 91-4, passed 2-4-91)

Statutory reference:

Optional procedures authorized, see A.R.S. § 9-821.01

Cross-reference:

Mayor; election of, see § 30.20

INITIATIVE AND REFERENDUM

§ 35.20 RESERVATION OF POWER; TIME OF VOTE.

There is reserved to the qualified electors of the town the power of initiative and the referendum as prescribed by the state constitution.

(A) Any initiative matter proposed by initiative petition shall be submitted to the voters at the next ensuing election.

(B) Any initiative matter referred to the voters by the Town Council or referendum matter shall be submitted to the voters at an election to be determined as provided by law.

(‘87 Code, § 2-8-1) (Am. Ord. 90-32, passed 12-3-90; Am. Ord. 92-15, passed 11-2-92; Am. Ord. 96-11, passed 9-3-96)

Statutory reference:

Initiative and referendum, see A.R.S. §§ 19-141 et seq. and Az. Const. Art. IV, Part 1, § 1

§ 35.21 SIGNATURE REQUIREMENTS.

(A) The total number of registered voters qualified to vote at the last municipal election, whether regular or special, immediately preceding the date upon which any initiative petition is filed, shall be the basis upon which the number of qualified electors of the town required to file an initiative petition shall be computed.

(B) The basis upon which the number of qualified electors of the town required to file a referendum petition shall be computed shall be as determined by state law.

(‘87 Code, § 2-8-2) (Am. Ord. 90-32, passed 12-3-90; Am. Ord. 92-15, passed 11-2-92)

Statutory reference:

§ 35.22 FILING OF PETITION.

(A) *Initiative petitions.* Initiative petitions shall be filed at least 120 days prior to the election at which they are to be voted upon.

(B) *Referendum petitions.* Referendum petitions shall be filed within 30 days of the adoption of the ordinance or resolution to be referred. If the Town Clerk is unable to provide petitioners with a copy of the ordinance or resolution at the time of application for an official number or on the same business day of the application, the 30-day period shall be calculated from the date such ordinance or resolution is available.

(‘87 Code, § 2-8-3) (Am. Ord. 90-32, passed 12-3-90; Am. Ord. 92-15, passed 11-2-92)

§ 35.23 SAMPLE BALLOTS AND PUBLICITY PAMPHLETS; ARGUMENTS.

The following procedures relating to sample ballots and publicity pamphlets are hereby adopted for conducting elections at which an initiative or referendum is to be voted upon:

(A) A publicity pamphlet, containing the entire text of the official ballot, shall be mailed by the Town Clerk to each household within the town in which a registered voter resides not less than ten days prior to the election to which the sample ballot pertains.

(B) The pamphlet shall contain the proposition as it will appear on the ballot together with a summary of each proposition. Each summary shall be followed by any arguments supporting the proposition followed by any arguments opposing the proposition. Arguments submitted by the person filing the initiative or referendum shall appear first. The remaining arguments shall be placed in the order in which they were filed.

(C) Arguments supporting and opposing propositions appearing on the ballot shall be filed with the office of the Town Clerk by 5:00 p.m. not less than 60 days prior to the election at which the propositions are to be voted upon. If time does not permit compliance with the 60-day deadline, the Town Clerk may establish a separate deadline for filing referendum ballot arguments. Arguments supporting or opposing propositions appearing on the ballot shall meet the following requirements:

(1) Arguments must relate to the propositions proposed by initiative or referred by referendum which will appear on the ballot.

(2) Arguments must identify the proposition to which they refer and indicate whether the argument is in support of or in opposition to the proposition.

(3) Arguments may not exceed 300 words in length.

(4) Arguments must contain the original signature of all persons sponsoring it. Arguments submitted by organizations shall be signed by two executive officers of the organization, or if the argument is sponsored by a political committee, it must be signed by the committee's chair or treasurer. All persons signing documents shall indicate their residence or post office address and a telephone number, which information shall not appear in the publicity pamphlet.

(5) No person or organization shall submit more than one argument for each proposition to be voted upon.

(6) Each argument shall be accompanied by a deposit to offset proportional costs of printing. The amount of the deposit shall be established by resolution of the Town Council. This requirement shall not be waived on any account.

(‘87 Code, § 2-8-4) (Am. Ord. 90-32, passed 12-3-90; Am. Ord. 92-15, passed 11-2-92)

CHAPTER 36: POLICIES

Section

General Provisions

36.01 Employment and contracting following civil service

- 36.10 Definitions
- 36.11 Registration, reports, and gifts
- 36.12 Exceptions
- 36.13 Political contributions; reports
- 36.14 Forms; filing

Statutory reference:

Registration and regulation of lobbyists, see A.R.S. § 41-1231 et seq.

GENERAL PROVISIONS

§ 36.01 EMPLOYMENT AND CONTRACTING FOLLOWING CIVIL SERVICE.

Persons elected and/or appointed pursuant to Chapters 30 and 33 of this code may not be employed by the town or may not enter into a contract with the town pursuant to §§ 37.01(A) and 37.02(A), (B), and (C) until a period of two years following the last day of elected or appointed service

(Ord. 96-28, passed 12-9-96)

LOBBYING AND GIFTS TO PUBLIC OFFICIALS

§ 36.10 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPOINTED TOWN OFFICIAL. Any officer of the town appointed by the Town Council, the Town Manager, or the Town Magistrate.

ELECTED TOWN OFFICIAL. The Mayor and Members of the Town Council, whether serving by election or appointment.

EXPENDITURE. A payment, distribution, loan, advance, deposit, or gift, and includes a promise or agreement, whether or not legally enforceable, to make an expenditure that provides a benefit to an elected town official that is incurred by or on behalf of a lobbyist.

FAMILY GIFT. A gift to an elected town official or a member of his or her household from a lobbyist who is a relative of the elected town official or a member of his or her household if the donor is not acting for someone not covered by this paragraph.

GIFT. Money, real property, or tangible personal property. For purposes of this subchapter, ***GIFT*** does not include:

(1) A gift or inheritance from a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or any such person's spouse if the donor is not acting for someone not covered by this paragraph and gifts of a personal nature were customarily received from such person before becoming an elected town official.

(2) The value of meals, entertainment, or lodging that is reported or exempt from reporting under this subchapter.

(3) Salary, compensation, or employer-reimbursed expenses lawfully paid to an elected town official.

(4) The value of professional or consulting service not rendered to obtain a benefit for any lobbyist or lobbyist's client.

(5) Expenses relating to an event to which all members of the Town Council or any Town Council committee or subcommittee are invited.

- (6) A plaque or similar item given to an elected town official in recognition of service or notable accomplishment.
- (7) Informational material such as books, reports, pamphlets, tapes, calendars, or periodicals.
- (8) An unused item that is returned to the donor or delivered to a charitable organization within 15 days of receipt and is not claimed as a charitable contribution for tax purposes.
- (9) A campaign contribution that is properly received and reported as required by law.
- (10) An item given to an elected town official if an item of similar value is given by the elected town official at the same time, or on a similar occasion under similar circumstances.

LOBBY. Communication with any elected town official for the purpose of influencing official action.

LOBBYIST. Any person who is compensated to lobby for a person other than him- or herself.

OFFICIAL ACTION. The action or non-action of the Town Council.

PERSON. An individual, partnership, committee, association, limited liability company, or corporation and any other organization or group of persons.

PERSONAL HOSPITALITY. Meals, beverages, transportation, or lodging furnished non-commercially by a person on his or his or her family's property or facilities.

PUBLIC OFFICIAL. A person holding an elected government office.

(`87 Code, Art. 19-1) (Am. Ord. 96-17, passed 11-4-96)

§ 36.11 REGISTRATION, REPORTS, AND GIFTS.

(A) *Registration of lobbyists.*

(1) Lobbyists shall register prior to lobbying, if practicable, otherwise within five business days after first lobbying, by filing a statement disclosing the following:

- (a) The name and business address of the lobbyist and any employee of the lobbyist who acts as a lobbyist.
- (b) The name and business address of all persons by whom the lobbyist is compensated to lobby.

(2) At the time of registration or any time thereafter a lobbyist may file a statement certifying that the lobbyist intends to make no expenditures reportable under this subchapter. Upon filing this statement the lobbyist shall be exempt from the expenditure reporting requirements of this section, so long as no expenditures are made. If a lobbyist who has signed an exemption statement subsequently makes any reportable expenditure, that lobbyist shall notify the Town Clerk of such expenditure within ten days, and shall thereafter be subject to expenditure reporting requirements.

(B) *Reports of lobbyists.*

(1) Lobbyists shall report expenditures quarterly. Expenditures over \$25 shall be itemized separately, listing the date, amount, and nature of the expenditure, the name of the elected town official receiving or benefitting from the expenditure, and the person on whose behalf the expenditure was made. An aggregate of expenditures of \$25 or less for each elected town official shall be reported. Expenditures for the lobbyist's personal sustenance, family gifts, personal hospitality, preparation or distribution of informational materials, campaign contributions, professional or consulting services not made on behalf of another person for compensation, and not rendered primarily for the benefit of an elected town official, office expenses, filing fees, legal fees, employees, compensation, lodging, and travel are not required to be reported.

(2) All expenses for events to which all Members of the Town Council or any committee or subcommittee of the Town Council are invited shall be reported pursuant to (1) above. Such expenses need not be allocated to individual Council Members, but the date, location, total expenses incurred, and a description of each such event shall be reported.

(3) A lobbyist who makes no reportable expenditures during a specified reporting period may, in lieu of the report required by (1) above, file a statement certifying that there were no reportable expenditures during the period.

(4) Registered town lobbyists must re-register annually to continue lobbying.

(C) *Gifts to public officials; prohibitions; disclosure.*

(1) No person shall make a gift to, or expenditure on behalf of, an elected or appointed town official through another person to conceal the identity of the person making the gift or expenditure.

(2) No person shall give or promise to give within one calendar year a gift or gifts which have an aggregate value of over \$100 for an elected or appointed town official.

(3) Every elected or appointed town official shall disclose to the Town Clerk, in writing, each gift made to or on behalf of the elected or appointed town official within 30 days after the gift was made.

(`87 Code, Art. 19-2) (Am. Ord. 96-17, passed 11-4-96; Am. Ord. 96-24, passed 11-18-96) Penalty, see § 10.99

§ 36.12 EXCEPTIONS.

Section 36.11 does not apply to:

(A) A person who is not compensated for lobbying activity other than reimbursement for actual expenses.

(B) A person, acting in his or her own behalf, who appears before the Town Council or contacts an elected town official to support or oppose official action.

(C) A public official, public employee, or appointed member of a state, county, or local board, commission, or council acting in his or her official capacity on matters pertaining to his or her office, employment, board, commission, or council.

(D) An expert introduced or identified by a registered lobbyist, or public official who provides technical information or answers technical questions and makes no expenditure required to be reported by this subchapter.

(E) A person who performs professional services in drafting legislation or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation.

(F) An attorney who represents clients at any quasi-judicial hearing held by the Town Council.

(G) A person who contacts an elected town official solely for the purpose of acquiring information.

(H) A person who contacts an elected town official concerning any contract awarded through competitive bidding.

(`87 Code, Art. 19-3)

§ 36.13 POLITICAL CONTRIBUTIONS; REPORTS.

Lobbyists who contribute to, or solicit contributions on behalf of, political campaigns of elected town officials shall file quarterly reports, which shall be combined with expenditure reports when applicable, identifying the lobbyist and disclosing the dates and amounts of contributions made by or, if known, at the request of the lobbyist, the contributors' names, addresses, occupations, and employers and the elected town officials to whom the contributions were made.

(`87 Code, Art. 19-4) Penalty, see § 10.99

§ 36.14 FORMS; FILING.

All statements and reports required by this subchapter shall be under oath on forms prescribed by the Town Clerk and filed in the office of the Town Clerk.

(`87 Code, Art. 19-5)

Purchasing

- 37.01 Applicability of provisions
- 37.02 Procedure generally
- 37.03 Exclusive service
- 37.04 Bidding
- 37.05 Lowest responsible bidder
- 37.06 Bond
- 37.07 Emergency procedures
- 37.08 Forms

Taxation

- 37.20 Adoption of tax code by reference

Statutory reference:

Arizona Procurement Code, see A.R.S. §§ 41-2501 et seq.

Cross-reference:

Employment and contracting following civil service, see § 36.01

PURCHASING

§ 37.01 APPLICABILITY OF PROVISIONS.

(A) *Professional services.* Unless required by the Town Council, the provisions of this subchapter shall not apply to professional services. Such services shall include, but not be limited to, the following: physicians, attorneys, engineers, and similar professions.
(‘87 Code, § 3-4-8)

(B) *Cooperative purchasing.* This subchapter shall not apply to purchases made by, through, or with the state or its political subdivisions. The town may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so for the same item or service if, in the opinion of the Purchasing Agent, a separate bidding process is not likely to result in a lower price for such items or services.
(‘87 Code, § 3-4-9)

§ 37.02 PROCEDURE GENERALLY.

The Town Manager and his or her designee(s) shall be the Purchasing Agent for the town. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the town, shall be made by the Purchasing Agent or any officer, employee, or agent of the town, except in the manner set forth in this subchapter, and unless said purchase is in accordance with the adopted town budget.

(A) *Under \$5,000.* Whenever any contemplated purchase or contract for services is for the sum of less than \$5,000 the Purchasing Agent may order the item as needed.

(B) *\$5,000 to under \$25,000.* Whenever any contemplated purchase or contract for services is for the sum of at least \$5,000 but less than \$25,000, the Purchasing Agent shall solicit at least two bids for the item or service. Said solicitation may be orally obtained, then documented in writing by him or her, and he or she may then award the purchase or contract of service to the lowest

responsible bidder.

(C) *\$25,000 to the bid limit established pursuant to the State Procurement Code (A.R.S. § 41-2501 et seq.) or the bid limit set by A.R.S. § 34-201 for public work expenditures.* Whenever any contemplated purchase or contract for services is for the sum of at least \$25,000 and no more than the allowable limit as set by Arizona Revised Statutes, the Purchasing Agent shall solicit at least three written bids for the item or service on bid forms and award the purchase or contract of services to the lowest responsible bidder.

(D) *No contract of \$25,000 or more shall be approved except by the Town Council.* Whenever any contemplated purchase or contract for services is for the sum of \$25,000 or more, the Purchasing Agent shall present the bids to the Town Council for approval, and advise the Town Council of the advantages or disadvantages of contract and bid proposals.

(E) *Expenditures over the bid limit established pursuant to the State Procurement Code (A.R.S. § 41-2501 et seq.) or over the bid limit set by A.R.S. § 34-201 for public works expenditures.* Whenever required by Arizona Revised Statutes, the Purchasing Agent shall cause to be published, in two issues of a newspaper of general circulation in the town, notice inviting bids, which notice shall be published as provided in A.R.S. § 39-204. The notice shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids. In addition, the Purchasing Agent shall post a notice inviting bids in the Town Hall and may also mail to all responsible prospective suppliers a copy of the notice inserted in the newspaper.

(‘87 Code, § 3-4-1) (Am. Ord. 88-07, passed 6-6-88; Am. Ord. 92-01, passed 1-6-92; Am. Ord. 2000-10, passed 11-6-00; Am. Ord. O2006-17, passed 5-15-06; Am. Ord. O2013-06, passed 10-7-13; Am. Ord. O2015-06, passed 10-5-15)

Statutory reference:

Publication of notice for invitation of bids, see A.R.S. § 9-812

§ 37.03 EXCLUSIVE SERVICE.

In the event that there is only one firm or company or individual capable of providing a particular service or commodity and such services or commodities cannot be secured from other persons or companies, § 37.02 shall not be applicable, and such services or commodities can be secured without bidding.

(‘87 Code, § 3-4-2)

§ 37.04 BIDDING.

The Purchasing Agent and all parties contracting with the town shall follow the procedure set forth in this section in relation to all bids required under § 37.02(D).

(A) All notices and solicitation of bids shall state the time and place for opening.

(B) All bids shall be submitted sealed to the Purchasing Agent and shall be identified as bids on the envelope.

(C) All bids shall be opened in public at the time and place stated in the public notice.

(D) A tabulation of all bids received shall be posted in the Town Hall for public inspection.

(E) The Purchasing Agent under § 37.02(A), (B), and (C), and the Town Council under § 37.02(D) shall have the authority to reject any and all bids and parts of all bids and re-advertise or re-solicit bids.

(‘87 Code, § 3-4-3)

§ 37.05 LOWEST RESPONSIBLE BIDDER.

(A) Unless the Town Council or Purchasing Agent shall exercise the right of rejection as provided by § 37.04, the purchase or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract or any part thereof.

(B) In determining the lowest responsible bidder, the Town Council and Purchasing Agent shall consider:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required.

(2) Whether the bidder can perform the contract or provide the services promptly or within the specified time without delay or interference.

(3) The quality of performance of previous contracts.

(4) The previous and existing compliance by the bidder with laws and ordinances of the town.

(5) The financial resources and ability of the bidder to perform the contract.

(6) The quality, availability, and adaptability of the supplies or services.

(`87 Code, § 3-4-4)

§ 37.06 BOND.

The Purchasing Agent shall have the authority to require a performance bond, in cash or otherwise, for such amount as he or she may deem sufficient to secure the execution of the contract for the best interest of the town.

(`87 Code, § 3-4-5)

§ 37.07 EMERGENCY PROCEDURES.

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the Mayor shall be empowered to authorize the Purchasing Agent to purchase or secure services without complying with the procedures of this subchapter. A full report in writing of the circumstances of any emergency purchase shall be filed by the Purchasing Agent with the Town Council at its next meeting.

(`87 Code, § 3-4-6)

§ 37.08 FORMS.

The Purchasing Agent shall prescribe and maintain such forms as he or she shall find necessary for the operation of the provisions of this subchapter.

(`87 Code, § 3-4-7)

TAXATION

§ 37.20 ADOPTION OF TAX CODE BY REFERENCE.

(A) The town tax code, as amended from time to time, is hereby adopted by reference. Three copies of the tax code shall be on file with the Town Clerk.

(B) The provisions of "The 2001 Amendments to the Tax Code of the Town of Cave Creek," three copies of which are on file in the office of the Town Clerk, are hereby adopted and made a part hereof as if fully set out in this section effective December 31, 2001.

(C) The provisions of "the 2002 Amendments to the Tax Code of the Town of Cave Creek," three copies of which are on file in the office of the Town Clerk, are hereby adopted and made a part hereof as if fully set out in this section effective May 30, 2003.

(D) The provisions of "the 2006 Amendments to the Tax Code of the Town of Cave Creek," three copies of which are on file in the office of the Town Clerk, are hereby adopted and made a part hereof as if fully set out in this section effective July 20, 2006.

(E) The provisions of "the 2007 Amendments to the Tax Code of the Town of Cave Creek," three copies of which are on file in the office of the Town Clerk, are hereby adopted and made a part hereof as if fully set out in this section effective November 1, 2007.

(F) The provisions of "the 2009 Amendments to the Tax Code of the Town of Cave Creek," three copies of which are on file in the office of the Town Clerk, are hereby adopted and made a part hereof as if fully set out in this section effective March 23, 2009 and May 20, 2009.

(G) Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a Class One misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

(`87 Code, Art. 9-1) (Am. Ord. O-2001-11, passed 11-19-01; Am. Ord. O-2003-02, passed 4-21-03; Am. Ord. O2006-19, passed 6-19-06; Am. Ord. O2007-13, passed 10-1-07; Am. Ord. O2009-01, passed 1-20-09; Am. Ord. O2009-04, passed 4-20-09)

Statutory reference:

Local assessment, levy, and collection, see A.R.S. §§ 42-17251 et seq.

TITLE V: PUBLIC WORKS

Chapter

- 50. SEWERS
- 51. WASTEWATER REGULATIONS
- 52. WATER
- 53. CAPACITY CHARGES

CHAPTER 50: SEWERS

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Appendix: Forms

§ 50.001 DEFINITIONS.

Except as otherwise provided, for the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD. Biochemical oxygen demand of organic matter under standard laboratory procedures in five days at 20°C expressed in parts per million (p.p.m.) in weight.

BUILDING CONNECTION or **HOUSE CONNECTION.** The connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.

BUILDING SEWER or **HOUSE SEWER.** The extension from the building drain to the building connection or other place of disposal.

COMMERCIAL/INDUSTRIAL USER. Any user or establishment not defined as a residential dwelling unit, including but not limited to hotels and motels.

GARBAGE. Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from industrial processes as distinct from sanitary sewage.

MULTIPLE-FAMILY DWELLING. Two or more residential dwelling units located on one building site, including mobile home spaces within a mobile home park, travel trailer spaces within a travel trailer park, rest homes, hospitals, apartments, condominiums, and other buildings wherein more than one family may reside either temporarily or on a permanent basis.

NATURAL OUTLET. Any outlet into a watercourse, ditch, or other body of surface or ground water.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-fourth inch in any dimension.

PUBLIC SEWER. A sewer controlled by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWER CONNECTION. The connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.

SEWER PIPE. A pipe or conduit for carrying sewage.

SINGLE-FAMILY RESIDENCE. A dwelling unit in which only a single family may reside, other than those defined as multiple-family dwelling units.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are suspended in, water, sewage, or other liquids and which are removable by laboratory filtering.

WASTEWATER. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

WASTEWATER SYSTEM. All facilities for collecting, pumping, treating, and disposing of sewage.

WASTEWATER TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently.

('87 Code, Art. 17-1) (Ord. 94-06, passed 3-7-94)

§ 50.010 APPLICATION FOR SERVICE.

No sewer connection connecting the town sanitary sewer system to any consumer shall be made by any person or the town except upon written application furnished to the town by the owner of the premises or the owner's authorized agent to which sanitary sewer service is to be furnished.

(`87 Code, § 17-2-1) (Ord. 94-06, passed 3-7-94)

§ 50.011 SERVICE REFUSAL AND RESTRICTIONS.

(A) The town shall have the right to refuse service unless the consumer's lines or piping are installed in such manner as to prevent cross connections or backflow, and providing that all other requirements of this chapter have been complied with.

(B) The town may refuse service to any prospective consumer when the capacity of the wastewater system will not permit additional loads being added thereto, or when the type of discharge cannot be processed properly by the plant. The town may also require pretreatment of discharge prior to allowing discharge to enter into the town's wastewater system.

(`87 Code, §§ 17-4-1(B), (D)) (Ord. 94-06, passed 3-7-94)

§ 50.012 INTERRUPTION OF SERVICE.

Under normal conditions the consumer shall be notified of any anticipated interruption of service.

(`87 Code, § 17-4-1(C)) (Ord. 94-06, passed 3-7-94)

§ 50.013 DISCONTINUANCE OF SERVICE.

The town may discontinue sewer service for the following additional reasons:

(A) Prevention of fraud or abuse.

(B) The consumer's willful disregard of or refusal to comply with this chapter or other rules as may be adopted by the Town Council.

(C) Non-payment of a delinquent account, upon the direction of the Town Manager.

(`87 Code, § 17-4-2(E)) (Ord. 94-06, passed 3-7-94)

Cross-reference:

Discontinuance of town services for nonpayment, see § 50.108

§ 50.014 EXTENSION OF SERVICE.

(A) *Outside town limits.* Use of the town wastewater works will not be granted to persons outside the limits of the town without the approval of the Town Council.

(B) *Approval required.* No public sewer extensions shall be made until the plans and specifications are approved by the authorized officers of the town.

(C) *In subdivisions.* In new subdivisions where public sewer extensions are authorized by the town and constructed at the subdivider's expense, the town may authorize the subdivider or his or her agent, if he or she so desires, to install building connections with wyes and connect the building sewers to the building connection under the following provisions:

(1) The construction of the public sewer, building connections, and connections of the building sewers to the building connection shall be in compliance with Maricopa Association of Governments (MAG) Standards and Specifications under the supervision of a registered civil engineer holding a currently active registration in the state, who shall submit "as built plans" bearing the registered civil

engineer's registration seal and number to the Manager. It shall be the duty of the registered civil engineer employed by the subdivider to require that all building connections serving lots in the subdivision upon which no buildings are constructed be sealed. Such sealed connections shall be inspected and approved by the authorized officer of the town before being backfilled and shall be marked in the field, located, and designated on the "as built plans." The effective seal shall consist of a vitrified clay, or equal stopper, inserted in the bell of the sewer extending to the property line in the alley or to the curb line in the street from the public sewer. Such stopper shall be jointed according to the specifications and standard details used by the MAG or subsequent revision thereof. The stopper shall be permanently flagged by attaching one end of a length of copper wire to the stopper and the other end to a broken piece of clay pipe, which shall be placed under the soil surface directly over the end of sewer pipe.

(2) Before any sewer construction is commenced, the necessary approvals and permits must be obtained by the subdivider or his or her agent from the properly authorized officer of the town.

(3) When the "as built plans" are submitted to the town, the Engineer will make a record of the building connections. The Engineer shall notify the properly authorized officer of the connections to ascertain that all requirements of the town have been fulfilled.

(4) A deposit in cash, certified check, or bond in the amount of 100% of the Engineer's estimated cost of the public sewer extension and building connections shall be paid by the subdivider or his or her agent to the Town Manager before commencing any construction to ascertain that the provisions of this section are fulfilled. Upon acceptance of the "as built plans" by the Engineer and a satisfactory report by the authorized inspector, the deposit will be promptly refunded to the subdivider or his or her agent without interest. Should the subdivider or his agent fail to comply with the foregoing provisions, the deposit shall be forfeited by the subdivider or his or her agent and used by the town to complete the approved construction.

(5) (a) Except for single-family residential units, no privately owned sewer systems and/or treatment plants or facilities of any sort for the treatment of wastewater shall be allowed in any new subdivision within the town.

(b) In addition, no more than one single-family residential unit shall be allowed to introduce wastewater into any type of privately owned wastewater treatment facility that is permitted within a new subdivision by this chapter.

(`87 Code, Art. 17-6) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.015 SERVICE AGREEMENTS.

All regulations contained in this chapter shall be considered a part of the contract of every resident of the town or with every resident of any area receiving sewer service from the town, and such resident receiving sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the town limits shall, upon application for sewer service, be required to sign a statement agreeing to the regulations set forth in this chapter.

(`87 Code, Art. 17-7) (Ord. 94-06, passed 3-7-94)

CONNECTIONS

§ 50.025 DUTIES AND LIABILITY OF CONSUMER.

(A) Building or house sewer connections on the consumer's premises shall be so arranged as to provide service to one lot. If additional service is required it will be considered as a separate and individual account.

(B) The consumer's house or building service line, sewer connection, and apparatus shall be installed and maintained by the consumer, at the consumer's expense, in a safe and efficient manner and in accordance with the town's rules and regulations as found in § 50.030, and in full compliance with the regulations of the State Department of Environmental Quality. Failure to comply with such regulations relieves the town from any and all liability from injury or damage proximately caused therefrom.

(C) The consumer shall safeguard the town's property placed on the consumer's premises and shall permit access to it only by the authorized representatives of the town.

(D) In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer or his or her agents or employees, the cost of necessary repairs or replacements shall be paid by the consumer to the town and any liability otherwise resulting shall be assumed by the consumer. The

amount of such loss or damage and the cost of repairs may be added to the consumer's bill, and, if not paid, service may be discontinued after providing notice and an opportunity for a hearing as specified in § 50.108.

(E) When service to a consumer shall require the laying of any town sewer lines or the installation of any other town property on, under, across, or over the consumer's property, the consumer shall grant to the town an easement, right-of-way, or license for such installation, and that grant shall be a condition precedent to sewer service.

(`87 Code, § 17-4-2(A)-(D), (F)) (Ord. 94-06, passed 3-7-94; Am. Ord. 94-11, passed 5-16-94) Penalty, see § 50.999

§ 50.026 PERMITS REQUIRED; FEES.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town. The fee for such permits will be set by the Town Council by resolution.

(`87 Code, § 17-4-7) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.027 PERMITS FOR NEW CONSTRUCTION.

All applications for building permits required for new construction of a residential or commercial building must first be submitted to the Town Engineer to determine if the building to be authorized by the permit will require a connection to the town's wastewater system. If the Town Engineer determines the building to be permitted will require connection to the town's wastewater system, the applicant shall immediately make application to the town for a sewer connection on forms approved by the town. This application for sewer connection shall be attached to the building permit. The property for which the building permit has been granted shall be liable for any and all applicable fees as set forth in this chapter. All applicable sewer fees and charges must be paid prior to the issuance of a certificate of occupancy.

(`87 Code, § 17-4-8) (Ord. 94-06, passed 3-7-94)

§ 50.028 INSPECTION AND APPROVAL.

No connection will be made to the public wastewater system until it has been inspected and approved by the town.

(`87 Code, § 17-4-9) (Ord. 94-06, passed 3-7-94)

§ 50.029 RECORDS OF CONNECTIONS.

The Town Engineer shall keep a record of all connections made, and the purpose for which they are to be used, together with the name of the owner of the property or his or her agent or representative.

(`87 Code, § 17-4-10) (Ord. 94-06, passed 3-7-94)

§ 50.030 RULES AND REGULATIONS.

(A) Any connection made to any part or portion of any wastewater system operated under or by the authority of the town shall comply with the administrative rules as established and amended by the Town Council.

(1) (a) Each family dwelling unit shall be allowed only one tap or similar type of connection to the town's collection system.

(b) Single-family dwelling units shall be exempt from these rules unless the use of any type or form of a common sewer pipe connection, plan, or scheme allows more than the wastewater generated by one single-family dwelling unit to connect to the town's collection system by means of any type or form of a single connection device or method. However, all single-family dwellings must comply with the requirements of division (A)(1)(a).

(2) The maximum allowable discharge concentrations for any type of wastewater introduced into the public sewer system of the

town shall be governed by the requirements contained in this chapter set and established by the town or the regulations promulgated by the Maricopa County Department of Environmental Quality, whichever is more strict.

(3) The following substances shall not be discharged into any sanitary sewer unless preliminary treatment is provided and which pretreatment shall conform to the current or updated requirements contained in Engineering Bulletin No. 11, as promulgated by the Arizona Department of Environmental Quality, originally dated July 1978, and, whatever the type or method of pretreatment used, the physical characteristics of the substance shall fall within the regulations contained in (2) above:

- (a) Storm water or liquid.
- (b) Swimming pool water or liquid.
- (c) Surface water or liquid.
- (d) Ground water or liquid.
- (e) Roof runoff water or liquid.
- (f) Subsurface drainage of any type.
- (g) Evaporative cooler drain water or liquid.
- (h) Unpolluted industrial process water or liquid.
- (i) Water or liquid used as any type or sort of coolant.
- (j) Water or liquid of any type used as part of any industrial process.

(4) Any user of any type or sort who provides food of any sort or type for public consumption shall install interceptors as required by § 50.077 or any revisions thereof. The following list of users shall be required to install interceptors as required by § 50.077:

- (a) Restaurants of any type or sort.
- (b) Cafes.
- (c) Inns, including bed and breakfast facilities.
- (d) Motels.
- (e) Hotels.
- (f) Churches.
- (g) Meeting halls.
- (h) Breweries of any type.

(5) In addition, the following list of commercial users shall be required to install interceptors as required by § 50.077:

- (a) Service stations.
- (b) Product manufacturers.
- (c) Disposers of septic wastes.
- (d) Industrial plants of any type.
- (e) Vehicle wash facilities.
- (f) Laundromats.

(6) Any user introducing waste material into the town wastewater system in excess of the limits set in (2) above shall be penalized as provided in § 50.999.

(7) All users of any type of commercially zoned land, prior to any connection to the town's wastewater system and irrespective of whether the commercial use of the land within the town exists at the time of enactment of these rules or comes into existence at any time in the future, shall submit to the town a plan or design for the use of the commercial land, and shall provide access to the

town staff or the agents thereof, for the purpose of testing and sampling of any waste material introduced into any portion, part, line, or treatment facility that is part of the town wastewater system.

(B) Upon written request, the Town Engineer may recommend modifications, changes, or exemptions from certain portions of these rules, depending on the circumstances of each individual connection request. The Town Engineer shall present a written report detailing the reasons why any action is or is not recommended for approval by the Town Council.

(`87 Code, Art. 17-9) (Ord. 94-11, passed 5-16-94) Penalty, see § 50.999

§ 50.031 TRUNK LINES.

(A) *Trunk line extensions.* When a sewer trunk line or collection line is not available to a property owner wishing to connect to the public wastewater system, the property owner may petition the town to make the necessary sewer line extensions and improvements needed to allow connection to the public wastewater system. These improvements shall be at the property owner's expense. The property owner shall provide plans and specifications for town approval for any extension or improvement to the public wastewater system. In addition, the property owner shall supply to the town a complete set of plans and specifications reflecting the "as built" conditions of any extension or improvement to the public wastewater system. The property owner may request from the town and the town may provide plans and specifications for any extension or improvement to the public wastewater system, but, under any circumstance, the property owner shall still be liable for any fees set by the town. If the town agrees to provide plans and specifications for any proposed wastewater extension or improvement, the property owner shall be liable for all costs associated with the providing of such plans and specifications. The associated costs shall include, but not be limited to, engineering design and technical writings, legal, administrative, and construction-related costs, and advertising. If any property owner provides the town with plans and specifications for any wastewater extension and improvement, the property owner shall still be liable for any fees set by the town, and, in addition, the property owner shall also be liable for any cost incurred by the town for review and approval of any plans and specifications for any wastewater extension and improvement submitted to the town. The property owner shall also provide, at no charge to the town, the necessary easements required by the town for any wastewater extension or improvement.

(B) *Connection by use of a common sewer pipe.* Each user of the town's wastewater system shall be liable for any and all sewer fees established by proper and legal action of the town, either by action of the Town Council or through official town administrative policies or procedures, whether or not each individual user is connected directly to the town's wastewater system or the connection is made through a common sewer pipe which may serve more than one individual user. If any connection to the town's wastewater system is made by the use of any type or form of a common sewer pipe connection, plan, or scheme, the entire common sewer pipe connection, plan, or scheme shall be subject to the requirements of this chapter.

(`87 Code, Art. 17-3) (Ord. 94-06, passed 3-7-94)

SEWER CONNECTION PRIORITIES

§ 50.045 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply for the town sewer company plant unless the context clearly indicates or requires a different meaning.

APPLICATION. A request to the town for wastewater service, as distinguished from an inquiry as to the availability or charges for such service.

PRIORITY. The order in which a user shall be connected to the town's wastewater system.

SERVICE. The introduction of wastewater into the town's wastewater system.

SEWER CONNECTION. The point in the introduction of wastewater into the town's wastewater system.

USER. Any person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in that name regardless of the identity of the actual user of the service including any heirs and assigns.

WASTEWATER. The same definition as found in § 50.001 of this code of ordinances.

WASTEWATER SYSTEM. The same definition as found in § 50.001 of this code of ordinances.

(Ord. 2000-01, passed 1-18-00)

§ 50.046 REQUESTS FOR SERVICE.

Any user wishing to connect to the town's wastewater plant shall make written application furnished to the town by the owner of the premises to which service is to be granted or by the owner's authorized agent.

(Ord. 2000-01, passed 1-18-00)

§ 50.047 APPROVAL OF SERVICE.

The town shall have sole authority to approve any application made to the town as a request for the service for the inclusion of the wastewater generated by the applicant into the town's wastewater system.

(Ord. 2000-01, passed 1-18-00)

§ 50.048 ORDER OF CONNECTION.

The town shall permit connection to the plant for any applicant who is within an approved sewer district (as shown in Exhibit "A"- attached to Ord. 2000-01 and on file and available for public inspection at town hall) and who has been issued a building permit.

(Ord. 2000-01, passed 1-18-00)

§ 50.049 EMERGENCY PRIORITY CONNECTIONS.

Nothing in this subchapter shall prevent the town from granting any user requesting connection to the town's wastewater system an immediate priority connection when, in the opinion of the Town Engineer, an emergency condition exists with respect to that user's existing wastewater treatment system.

(Ord. 2000-01, passed 1-18-00)

USE OF PRIVATE WASTEWATER SYSTEMS

§ 50.060 RESTRICTIONS ON USE.

(A) *Compliance with subchapter.* Except as provided in this subchapter, it is unlawful to construct or maintain within the town any privy, privy vault, septic tank, cesspool, or other facility of any type intended or used for the disposal, collection, and treatment of sewage.

(B) *Buildings.* All new buildings within any sewer improvement district within the town shall be connected to the town wastewater system prior to the issuance of a certificate of occupancy. No septic tank, no cesspool, nor any other private sewer options shall be permitted within the boundary of any sewer improvement district within the town limits once construction of that sewer improvement district is completed.

(`87 Code, § 17-4-5(A), (D)) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.061 AUTHORIZATION AND STANDARDS.

Where a public sanitary sewer is not available, private wastewater disposal or treatment systems which comply with the regulations of the Maricopa County Department of Environmental Management may be constructed, maintained, and operated.

(`87 Code, § 17-4-5(B)) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.062 DISCONTINUANCE REQUIRED.

Within one year after a public sewer becomes available to a commercial or multi-family property served by a private sewage disposal or treatment system, or whenever a single family residence private sewage disposal or treatment system fails and is no longer operational and a public sewer is available, a direct connection shall be made to the public sewer in accordance with the provisions of this chapter, and any septic tanks, cesspools, or similar private sewage facilities shall be abandoned and filled with suitable material or removed. The town shall give written notice to all owners when service is available and the one-year time limit specified in this section for commercial or multi-family properties shall run from the date of said notice. The town shall consider a public sewer available to a property when a public sewer line is within 300 feet of any property line.

(`87 Code, § 17-4-5(C)) (Ord. 94-06, passed 3-7-94; Ord. No. O-2002-03, passed 1-22-02) Penalty, see § 50.999

USE OF PUBLIC SEWERS

§ 50.075 DISCHARGES PROHIBITED.

(A) No person shall discharge or cause to be discharged any storm water, swimming pool water, surface water, ground water, roof runoff, subsurface drainage, cooling water, evaporative cooler drainage, or unpolluted industrial process waters into any sanitary sewer, except when permitted by rules and regulations promulgated by the Town Engineer.

(B) Except as provided in this chapter, no person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:

(1) Any liquid or vapor having a temperature higher than 150°F.

(2) Any water or waste which may contain more than 50 parts per million by weight of fat, oil, or grease.

(3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solvent, solid, or gas.

(4) Any garbage that has not been properly shredded.

(5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits such as brick, cement, onyx, carbide, or any other solid or viscous substance capable of causing obstruction to the flow in the sewers or other interference with the proper operation of the wastewater works.

(6) Any waters or wastes having a pH lower than 5.5 or higher than 9 or having any other corrosive property capable of causing damage or creating a hazard to structures, equipment, and personnel of the wastewater system or the general public, including but not limited to pesticides and herbicides.

(7) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the wastewater treatment plant.

(8) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant.

(9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(10) Any heavy metal in excess of the Arizona Department of Environmental Quality Safe Drinking Water Standards.

(11) Any liquid having a five-day BOD greater than 300 parts per million by weight.

(12) Any liquid containing more than 350 parts per million by weight of suspended solids.

(`87 Code, § 17-5-1) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.076 DISCHARGES RESTRICTED.

The admission into the public sewers of any waters or wastes having any of the following characteristics shall be subject to the review and approval by the town:

- (A) A five-day BOD greater than 300 parts per million by weight.
- (B) More than 350 parts per million by weight of suspended solids.
- (C) Any quantity of substance having the characteristics described in § 50.075.
- (D) An average daily flow of greater than 20% of the average daily sewage flow of the town.

('87 Code, § 17-5-3) (Ord. 94-06, passed 3-7-94)

§ 50.077 INTERCEPTORS, FLOW MEASUREMENT DEVICES, AND ACCESS.

(A) Grease, oil, and sand interceptors shall be provided by the owner and any user when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. All restaurants and other food serving facilities shall be required to have adequately sized grease traps for 30 minutes detention time at peak flow to separate grease and other floating material from entering the wastewater system.

(B) All interceptors shall be of a type and capacity approved by the town and shall be located as to be readily and easily accessible for cleaning and inspection.

(C) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(D) Where installed, all grease, oil, and sand interceptors shall be maintained by the owner at his or her expense, in continuously efficient operation at all times.

(E) Lockable shutoff valves shall be provided between interceptors and service taps into the sewer main where required by rules and regulations promulgated by the Town Engineer.

(F) Flow measurement devices and access methods for the sampling of any wastewater to be introduced into the wastewater system of the town shall be installed and maintained where required by rules and regulations promulgated by the Town Engineer.

(G) All such facilities shall be subject to inspection by the town prior to operation and periodically thereafter.

('87 Code, § 17-5-2) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.078 PRELIMINARY TREATMENT.

(A) *Required.* Where the town discharge standards cannot be maintained, the user shall provide, at his or her expense, such preliminary treatment as may be necessary to:

- (1) Reduce the BOD to 300 parts per million and the suspended solids to 350 parts per million by weight.
- (2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in § 50.076.
- (3) Control the quantities and rates of discharge of such waters or wastes.
- (4) Reduce any heavy metal as defined in the Arizona Department of Environmental Quality Safe Drinking Water Standards to meet limits.

(B) *Approval.* Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the town and to the Arizona State Department of Environmental Quality. No construction of such facilities shall be commenced until such approval is obtained in writing. Any preliminary treatment facility shall be subject to inspection by the town prior to operation and periodically thereafter.

(C) *Maintenance of facilities.* Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense as required by the town and the laws of the state.

(D) *Right of entry.* The town shall have the right, as a condition of service, to enter premises and repair and install necessary treatment equipment with advance payment by the owner.

(`87 Code, § 17-5-4) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.079 MANHOLES, SAMPLING, AND ANALYSES.

(A) When required by the town, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the sewer to facilitate observation, flow measurement, and sampling of wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the town. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(B) All tests, flow measurements, and analyses of the characteristics of waters and wastes, to which reference is made in §§ 50.075, 50.076, and 50.078, shall be determined in accordance with "standard methods for the examination of water and sewage" as approved by the town and shall be sampled at the control manhole provided for in this section or from suitable samples taken at such control manhole.

(C) Reasonable and actual cost incurred for sampling and analysis of industrial waste water shall be charged to the customer in addition to regular sewer charges.

(`87 Code, § 17-5-5) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.080 SPECIAL AGREEMENTS WITH INDUSTRIAL CONCERNS.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.

(`87 Code, § 17-5-6) (Ord. 94-06, passed 3-7-94)

PROHIBITIONS

§ 50.090 INTERFERENCE WITH TOWN AGENTS.

It is unlawful for any person to deny reasonable access or interfere in any way with the officers, agents, servants, or employees of the town in the discharge of any of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the town or in the laying or connecting of such pipe, main, or lateral, or in the operation, maintenance, or inspection of any part of the wastewater system, or in the making of lawful disconnections for any unlawful or discontinued service for nonpayment of assessment or fees.

(`87 Code, § 17-4-3(A)) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

Statutory reference:

Harassment, criminal offense, see A.R.S. § 13-2921

§ 50.091 EXCAVATIONS.

It is unlawful for any person:

(A) To dig up or cause to be dug up any street or alley in the town for the purpose of connection with the wastewater system of the town without first obtaining a permit from the town.

(B) To dig up any portion of any street or alley of the town for the purpose of connecting with the wastewater system of the town, and to fail or neglect to place or return the street or alley to its original condition or to a condition of the street or alley prior to connection to the same town wastewater system under the supervision of the authorized officers and agents of the town and as required by the town.

(`87 Code, § 17-4-3(B)) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

§ 50.092 TAMPERING WITH EQUIPMENT.

No person shall maliciously, willfully, recklessly, knowingly, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal wastewater system.

(`87 Code, § 17-4-6) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

Statutory reference:

Criminal damage to property (including felony offenses), see A.R.S. §§ 13-1601 et seq.

Criminal littering or polluting, including the unlawful discharge of sewage, see A.R.S. § 13-1603

§ 50.093 UNSANITARY DISPOSAL.

(A) It is unlawful for any person to deposit or permit to be deposited in an unsanitary manner upon public or private property within the town or in any area under the jurisdiction of the town any human or animal excrement or other objectional waste.

(B) It is unlawful to discharge to any natural outlet within the town or in any area under the jurisdiction of the town any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(`87 Code, § 17-4-4) (Ord. 94-06, passed 3-7-94) Penalty, see § 50.999

RATES, CHARGES, AND BILLING

§ 50.105 RATES, FEES, AND CHARGES.

(A) *Monthly user fees.*

(1) There is herewith established a monthly user fee in addition to other sewer charges to be charged for single-family residences, multiple-family units, and commercial and industrial facilities connected or to be connected to the town's public wastewater system. The Town Council may from time to time by resolution establish the monthly user fee in such amounts as it deems appropriate and necessary for each class of connected residences, facilities, or units. The monthly user fee is due and payable under the terms and conditions stated in § 50.107.

(2) Unless otherwise stated, service provided outside the town limits will be charged a rate of two times the rate for customers inside the corporate limits of the town.

(3) The town shall have the authority to set and establish any and all fees necessary to implement this chapter by resolution of the Town Council with any such fees to be charged against the property owner of the affected property and any such fee shall be payable and due under the terms and conditions of § 50.107.

(`87 Code, § 17-2-2) (Ord. 94-06, passed 3-7-94)

(B) *Other fees.* In addition to the collection of regular rates, the town may collect from its customers a proportionate share of any privilege, sales or use tax, or other imposition made by any government agency based on the gross revenues received by the town.

(`87 Code, § 17-2-5(G)) (Ord. 94-06, passed 3-7-94)

(C) *Sewer tap fees.*

(1) There is herewith established a sewer tap fee in addition to other sewer charges to be charged for single-family residences, multiple-family units, and commercial and industrial facilities connected or to be connected to the town's public wastewater system. The Town Council may from time to time establish by resolution the tap fee in such amounts as it deems appropriate and necessary for each class of connected users. The tap fee is due and payable at such time as a building permit is issued for a residence, unit, or facility to be connected to the public wastewater system, except as to spaces in a mobile home or travel trailer park where the fee shall become due and payable at the time the building permit is obtained for the construction of mobile home or travel trailer spaces.

(a) The town shall credit a tap fee for any amount paid as a sewer development fee to the Cave Creek Sewer Company for undeveloped residential property prior to July 23, 1993, provided the property owner provides the Town Manager with proof that the sewer development fee has been paid to the Cave Creek Sewer Company and that the payment was made prior to July 23, 1993. Sufficient proof of payment may be made by showing that the property owner's sewer development fees has been paid as part of an aggregate payment of sewer development fees to the Cave Creek Sewer Company. The Town Manager shall determine the portion of the aggregate payment which should be allocated to the property owner as a tap fee credit.

(b) A property owner shall not be entitled to a tap fee credit pursuant to this section unless the Town Manager has received the property owner's claim for a tap fee credit, in writing, prior to January 1, 1998.

(2) The purpose of this fee is to provide funding for inspections and administration for any "tap" to the wastewater system. The property owner or user wanting to tap shall be responsible for the contracting and construction of the physical connection to the wastewater system of the town in accordance with the requirements of the town. In addition, any property owner or user who taps into the town's wastewater system shall be responsible for any damage to any utility providing service within the town including any interruption of service and shall also be responsible for the repair of any damage or interruption to any utility providing service within the town subject to the requirements of the town.

(`87 Code, § 17-2-6) (Ord. 94-06, passed 3-7-94)

(D) *System development fee.*

(1) There is herewith established a wastewater system development fee, hereafter "fee," in addition to other wastewater charges to be charged for single-family residences, multiple-family units, and commercial and industrial facilities connected or to be connected to the town's public wastewater system. The Town Council may from time to time, by resolution, establish the fee, in such amount as it deems appropriate and necessary, for each class of connected residences, facilities, or units.

(2) The fee shall be used to offset costs to the town associated with providing for the replacement, expansion, or oversizing of the town's public wastewater treatment and collection system for the purpose of providing necessary services to the residences, units, and facilities against which the fee is charged. Such replacement, expansion, or oversizing to the town's wastewater system shall include but not be limited to acquisition and construction of wastewater treatment plants, trunk lines to transport wastewater, lift stations, debt service, and other expenses or improvements related to the public wastewater system. The fee shall also include the costs associated with the capacity of the system which has been reduced as the result of the new service.

(3) The wastewater system development fee is due and payable prior to the approval of any division of property requiring immediate sewer service or prior to issuance of the certificate of occupancy for any building permit where the property has previously been divided and the building will necessitate immediate connection to the town's wastewater system.

(`87 Code, § 18-1-1) (Ord. 94-07, passed 3-7-94; Am. Ord. 96-25, passed 1-21-97)

Statutory reference:

Procedure to establish and increase rates, see A.R.S. § 9-511.01

§ 51.106 DEPOSITS.

A refundable deposit, the amount of which shall be established by the Town Council by resolution, shall be required of a user for each sewer connection for which service is requested or required. Such deposit shall be retained by the town as security for payment of future sanitary sewer charges until such service is terminated or earlier if after two years service to the site for which the deposit is applicable the customer has promptly paid when due the sanitary sewer service charges due for service in each of the billing periods within said two-year period, then in such event the deposit shall be returned to the person making such deposit. In the event a user's deposit has been returned or waived as herein provided, the Town Manager or his or her designee may require a new deposit as a condition of continued service in the event a user fails to pay the service fees promptly when due for any three billing periods within a 24-month period.

(`87 Code, § 17-2-3) (Ord. 94-06, passed 3-7-94)

§ 50.107 BILLING.

(A) *Generally.*

(1) *Commencement of charges.* Charges for service commence when the service is installed and connection made, whether used or not.

(2) *Payment due dates.* All charges for sewer services are payable within 25 days following the date of billing. Each bill unpaid 26 days following the date of billing shall be subject to late charges.

(3) *Due dates on non-business days.* In case any prescribed payment date falls on a Saturday, Sunday, or legal holiday, the effective date of payment, as set forth above, shall be deemed to be the first business day following such Saturday, Sunday, or legal holiday.

(4) *Failure to receive.* Failure to receive bills or notices which have been properly placed in the United States Mail shall not prevent such bills from becoming delinquent nor relieve the customer of his or her obligations therein.

(5) *Returned check fee.* Any user presenting a check for payment which is subsequently not honored by the user's bank shall be charged a returned check fee. This fee shall be established by resolution by the Town Council.

(`87 Code, § 17-2-5(A)-(E)) (Ord. 94-06, passed 3-7-94)

(B) *Late payment penalty.* There is hereby imposed and added to each billing which is not paid on a timely basis, as provided in division (A), a late payment penalty. In the event a payment plan has been agreed upon by the Town Manager or his or her designee for the payment of any delinquent amount, the late fee herein provided for shall not apply unless the customer fails to comply with the payment agreement. The amount of the late payment penalty shall be established by the Town Council by resolution.

(`87 Code, § 17-2-4) (Ord. 94-06, passed 3-7-94)

§ 50.108 DISCONTINUANCE OF TOWN SERVICES FOR NONPAYMENT.

(A) Prior to terminating service for nonpayment of amounts due, the town will give written notice to the consumer and provide an opportunity for a hearing within 30 days for such consumer with the Town Manager or his or her designee. All costs relating to termination or discontinuation of service shall be borne by the consumer. Discontinuance or termination costs shall be first deducted from any deposit placed with the town by the consumer prior to the return of any refundable deposit.

(`87 Code, § 17-2-5(F)) (Ord. 94-06, passed 3-7-94)

(B) If any of the fees for sewer service are more than 60 days delinquent, no other town services will be provided until such time as all delinquencies have been paid in full.

(`87 Code, Art. 17-10) (Ord. 94-06, passed 3-7-94; Am. Ord. 94-11, passed 5-16-94)

Statutory reference:

Utility user fees, lien enforcement, procedures, see A.R.S. § 9-511.02

§ 50.109 LIEN.

In the event a customer fails to pay any sum due the town under the provisions of this chapter, the town shall have a lien on the real property to which the service is provided for the amount of any such unpaid sums. The lien shall exist for a period of five years from and after a claim for lien is filed in the public records of the county. Such lien must be filed within one year after the due date of the payments included therein, and any action to foreclose such lien shall be filed in the Superior Court of Arizona, Maricopa County, Arizona, within five years from the date such lien is filed in such county and shall be foreclosed in the same manner as a judicial foreclosure of a mortgage on real estate and in accordance with the rules applicable thereto. The town shall be entitled to recover its reasonable attorney's fees and costs incurred in the foreclosure of any such lien. Where the property owner of the property subject to this lien is other than the customer, the town shall give to the owner of record of the property to which service was provided written

notice of intent to file the lien herein at least 30 days prior to the filing thereof and, if the sum due for which said lien is claimed is paid prior to the expiration of said 30-day period, no such lien shall be filed for the amount paid. Such notice shall be given through the United States Mail, postage prepaid, addressed to the address of the owner of such property as appears on the Assessor's records for such property. Upon payment of any such lien, the Town Manager or his or her designee is authorized to release said lien for and on behalf of the town.

(`87 Code, Art. 17-8) (Ord. 94-06, passed 3-7-94)

ADMINISTRATION

§ 50.120 DUTIES AND LIABILITY OF TOWN.

(A) The town shall not be responsible for the installation, maintenance, or inspection of the consumer's service line piping or apparatus, or for any defects.

(B) The town shall not be responsible for the negligence of third persons or forces beyond the control of the town resulting in any interruption of service or damage to the property of the consumer.

(`87 Code, § 17-4-1(A), (D)) (Ord. 94-06, passed 3-7-94)

§ 50.121 RIGHT OF ENTRY.

The town shall have the right to enter upon and inspect private property to investigate any violation of the town's standards concerning the quality of the wastewater connection or any other items that may not meet the requirements of this chapter.

(`87 Code, § 17-4-1(F)) (Ord. 94-06, passed 3-7-94)

§ 50.999 PENALTY.

(A) Except as otherwise provided, any person found guilty of violating any provisions of this chapter shall be guilty of a Class One misdemeanor, and upon conviction thereof may be punished as provided in § 10.99. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

(B) Any user introducing waste material into the town wastewater system in excess of the limits set in § 50.030(A)(2) shall be subjected to an original fine of \$2,500 and a continuing fine of \$1,000 per day until said user can demonstrate to the town, by test reports on wastewater submitted to the Maricopa County Department of Environmental Services, that the wastewater no longer violates the requirements of § 50.030(A)(2).

SEWERS APPENDIX: FORMS

Form

- 1. Permanent wastewater treatment service agreement

§ 1 PERMANENT WASTEWATER TREATMENT SERVICE AGREEMENT.

PERMANENT WASTEWATER TREATMENT SERVICE AGREEMENT

THIS PERMANENT WASTEWATER SERVICE AGREEMENT is made and entered into as of the ____ day of _____ 19__ by and between the TOWN OF CAVE CREEK, ARIZONA, a Municipal Corporation ("Town"), and _____ ("Owner").

RECITALS

(i) _____ is the owner of a certain parcel of real property composed of approximately _____ acres and located entirely within the Town of _____, Arizona, which real property is more particularly described and set forth in Exhibit "A" attached hereto and incorporated herein ("Property").

(ii) The parties acknowledge that the Town is currently in the process of causing the development and completion of a new public wastewater sewer service treatment plant ("New Town Plant"), which, upon completion and commencement of operation, will be able to provide wastewater treatment services to portions of real property situated within the Town.

(iii) In the interim, it is the desire and intent of the Town to enter into this Agreement with the owner, whereby the Town will provide wastewater treatment services for the Property by utilizing the expanded capacity set forth in that certain Agreement entered into by and between the Town and Cave Creek Sewer Company, Inc., an Arizona Corporation ("CCSC"), dated February 9, 1993, subject to such expanded capacity becoming available after the existing plant is expanded and after current and Cave Creek Sewer Improvement District Number 2 users and those who have purchased capacity guarantees have been served.

(iv) Accordingly, it is the desire and intent of the parties hereto to enter into this Permanent Wastewater Treatment Service Agreement to set forth the terms and conditions whereby the Town will accept and seek approval to add the Property to its wastewater planning area; will provide wastewater treatment services to the Property on an interim basis by utilizing the expanded Plant capacity of CCSC subject to and insofar as such expanded capacity is available, and will provide permanent wastewater treatment services to the Property subject to and upon the completion and commencement of operation of the New Town Plant.

NOW, THEREFORE, in consideration of the mutual promises herein set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENTS

1. The Town hereby accepts and agrees to seek approval to add the Property to its wastewater service area upon the terms and conditions hereinafter set forth, and to provide wastewater collection and treatment services to the Property.

2. The Town hereby agrees to provide wastewater treatment services on an interim basis, by utilizing the expanded plant capacity of CCSC, subject to such expanded capacity becoming available following the construction of a 45,000 gallon per day expansion to the CCSC existing plant. In consideration therefor, the owner of the Property agrees to connect the Property into the sewer line which has been constructed by the Town for the Cave Creek Sewer Improvement District Number 2, by constructing a sewer line at the Owner's expense ("Property wastewater line") of such specifications acceptable to Town from the Property to the Town's sewer line, and further agrees to pay to the Town such tap, sewer development, and connection fees as will be assessed by the Town for the property's connection into said sewer line. The tap and connection fees shall be as shown in this section of this Permanent Wastewater Sewer Service Agreement, except as the Shown Fees may be modified by the Town Council in its sole discretion in the future. The tap, sewer development, and connection fees, per unit, for this project shall be paid upon connection of the Property wastewater line to the Town's Cave Creek Sewer Improvement District Number 2 line in the following amounts:

<u>DESCRIPTION</u>	<u>FEE PER UNIT</u>
a. Exterior Connection	\$ _____.__
b. Sewer Development	\$ _____.__
c. Tap Fee	\$ 150.00
GRAND TOTAL	\$ _____.__

Thereafter each first user within the Property shall then be responsible for paying Town monthly user fees for each unit and any other fees required in Chapter 50 of the Town Code, and any Resolutions adopted by the Town establishing sewer rates, and abide by the rules for usage of the system established by said Chapter of the Town Code. The property Owner understands and agrees that:

- a. The sewer lines shall be designed and built to meet the specifications of the Cave Creek Town Engineer.
- b. Prior to acceptance of the sewer lines by the Town for maintenance, the Town Engineer will be given an opportunity to inspect all lines in the uncovered trench; and any "tap ins" to the collection line will similarly also be built to Town Engineer specifications prior to "cover up."

3. Upon the completion and operational status of the New Town Plant, the Town hereby agrees to provide permanent wastewater treatment services to the Property; and in consideration therefor, the Owner of the property hereby agrees to pay to the Town such other fees with respect to the Property as are then established by the Town in causing the commencement of permanent wastewater

treatment services by the new Town Plant for its customers.

4. As part of its acceptance and addition of the Property into its wastewater service area, as provided in Paragraph "1" above, the Town, whether on an interim or permanent basis as set forth above, agrees to accept and treat any and all wastewater being or to be produced from the Property as of the date the New Plant becomes fully operational and prior to that, subject to excess capacity in the existing plant of CCSC, as expanded by an additional 45,000 gallons per day becoming available after current and Cave Creek Sewer Improvement District Number 2 users have been served. For the purposes of the Agreement, the term "Wastewater" shall be deemed to mean and refer to any and all wastewater produced upon or within the Property now or in the future, up to the full development of the Property as determined by the Town's zoning regulations, including appurtenant landscaped common areas, if any.

5. This Agreement, and the respective rights, liabilities, and obligations, of the parties hereunder, shall inure to and shall be binding upon their respective successors, transferees, and assignees.

6. This Agreement, and the respective rights, liabilities, and obligations of the parties hereunder, shall be construed in accordance with and governed by the laws of the State of Arizona.

7. The Town may cancel this Agreement without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the Town or any of its departments or agencies is, at any time while the Agreement or any extension thereof is in effect, an agent or employee of the owner of the property. The cancellation shall be effective when written notice from the Town Council is received by all other parties to the Agreement unless the notice specifies a later time.

8. This Agreement with its Exhibits, plus any written amendments, constitutes the entire agreement among the Parties. There are no verbal or other agreements between the Parties and no modification to this Agreement shall be effective unless made in writing and signed by the Parties.

9. All exhibits to this Sewer Agreement are fully incorporated herein as a material part of this Sewer Agreement.

10. If any provision of this Sewer Agreement shall be held invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall not be impaired thereby.

11. This document shall not be construed strictly in favor of or against any party to this Sewer Agreement, but according to its plain meaning.

IN WITNESS WHEREOF the parties have caused this Permanent Sewer Service Agreement to be executed in their respective behalves on the date first hereinabove written.

_____ (Owner)

By: _____

Its _____

THE TOWN OF CAVE CREEK ARIZONA,
a Municipal Corporation ("Town")

By: _____

Town Manager

APPROVED AS TO FORM:

Town Attorney

(§ 17A-2-5) (Ord. 94-06, passed 3-7-94; Am. Ord. 94-16, passed 7-11-94; Am. Ord. 94-17, passed 7-18-94)

Cross-reference:

Sewer; connection priorities; service agreement, see § 50.050

Section

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- 51.002 Scope and objectives
- 51.003 Applicability
- 51.004 Administration
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General Sewer Use Requirements

- 51.020 Prohibited discharge standards
- 51.021 Federal categorical pretreatment standards; state pretreatment standards
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- 51.060 Introduction
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51.100 Regulation of waste received from other jurisdictions

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Reporting Requirements

51.120 Baseline monitoring reports

51.121 Compliance schedule and progress report

51.122 Report on compliance with categorical pretreatment standard deadline

51.123 Periodic compliance reports

51.124 Report of changed conditions

51.125 Reports of potential problems

51.126 Reports from unpermitted users

51.127 Notice of violation; repeat sampling and reporting

51.128 Notification of the discharge of hazardous waste

51.129 Analytical requirements

51.130 Sample collection

51.131 Record keeping

Compliance Monitoring

51.150 Right of entry, inspection and sampling

51.151 Search warrants

51.152 Confidential information

51.153 Publication of users in significant noncompliance

Affirmative Defenses

51.170 Upset

51.171 Prohibited discharge standards

51.172 Bypass

GENERAL PROVISIONS

§ 51.001 INTENT.

It is the intent of this chapter, in connection with other provisions of the town code, to regulate the discharge of wastewater into the town's wastewater treatment system and to regulate connection thereto. It is also the intent of this chapter to provide for the setting, collecting, and refunding of reasonable wastewater treatment fees.

(Ord. 99-04, passed 2-16-99)

§ 51.002 SCOPE AND OBJECTIVES.

(A) This chapter sets forth uniform requirements for users of the wastewater system and enables the town to comply with all federal and state laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403).

(B) The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the wastewater system that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the wastewater system which will pass through the wastewater system inadequately treated into receiving waters or otherwise be incompatible with the wastewater system;
- (3) To protect both wastewater system personnel, who may be affected by wastewater and sludge in the course of their employment, and the general public;
- (4) To improve opportunities for reuse and recycling of wastewater and sludge from the wastewater system;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the wastewater system; and
- (6) To enable the town to comply with conditions of its National Pollutant Discharge Elimination System and Arizona Aquifer Protection permits, sludge use and disposal requirements, and any other federal or state laws to which the wastewater system is subject.

(C) This chapter authorizes the issuance of industrial wastewater discharge permits, provides for monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the procedures established herein.

(Ord. 99-04, passed 2-16-99)

§ 51.003 APPLICABILITY.

This chapter shall apply to all users of the wastewater system.

(Ord. 99-04, passed 2-16-99)

§ 51.004 ADMINISTRATION.

Except as otherwise provided herein, the town shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the town may be delegated by the town to its authorized representative.

(Ord. 99-04, passed 2-16-99)

§ 51.005 ABBREVIATIONS AND DEFINITIONS.

(A) *Abbreviations.* The following abbreviations shall have the following meanings:

<i>BOD</i>	Biochemical oxygen demand.
<i>CFR</i>	Code of Federal Regulations.
<i>EPA</i>	United States Environmental Protection Agency.
<i>gpd</i>	Gallons per day.
<i>mg/l</i>	Milligrams per liter.
<i>NPDES</i>	National Pollutant Discharge Elimination System.
<i>RCRA</i>	Resource Conservation and Recovery Act.

TSS Total suspended solids.

USC United States Code.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or **THE ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

AUTHORIZED SIGNATORY OF THE USER.

(1) If the user is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

(3) if the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the government facility (or his/her designee);

(4) The individuals described in subdivisions (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation or the facility from which the discharge originates of having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at 20° Centigrade, usually expressed as a concentration of milligrams per liter (mg/l).

CATEGORICAL PRETREATMENT STANDARD or **CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471.

COMPOSITE SAMPLE. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the town.

CUSTOMER. The owner or lessor of real property to which wastewater treatment services are supplied and, therefore, the person or entity responsible for the payment of wastewater treatment charges. While a customer may also be a **USER** as described herein, the terms are not necessarily the same.

DISCHARGE. When used in the context of either a verb or a noun, the disposal of water, wastewater, or any other liquid or substance by any user into the wastewater treatment system.

DOMESTIC WASTE. A typical, residential-type waste, which requires no pretreatment under the provisions of this chapter before discharging into the wastewater system, excluding industrial waste.

EPA or **ENVIRONMENTAL PROTECTION AGENCY.** The United States Environmental Protection Agency or its authorized representative.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical Pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

GRAB SAMPLE. An individual sample collected over a period of time not to exceed 15 minutes.

INDIRECT DISCHARGE or **DISCHARGE.** The introduction of pollutants into the wastewater system from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

INDUSTRIAL USER. A discharger into the wastewater system of non-domestic wastewater.

INDUSTRIAL WASTE. Any and all liquid- or water-borne waste from industrial or commercial processes, excluding domestic waste.

INTERFERENCE. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the wastewater system, its treatment processes or operations, or its sludge processes, use, or disposal.

MAY. Discretionary or permissive.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NPDES or NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT. A permit issued to a wastewater system user or other discharger pursuant to Section 402 of the Act.

NEW SOURCE.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(C) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subdivision 1(b) or 1(c) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) construction of a new source as defined under this definition has commenced if the user or operator has:

(a) Begun or caused to begin as part of a continuous onsite construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subdivision (3).

NONCONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

OPERATOR. Any agent hired by user to operate the pretreatment facility of the user.

PASS THROUGH. A discharge which exits the wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the town's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution, commonly referred to as a measure of a solution's hydrogen ion concentration (acidity), expressed in standard units.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes,

chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater—that is, pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor.

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of introducing such pollutants into the wastewater system. This reduction or alteration can be obtained by physical, chemical, or biological processes, by process changes, or by other means.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

PRETREATMENT STANDARD* or *STANDARDS. Prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS* or *PROHIBITED DISCHARGES. Prohibitions against the discharge of certain substances; these prohibitions appear as "general sewer use requirements" in §§ 51.020 through 51.026 of this chapter.

SEPTIC TANK WASTE. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SHALL. Mandatory.

SIGNIFICANT INDUSTRIAL USER.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the wastewater system (excluding sanitary, non-contact cooling, and blowdown wastewater); or

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the wastewater system treatment plant; or

(c) Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the wastewater system's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in division (2) of this definition has no reasonable potential for adversely affecting the wastewater system's operation or for violating any pretreatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from a user [and in accordance with procedures in 40 CFR 403.8(f)(6)] determine that such user should not be considered a significant industrial user.

SLUG LOAD. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this chapter or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

STANDARD METHODS. The procedure as described in the most current edition of *Standards Methods for the Examination of Water and Wastewater*, published by the American Health Association, or the most current edition of *Manual of Methods for Chemical Analysis of Water and Wastes*, published by the EPA.

SUSPENDED SOLIDS* or *TSS. The total suspended matter that floats on the surface of or in water, wastewater, or other liquids and which is removable by laboratory filtering.

TOWN. The town of Cave Creek, for purposes of authority, including its employees and other agents unless expressly reserved to the Mayor and Town Council.

USER. Any person, lot, parcel of land, building, premises, municipal corporation, or other political subdivision that discharges, causes, or permits any discharge, as defined herein, into the wastewater system.

WASTEWATER. All domestic waste, industrial waste, and any other liquid discharged into the wastewater treatment system.

WASTEWATER TREATMENT SYSTEM* or *WASTEWATER SYSTEM. All components of the wastewater treatment system owned or leased by the town, including but not limited to public sanitary sewer lines, lift stations, treatment facilities, and effluent disposal and recharge facilities.

§ 51.006 WASTEWATER TREATMENT CHARGES.

(A) *Pretreatment charges.* In addition to any other charges authorized by this chapter, the Town Council may adopt reasonable charges for reimbursement of various costs related to pretreatment programs, including but not limited to:

- (1) Charges for industrial wastewater discharge permit applications, including the cost of processing such applications;
- (2) Charges for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a user's discharge and reviewing monitoring reports submitted by users;
- (3) Charges for reviewing and responding to accidental discharge procedures and construction;
- (4) Charges for filing appeals; and
- (5) Other charges as the town may deem necessary to carry out the requirements contained herein.

(B) These charges relate solely to the matters covered by this chapter and are separate from all other charges, fees, fines, and penalties chargeable by the town.

GENERAL SEWER USE REQUIREMENTS

§ 51.020 PROHIBITED DISCHARGE STANDARDS.

(A) No user shall introduce or cause to be introduced into the wastewater system any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all users of the wastewater system whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

(B) (1) In connection with this code and except as provided in this chapter, no user or other person shall discharge or permit to be discharged any of the following described waters or wastes into the wastewater system:

(a) Wastewater having a temperature greater than 150° Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 120° Fahrenheit;

(b) Any water or waste which contains fats, oil, or grease in amounts that cause obstruction or interference of the wastewater treatment system, and at no time in amounts greater than 100 parts per million;

(c) Pollutants which create a fire or explosive hazard in the wastewater system, including but not limited to wastestreams with a closed-cup flashpoint of less than 140° Fahrenheit using the test methods specified in 40 CFR 261.21, and any gasoline, benzene, naphtha, fuel, or other flammable or explosive liquid, solid, or gas;

(d) Solid or viscous substances in amounts which will cause obstruction of the flow in the wastewater system resulting in obstruction or interference with the wastewater treatment system, but in no case solids greater than 1/2-inch in any dimension, any garbage that has not been properly shredded, or any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, abrasives such as brick, cement onyx, or carbide;

(e) Any water or wastes having a pH lower than 6 or higher than 9-1/2, or having any other corrosive property capable of causing damage to the structures, equipment, and personnel of the wastewater system;

(f) Any water or wastes which contain or result in the presence of toxic, radioactive, or poisonous gases, vapors, or fumes within the wastewater system in a quantity that may injure or interfere with any wastewater treatment process, cause acute worker health and safety problems, or otherwise constitute a hazard to humans, or create any hazard in the utilization of the effluent of the wastewater system;

(g) Any waters or wastes containing dissolved or suspended solids of such character and quantity that unusual attention or

expense is required to handle such materials in the wastewater treatment system;

(h) Noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance or repair;

(i) Any pollutant, including oxygen-demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration which, singly or by interactions with other pollutants, will cause interference with the wastewater system;

(j) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(k) Trucked or hauled pollutants, except at discharge points approved by the town;

(l) Any drainage waters, including but not limited to storm water, surface water, groundwater, roof runoff, cellar or other subsurface drainage, swimming pool drainage, condensate, or deionized water, without the express permission of the town;

(m) Any noncontact cooling or unpolluted process water, without the express permission of the town;

(n) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(o) Medical wastes, except as specifically authorized by the town in an industrial wastewater discharge permit; or

(p) Any material deposited into a manhole through its top, unless specifically authorized by the town.

(2) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the wastewater system.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.021 FEDERAL CATEGORICAL PRETREATMENT STANDARDS; STATE PRETREATMENT STANDARDS.

(A) *Federal categorical pretreatment standards.* The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 are hereby incorporated and:

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the town may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(e);

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the town shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.13;

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard; and

(4) A user may obtain a net gross adjustment from EPA to a categorical standard in accordance with 40 CFR 403.15.

(B) *State pretreatment standards.* State pretreatment standards and any other applicable state standards or requirements are hereby incorporated.

(Ord. 99-04, passed 2-16-99)

§ 51.022 LOCAL LIMITS.

(A) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following (in milligrams per liter):

TSS	350.0
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BOD	300.0
Total grease, oil, and the like	100.0
Dissolved Sulfides	0.5
Arsenic	0.1
Barium	10.0
Boron	10.0
Cadmium	0.1
Chromium IV	0.5
Copper	10.0
Cyanide	0.1
Lead	0.5
Manganese	0.5
Mercury	0.05
Selenium	0.1
Silver	0.5
Zinc	50.0

(B) The above limits apply at the point where the wastewater is discharged to the town wastewater system. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The town may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(C) No nonresidential user shall discharge wastewater containing restricted substances into the wastewater system in excess of limitations specified in its industrial wastewater discharge permit or adopted by resolution by the town. The town shall publish and revise from time to time standards (local limits) for specific restricted substances. These standards shall be implemented within the objectives of this chapter. Standards published in accordance with this section will be deemed pretreatment standards for the purpose of 307(d) of the Act (33 USC 1317(d)).

(D) The town may impose mass limitations in addition to or in place of concentration based limitations. The town may also revise or modify the standards (local limits) as required, to ensure compliance with federal, state, or local law.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.023 RIGHT OF REVISION.

The town reserves the right to establish, by ordinance or in industrial wastewater discharge permits, more stringent standards or requirements on discharges to the wastewater system.

(Ord. 99-04, passed 2-16-99)

§ 51.024 DILUTION.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable pretreatment standard or requirement. The town may impose mass limitations on users which are using dilution to meet applicable Pretreatment

standards or requirements, or in other cases when the imposition of mass limitations are appropriate.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.025 APPLICATION OF MOST STRINGENT LIMITATIONS.

For a discharge regulated by categorical pretreatment standards or other federal, state, or local discharge limitations or requirements, the most stringent limitations and requirements will apply.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.026 DEADLINE FOR COMPLIANCE WITH CATEGORICAL STANDARDS.

(A) Compliance by existing sources with categorical pretreatment standards shall be within 180 days of the date the standard is effective, unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N.

(B) New sources shall install, have in operating condition, and start up all pollution control equipment required to meet the applicable pretreatment standards before beginning to discharge.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

PENALTIES, REMEDIES, AND RESPONSES TO NONCOMPLIANCE

§ 51.040 TYPES OF VIOLATION.

Violations of this chapter include but are not limited to the following:

(A) A user or customer exceeding the quantity discharge limitations as set forth herein or as made part of any industrial wastewater discharge permit.

(B) A user or customer discharging or permitting the discharge of excessive concentrations or mass of substances limited by this chapter or any industrial wastewater discharge permit issued pursuant to this chapter.

(C) A user, customer, or other person discharging or permitting the discharge of any substance prohibited by this chapter or by a permit issued pursuant to this chapter.

(D) A customer or user failing to pay any applicable wastewater treatment charge established pursuant to this chapter.

(E) A customer or user knowingly misrepresenting or omitting any pertinent information from application permits or reports required by this chapter or by an industrial wastewater discharge permit.

(Ord. 99-04, passed 2-16-99)

§ 51.041 CONSTRUCTION OF AN INSPECTION MANHOLE.

If evidence of discharges of prohibited substances or other violations of this chapter is found, the town may require the construction of an inspection manhole at the expense of the customer or user.

(Ord. 99-04, passed 2-16-99)

§ 51.042 CLASS 1 MISDEMEANOR.

Except for failure to pay user fees and charges, any violations of this chapter shall constitute a Class 1 misdemeanor and any such violations shall constitute a separate offense on each successive day continued.

(Ord. 99-04, passed 2-16-99)

§ 51.043 DISCONTINUANCE OF SERVICE.

In addition to other remedies (civil and criminal) available to it, the town may discontinue wastewater treatment services to any customer or user who fails to comply with any provision of this chapter, after 30 days written notice (unless otherwise provided in this chapter). Discontinuance of services does not excuse payment of charges and fees due or future charges and fees which continue to be due under this chapter.

(Ord. 99-04, passed 2-16-99)

§ 51.044 ADMINISTRATIVE ENFORCEMENT REMEDIES.

(A) *Notification of violation.* When the town finds that a user or customer has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the town shall serve upon a representative of the user or customer (such representative meeting the criteria of authorized signatory) a written notice of violation. Within five days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof (to include specific actions) shall be submitted by the user to the town. Note that the submission of such a plan in no way relieves the user for liability for any violations occurring before or after receipt of the notice of violation. Also, nothing in this section shall limit the authority of the town to take action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(B) *Consent orders.* The town may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user or customer to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the orders issued pursuant to this chapter and shall be judicially enforceable.

(C) *Show cause hearing.*

(1) The town may order a user or customer which has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the town and show cause why the proposed enforcement action should not be taken.

(2) Notice may be served on the user or customer specifying the time and place for the meeting, the proposed enforcement action, the reasons for such an action, and a request that the user or customer show cause why the proposed enforcement action should not be taken. The notice of the meeting may be served personally or by registered or certified mail (return receipt requested) at least 14 days prior to the hearing. Such notice may be served on a representative of the user who meets the criteria of an authorized signatory.

(3) A show cause hearing shall not be a bar against or prerequisite for taking any other action against the user or customer.

(D) *Compliance orders.*

(1) When the town finds that a user or customer has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the town may issue an order to the user or customer responsible for the discharge, directing that the user or customer come into compliance within a specified time.

(2) If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate

treatment facilities, devices, or other related appurtenances are installed and properly operated.

(3) Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer.

(4) A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the user or customer of liability for any violation, including any continuing violation.

(5) Issuance of a compliance order shall not be a bar against or prerequisite for taking any other action against the user or customer.

(E) *Cease and desist orders.*

(1) When the town finds that a user or customer has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's or customer's past violations are likely to recur, the town may issue an order to the user or customer directing it to cease and desist all such violations and directing the user or customer to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(2) Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user or customer.

(F) *Administrative fines.*

(1) When the town finds that the user or customer has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the town may fine such user or customer in an amount not to exceed \$2,500. Such fines shall be assessed on a per violation, per day basis. The town may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(2) Unpaid fines shall, after 30 calendar days, be assessed an additional penalty of 5% of the unpaid balance, and interest shall accrue thereafter at a rate of 10% per annum. A lien against the user's or customer's property (including but not limited to a judgement lien) may be sought for unpaid fines.

(3) Users or customers desiring to dispute such fines must file a written request for the town to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Upon receipt of such request, the Town Manager (or his/her designee) shall convene a hearing on the matter within 30 days of receiving the request. In the event the user's or customer's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user and customer.

(4) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user or customer.

(G) *Emergency suspensions.*

(1) The town may immediately suspend a user's or customer's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to be present or cause imminent or substantial endangerment to the health or welfare of persons.

(2) The town may also immediately suspend a user's or customer's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater system, or to which presents or may present an endangerment to the environment.

(3) Any user or customer notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's or customer's failure to immediately comply voluntarily with the suspension order, the town shall take such steps as deemed necessary (including immediate severance of the sewer connection) to prevent or minimize damage to the wastewater system or its receiving stream, or any endangerment to any individuals. The town shall allow the user or customer to recommence its discharge when the user or customer has demonstrated to the satisfaction of the town that the period of endangerment has passed, unless the termination proceedings in division (H) of this section are initiated against the user or customer.

(4) A user or customer that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the town within five calendar days, describing the causes of the harmful contribution and the measures

taken to prevent any future occurrence.

(5) Nothing in division (C) of this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(H) *Termination of discharge.* Any user or customer that violates the requirements of this chapter is subject to discharge termination. Such user or customer shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause under division (C) of this section why the proposed action should not be taken. Exercise of this option by the town shall not be a bar to or a prerequisite for taking any other action against the user or customer.

(I) *Pumping and emergency remediation.* Any user or customer that causes discharge that endangers the environment or the welfare of persons shall be responsible to reimburse the town for pumping, labor charges, and other emergency remediation or prevention actions.

(Ord. 99-04, passed 2-16-99)

§ 51.045 JUDICIAL ENFORCEMENT REMEDIES.

(A) Injunctive relief.

(1) When the town finds that a user or customer has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the town may petition the Maricopa County Superior Court (through the Town Attorney) for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user or customer.

(2) The town may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user or customer to conduct environmental remediation.

(3) A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user or customer.

(B) Civil penalties.

(1) A user or customer which has violated or continues to violate any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, shall be liable to the town for a maximum civil penalty \$2,500 per violation, per day.

(2) In addition to the above civil penalty, the town may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and at the cost of any actual damages or fines incurred by the town.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's or customer's violation, corrective actions taken by the user or customer, the compliance history of the user or customer, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against the user or customer.

(C) Criminal prosecution.

(1) Except for failing to pay user fees and charges, users or customers that willfully or negligently violate any provision of this chapter, an industrial wastewater permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class 1 misdemeanor, punishable by a fine of not more than \$2,500 per violation, per day, or imprisonment for not more than six months, or both.

(2) A user or customer which has willfully or negligently introduced any substance into the wastewater system which causes personal injury or property damage shall, upon conviction, be guilty of a Class 1 misdemeanor, punishable by a fine of not more than \$2,500 and/or imprisonment for six months. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law. Furthermore, nothing herein shall preclude the town from submitting such violations to the County

Attorney or other legal officer for prosecution of other state or federal violations.

(3) A user or customer that knowingly makes any false statements, representations, or certifications in application, record, report, plan, or other documentation filed or required to be maintained pursuant to this chapter, an industrial wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punishable by a fine of not more than \$2,500. or imprisonment for not more than six months, or both.

(D) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The town may take any, all, or any combination of these actions against a noncompliant user or customer. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the town may take other action against any user or customer when the circumstances warrant.

(Ord. 99-04, passed 2-16-99)

INDUSTRIAL WASTEWATER DISCHARGE PERMIT

§ 51.060 INTRODUCTION.

(A) Any permit granted by the town to an industrial user granting the right to discharge to the wastewater system shall be subject to the terms and conditions, including but not limited to monitoring requirements and fees set forth in the permit.

(B) Industrial wastewater discharge permits shall be required of:

(1) Any user or customer needing written approval under this chapter;

(2) Any user or customer whose discharge would exceed the standard classification strengths set out under this chapter;

(3) Any user or customer that has a discharge which is permissible only if pretreatment of the wastewater by the user is performed prior to its entry into the wastewater system;

(4) Any user or customer whose discharge requires special handling or extraordinary monitoring by wastewater treatment system personnel and equipment;

(5) Any user or customer whose discharge has or may have reasonable potential for adversely affecting the wastewater treatment system's operation or for violating any pretreatment standard or requirement; and

(6) Other users or customers as necessary to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of an industrial wastewater discharge permit shall be deemed a violation of this chapter and subjects the industrial wastewater discharge permittee to the sanctions set out in this chapter. Obtaining an industrial wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal, state, pretreatment standards or requirements, or with any other requirements of federal, state, and local law.

(Ord. 99-04, passed 2-16-99)

§ 51.061 APPLICATION.

(A) *Wastewater analysis.* When requested by the town, a user or customer must submit information on the nature and characteristics of the user's or customer's wastewater. The town is authorized to prepare a form for this purpose and may periodically require users to update the information. Failure to provide the information shall be reasonable grounds for denying or terminating service to the user or customer and shall be considered a violation of this chapter.

(B) *Existing connections.* Any user or customer required to obtain an industrial wastewater discharge permit that was discharging wastewater into the wastewater system prior to the effective date of this chapter and that wishes to continue such discharges in the future, shall within 90 days after said date, apply to the town for an industrial wastewater discharge permit in accordance with this chapter and shall not cause or allow to continue after 180 days of the effective date of this chapter, except in accordance with an industrial wastewater discharge permit issued by the town.

(C) *Existing connections.* Any user or customer required to obtain an industrial wastewater discharge permit that proposes to begin or recommence discharging into the wastewater system must obtain such permit prior to the beginning or recommencing of such discharge. An application for this industrial wastewater discharge permit must be filed at least 60 days prior to the date upon which any discharge will begin or commence.

(D) *Contents.*

- (1) All users or customers required to obtain an industrial wastewater discharge permit must submit a permit application.
- (2) The town may require a user or customer to submit as part of an application the following information:
 - (a) The information required by §§ 51.120 et seq. of this chapter;
 - (b) A description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharges to the wastewater system;
 - (c) Number of employees, hours of operation, and proposed or actual hours of operation;
 - (d) Each product produced by type, amount, process, or processes, and rate of production;
 - (e) Type and amount of raw materials processes (average and maximum per day);
 - (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge;
 - (g) Time and duration of discharges; and
 - (h) Any other information as may be deemed necessary by the town to evaluate the industrial wastewater discharge permit application.
- (3) Incomplete or inaccurate applications will not be processed but will be returned to the user or customer for revision.

(E) *Signatories and certification.* All industrial wastewater discharge permit applications and user or customer reports must be signed by an authorized signatory of the user or customer and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(F) *Decisions.* The town will evaluate the date furnished by the user or customer and may require additional information. Within 60 days of receipt of a complete industrial wastewater discharge permit application, the town may determine whether or not to issue an industrial wastewater discharge permit. The town may deny any application for an industrial wastewater discharge permit.

(Ord. 99-04, passed 2-16-99)

§ 51.062 ISSUANCE.

(A) *Duration.* Industrial wastewater discharge permits shall be issued for a specified time period not to exceed five years from the effective date of the permit. An industrial wastewater discharge permit may be issued for a period less than five years at the discretion of the town. Each industrial wastewater discharge permit will indicate a specific date upon which it will expire.

(B) *Contents.*

- (1) Industrial wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the town to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate sludge management and disposal, and protect against damage to the wastewater system.
- (2) Industrial wastewater discharge permits must contain:
 - (a) A statement that indicates industrial wastewater discharge permit duration, which in no event shall exceed five years;

(b) A statement that the industrial wastewater discharge permit is nontransferable;

(c) Effluent limits based on applicable pretreatment standards;

(d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law; and

(e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(3) Wastewater discharge permits may contain but need not be limited to the following conditions:

(a) Limits on the average and/or maximum rate of discharge and time of discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of accidental discharge/sludge control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the wastewater system;

(e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(f) A statement that compliance with the industrial wastewater Discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal, state pretreatment standards, including those which become effective during the term of the industrial wastewater discharge permit; and

(g) Other conditions as deemed appropriate by the town to ensure compliance with this chapter and federal and state laws, rules, and regulations.

(C) *Appeals.* The town shall provide public notice of the issuance of an industrial wastewater discharge permit. Any person, including the user or customer, may petition the town to reconsider the terms of an industrial wastewater discharge permit within 30 days of notice of issuance of the permit.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the industrial wastewater discharge permit provisions objected to, the reasons for the objection(s), and the alternative condition(s), if any, it seeks to place in the industrial wastewater discharge permit.

(3) The effectiveness of the industrial wastewater discharge permit shall not be stayed during the appeal.

(4) If the town fails to act within 30 days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider an industrial wastewater discharge permit, not to issue an industrial wastewater discharge permit, or not to modify an industrial wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative industrial wastewater discharge permit decision must do so by filing a complaint with the Maricopa County Superior court within the appropriate Arizona statute(s) of limitations.

(D) *Reissuance.* A user with an expiring industrial wastewater discharge permit shall apply for industrial wastewater discharge permit reissuance by submitting a complete permit application a minimum of 60 prior to the expiration of the user's existing industrial wastewater discharge permit.

(Ord. 99-04, passed 2-16-99)

§ 51.063 MODIFICATION, TRANSFER, AND REVOCATION.

(A) *Modification.* The town may modify any industrial wastewater discharge permit for good cause, including but not limited to the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment or requirements;
- (2) To address significant alterations or additions to the user's or customer's operation, processes, or wastewater volume or character since the time of industrial wastewater discharge permit issuance;
- (3) A change in the wastewater system that requires either a temporary or permanent reduction of elimination of the authorized discharge;
- (4) Information indicating the permitted discharge poses a threat to the wastewater system, wastewater system personnel, the public, or the receiving waters;
- (5) Violation of any terms or conditions of the Industrial wastewater discharge permit application or in any required reporting;
- (6) Misrepresentations or failure to disclose fully all relevant facts in the industrial wastewater discharge permit application or in any required reporting.
- (7) Revision of a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the industrial wastewater discharge permit.

(B) *Transfer.* Industrial wastewater discharge permits may not be assigned or transferred to a new owner.

(C) *Revocation.*

(1) The town may revoke an industrial wastewater discharge permit for good cause, including but not limited to the following reasons:

- (a) Failure to notify the town of significant changes prior to the changed discharge;
- (b) Failure to provide prior notification to the town of changed conditions;
- (c) Misrepresentation or failure to disclose all relevant facts in the industrial wastewater discharge permit application;
- (d) Falsifying self-monitoring or other reports;
- (e) Tampering with the monitoring equipment;
- (f) Refusing to allow the town timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer fees and charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the industrial wastewater discharge permit application;

(l) Violation of any pretreatment standard or requirement, or any terms of the industrial wastewater discharge permit or this chapter.

(2) Industrial wastewater discharge permits shall be voidable upon cessation of operations. All industrial wastewater discharge permits issued to a particular user or customer are void upon the issuance of a new industrial wastewater discharge permit to that user or customer.

(Ord. 99-04, passed 2-16-99)

WASTEWATER TREATMENT

§ 51.080 PRETREATMENT FACILITIES.

Users and customers shall provide wastewater pretreatment as necessary to comply with this chapter and shall achieve compliance

with all federal pretreatment standards, local limits, and the prohibitions set out in this chapter within the time limitations specified by EPA, the state, or the town (whichever is more stringent). Any facilities necessary to meet the requirements of this chapter shall be provided, operated, and maintained at the user's or customer's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the town for review and shall be approved by the town before such facilities are constructed. The review and/or approval of such plans and operating procedures will in no way relieve the user or customer from the responsibility of modifying such facilities as necessary to provide a discharge acceptable to the town under the provision of this chapter.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.081 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary by the town, the town may require users or customers to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and apply such other conditions as may be necessary to protect the wastewater system and determine the user's or customer's compliance with the requirements of this chapter.

(B) The town may require any person discharging into the wastewater system to install and maintain, on that person's property and at that person's expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors or traps shall be provided when, in the opinion of the town, they are necessary for the proper handling of waste containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not normally be required for a building used for residential purposes. All interceptors shall be of a type and capacity approved by the town and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall regularly be inspected, cleaned, and repaired by the user or customer at the user's or customer's expense in order to maintain the same in a continuously operational condition.

(D) Users or customers with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. 99-04, passed 2-16-99)

§ 51.082 ACCIDENTAL DISCHARGE/SLUG LOAD CONTROL PLANS.

(A) (1) At least once every two years the town shall evaluate whether each significant industrial user or customer needs an accidental discharge/slug load control plan. The town may require any user or customer to develop, submit for approval, and implement such a plan.

(2) An accidental discharge/slug load control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedure for immediately notifying the town of any accidental or slug load discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug load discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(B) The review and/or approval of such plans shall in no way relieve the user or customer from the responsibility of modifying such plans of facilities as necessary to comply with the provisions of this chapter.

(Ord. 99-04, passed 2-16-99)

§ 51.083 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the wastewater system only at locations approved by the town and at such times as are established by the town. Such wastes shall not violate requirements established by the town. The town may require septic tank haulers to obtain industrial wastewater discharge permits.

(B) The town shall require haulers of industrial waste to obtain industrial wastewater discharge permits. The town may require generators of hauled industrial waste to obtain industrial wastewater discharge permits. The town also may prohibit the discharge of hauled industrial waste. The discharge of hauled waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may only discharge loads at locations designated by the town. No load may be discharged without the prior consent of the town. The town may collect samples of each hauled load to ensure compliance with applicable standards. The town may also require the hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, name and address of the waste hauler, permit number, truck identification, name and addresses of the source of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

INTERJURISDICTIONAL AGREEMENTS

§ 51.100 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

If another jurisdiction, or person located within another jurisdiction, contributes wastewater to the wastewater system, the town shall enter into an interjurisdictional agreement with the contributing jurisdiction.

(Ord. 99-04, passed 2-16-99)

§ 51.101 CONTENTS OF AGREEMENTS.

(A) Prior to entering into an agreement, the town shall request the following information from the contributing jurisdiction:

- (1) A description of the quality and volume of wastewater discharged to the wastewater system by the contributing jurisdiction;
 - (2) An inventory of all users or customers located within the contributing jurisdiction and discharging to the wastewater system;
- and
- (3) Such other information as the town may deem necessary.

(B) An interjurisdictional agreement shall contain, at a minimum, the following conditions:

(1) A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this chapter and discharge prohibitions and local limits which are at least as stringent as those set out in this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the applicable provisions of the Cave Creek Town Code and/or local limits;

(2) A requirement for the contributing jurisdiction to submit a revised user or customer inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including industrial wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; and which of these activities will be conducted by the town; and which of these activities will be conducted jointly by the contributing jurisdiction and the town;

(4) A requirement for the contributing jurisdiction to provide the town with access to all information the contributing jurisdiction

obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the wastewater system;

(6) Requirements for monitoring the contributing jurisdiction's discharge;

(7) A provision ensuring the town access to the facilities of users or customers located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the town; and

(8) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

(Ord. 99-04, passed 2-16-99)

REPORTING REQUIREMENTS

§ 51.120 BASELINE MONITORING REPORTS.

(A) Within 180 days after either the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later), existing categorical users currently discharging to or scheduled to discharge to the wastewater system shall submit to the town a report which contains the information listed in division (B) of this section. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the town a report which contains the information listed in division (B) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users or customers described above shall submit the following information:

(1) *Identifying Information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the user or customer. This description should include a schematic process diagram which indicates points of discharge to the wastewater system from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater system from regulated process streams and other streams (as necessary) to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the town, of regulated process). Instantaneous, daily maximum, and long-term average concentrations (and/or mass where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this chapter.

(c) Sampling must be performed in accordance with procedures set out in this chapter.

(6) *Certification.* A statement, reviewed by a user's or customer's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user or customer will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subdivision must meet the requirements of this chapter.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with this chapter.
(Ord. 99-04, passed 2-16-99)

§ 51.121 COMPLIANCE SCHEDULE AND PROGRESS REPORT.

The following conditions shall apply to any schedule required by this chapter or the town:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user or customer to meet the applicable pretreatment standards. (Such events include but are not limited to hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (B) No increment referred to above shall exceed nine months;
- (C) The user or customer shall submit a progress report to the town no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user or customer to return to the established schedule;
- (D) In no event shall more than nine months elapse between such progress reports to the town; and
- (E) No compliance schedule shall exceed 18 months.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.122 REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the wastewater system, any user or customer subject to such pretreatment standards and requirements shall submit to the town a report containing the information described in this chapter. For users or customers subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's or customer's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's or customer's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this chapter.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.123 PERIODIC COMPLIANCE REPORTS.

- (A) All industrial users or customers shall, at a frequency determined by the town but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with this chapter.
- (B) All wastewater samples must be representative of the user's or customer's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user or customer to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (C) If a user or customer subject to the reporting requirement in this section monitors any pollutant more frequently than required by

the town, using the procedures prescribed in this chapter, the results of this monitoring shall be included in the report.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.124 REPORT OF CHANGED CONDITIONS.

(A) Each user or customer must notify the town of any planned significant changes to its operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(B) In addition:

(1) The town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial wastewater discharge permit application under this chapter.

(2) The town may issue an industrial wastewater discharge permit under this chapter or modify an existing industrial wastewater discharge permit under this chapter in response to changed conditions or anticipated changed conditions.

(3) No user or customer shall implement the planned changed conditions until and unless the town has responded to the user's or customer's notice.

(4) For purposes of this requirement, significant changes include but are not limited to flow changes of 20% or greater and the discharge of any previously unreported pollutants.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.125 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including but not limited to accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the wastewater system, the user shall immediately telephone and notify the town of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume (if known), and corrective actions taken by the user.

(B) Within five days following such discharge, the user or customer shall, unless waived by the town, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user or customer to prevent similar future occurrences. Such notification shall not relieve the user or customer of any expense, loss, damage, or other liability which may be incurred as a result of damage to the wastewater system, natural resources or any other damage to persons or property; nor shall such notification relieve the user or customer of any fines, civil penalties, or other liability which may be imposed pursuant to this chapter.

(C) Failure to notify the town of potential problem discharges shall be deemed a violation of this chapter.

(D) A notice shall be permanently posted on the user's or customer's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) of this section. Employers shall ensure that all employees are advised of the emergency notification procedure.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.126 REPORTS FROM UNPERMITTED USERS.

All users or customers not required to obtain an industrial wastewater discharge permit shall provide appropriate reports as may be required by the town.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.127 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If a sampling performed by a user or customer indicates a violation, the user or customer must notify the town as soon as possible but no later than 24 hours of becoming aware of the violation. The user or customer shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the town within the time period specified by the town, but at no time greater than 30 days after becoming aware of the violation. The user or customer may not be required to resample if the town monitors at the user's or customer's facility at least once a month, or if the town samples between the user's or customer's initial sampling and when the user receives the results of this sampling.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.128 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user or customer who commences the discharge of hazardous waste shall notify the town, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) of any discharge into the wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user or customer discharges more than 100 kilograms of such waste per calendar month to the wastewater system, the notification shall also contain the following information to the extent that such information is known and readily available to the user or customer: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 100 days after the discharge commences.

(B) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing additional substance as a hazardous waste, the user or customer must notify the town, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(C) In the case of any notification made under this chapter, the user or customer shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has been determined to be economically practical.

(D) This reporting requirement does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.129 ANALYTICAL REQUIREMENTS.

All pollutant analyses (including sampling techniques) to be submitted as part of an industrial wastewater discharge permit application or report, shall be performed in accordance with the techniques as prescribed in 40 CFR Part 136 unless otherwise specified in an

applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.130 SAMPLE COLLECTION.

(A) *Flow proportional sampling.* The user or customer must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the town may authorize the use of time proportional sampling or a minimum of four grab samples where the user or customer demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) *Grab sampling.* Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(C) *Timing.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. 99-04, passed 2-16-99)

§ 51.131 RECORD KEEPING.

Users and customers subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained to monitoring activities undertaken by the user or customer independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed and who performed the analyses; the analytical techniques of methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or customer or the town, or where the user or customer has been specifically notified of a longer retention period by the United States EPA, the state, or the town.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

COMPLIANCE MONITORING

§ 51.150 RIGHT OF ENTRY, INSPECTION AND SAMPLING.

(A) The town shall have the right upon presentation of proper credentials to enter the premises of any user or customer to determine whether the user or customer is complying with all requirements of this chapter and any industrial wastewater discharge permit or order issued hereunder. Users or customers shall allow the town ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(B) (1) Where a user or customer has security measures in force which require proper identification and clearance before entry onto its premises, the user or customer shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the town will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The town shall have the right to set up on the user's or customer's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's or customer's operation.

(3) The town may require the user or customer to install monitoring equipment. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user or customer at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the town upon request.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user or customer at the written or verbal request of the town. The costs of clearing such access shall be borne by the user or customer.

(5) Unreasonable delays in allowing the town access to the user's or customer's premises shall be a violation of this chapter.

(Ord. 99-04, passed 2-16-99)

Cross-reference:

Administrative enforcement remedies, see §§ 51.040 et seq.

§ 51.151 SEARCH WARRANTS.

If the town has been refused access to a building, structure, or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter, or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the town may seek issuance of a search warrant.

(Ord. 99-04, passed 2-16-99)

§ 51.152 CONFIDENTIAL INFORMATION.

Information and data on a user or customer obtained from reports, surveys, industrial wastewater discharge permit applications, industrial wastewater permits, and monitoring programs, and from the town's inspection and sampling activities, shall be available to the public without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would be a misuse of public records because it would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted by the user at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that some or all the information therein should be held confidential, those portions of the report shall not be made available for public inspection but the town shall, instead, take reasonable steps in accordance with state law to obtain an order closing those portions of the record to the inspection. However, nothing herein shall preclude the town from making such records available upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Note that wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 99-04, passed 2-16-99)

§ 51.153 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

(A) The town may publish annually in the largest daily newspaper published in the municipality where the wastewater treatment system is located a list of users or customers which, during the past 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(B) The term ***SIGNIFICANT NONCOMPLIANCE*** shall mean:

(1) Chronic violations of wastewater limits, defined as those in which 66% or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or the average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily limit or the average limit multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except for pH;

- (3) Any other discharge violation that the town believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of town personnel or the general public);
 - (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the town's exercise of its emergency authority to halt or prevent such a discharge;
 - (5) Failure to meet within 90 days of the scheduled date a compliance schedule milestone contained in the industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (6) Failure to provide within 30 days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self monitoring reports, and reports on compliance with compliance schedules;
 - (7) Failure to accurately report noncompliance; or
 - (8) Any other violation(s) which the town determines will adversely affect the operation or implementation of this chapter.
- (Ord. 99-04, passed 2-16-99)

AFFIRMATIVE DEFENSES

§ 51.170 UPSET.

- (A) For the purpose of this section, **UPSET** means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user or customer. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.
- (B) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (C) of this section are met.
- (C) A user or customer that wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other evidence that:
 - (1) An upset occurred and the user or customer can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user or customer has submitted the following information to the town as soon as possible but no later than 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including the exact date and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the user or customer seeking to establish the occurrence of an upset shall have the burden of proof.
- (E) Users and customers will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (F) Users and customers shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility, until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. 99-04, passed 2-16-99)

§ 51.171 PROHIBITED DISCHARGE STANDARDS.

A user or customer shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions of this chapter if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: a local limit exists for each pollutant discharged and the user or customer was in compliance with each limit prior to and during the pass through or interference; or no local limit exists but the discharge did not change substantially in nature or constituents from the user's or customer's prior discharges when the town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. 99-04, passed 2-16-99)

§ 51.172 BYPASS.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of wastestreams from any portion of a user's or customer's treatment facility.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

(B) A user or customer may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to divisions (C) and (D) of this section.

(1) If a user or customer knows in advance of the need for a bypass, it shall submit prior notice to the town at least ten days before the date of the bypass, if possible.

(2) A user or customer shall submit oral notice to the town of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible, but no later than 24 hours from the time it becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including the exact date and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The town may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) Bypasses are prohibited, and the town may take an enforcement action against a user or customer for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The user or customer submitted notices as required under division (B) of this section.

(D) The town may approve an anticipated bypass, after considering its adverse effects, if the town determines that it will meet the three conditions listed in division (C) of this section.

(Ord. 99-04, passed 2-16-99)

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GENERAL PROVISIONS

§ 52.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE CODE. The Arizona Administrative Code, as amended.

APPROVED BACKFLOW PREVENTION ASSEMBLY (ASSEMBLY). Any testable assembly, with the exception of an approved air gap, which has been issued a certificate of approval by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC-FCCCHR or the Foundation), or such other third party certifying entity, unrelated to the product's manufacturer or vendor, which may be acceptable to the Arizona Department of Environmental Quality. A list of assemblies shall be maintained by the Backflow Control Officer.

BACKFLOW. The undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution system of the public potable water supply.

CERTIFIED TESTER. An individual certified to test backflow prevention assemblies by the California-Nevada Section of the American Water Works Association (AWWA) or the Arizona State Environmental Technology Training (ASETT) Center or other agencies or organizations involved with the training and certification of testers if they are acceptable to the Arizona Department of Environmental Quality.

CODE. This Town of Cave Creek Water Code, as amended.

CROSS CONNECTION. Any unprotected or potential connection or structural arrangement between a public or a customer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross connections.

CUSTOMER. Any person who receives potable water from the town's water system.

DWR. The Arizona Department of Water Resources.

EXCAVATION. Any man-made cut, cavity, trench, or depression in the earth's surface formed by earth removal.

LANDSCAPE WATERING. The application of water from any source, to a water intensive landscaped area, a low water use area, and re-vegetation acres.

LANDSCAPING PLANT. Any member of the kingdom *Plantae*, including any tree, shrub, vine, herb, flower, succulent ground cover or grass species that grows or has been planted out-of-doors and is used for landscaping purposes.

LOW WATER USING PLANT. Any member of the kingdom *Plantae* which is on the low water using plant list as may be amended for the Phoenix Active Management Area adopted by the Manager of DWR and filed with the Department of Water Resources. Any plant not on the list is a high water using plant.

MAG. The Maricopa Association of Governments.

NON-PARTICIPATING APPLICANT. The owner of property that will be served by water facilities installed by another property owner or developer, who does not contribute to the cost of the installation.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal governmental agency, or any other legal entity, including their legal representatives, agents or assigns.

POINT OF SERVICE DELIVERY. The terminal end of a service connection from the public water system. If a meter is installed at the end of the service connection, then the **POINT OF SERVICE DELIVERY** shall mean the downstream end (i.e., customer's side) of the meter.

POTABLE WATER. Water delivered through the town's domestic water delivery system after treatment designed to meet Environmental Protection Agency's and Arizona Department of Environmental Quality drinking water standards.

PRV. A pressure regulating valve placed on the customer's side of the water supply to compensate for high water pressure within certain areas of the town's water distribution system. Installation, maintenance, adjustment and replacement of PRV's are solely the responsibility of the customer.

RIGHTS OF WAY. Land owned by the town, or privately owned by the abutting and benefitting properties, dedicated to streets and similar transportation related functions.

TOWN WATER SYSTEM. The combined water service areas of Cave Creek which encompasses portions of the Town of Carefree and Desert Hills which encompasses portions of unincorporated Maricopa County.

UTILITIES MANAGER. The executive in charge for the Town of Cave Creek or his/her authorized deputy, agent, designee or representative.

UTILITY DEPARTMENT. The department within the Town of Cave Creek responsible for operation of the town's utility facilities.

WATER FEATURES. Use of water in a landscaped area other than for irrigation and includes fountains, artificial streams, ponds and waterfalls.

(Ord. O2011-03, passed 2-7-11)

§ 52.002 UTILITY DEPARTMENT; DUTIES; UTILITIES MANAGER.

(A) The Utility Department shall make all service connections and set all meters on the various mains for service. The Department shall also make all repairs on mains, meters, and services to the meter, and check all valves, fire hydrants and other water system appurtenances, and see that they are in good order, shall change all meters as necessary to see that they are in acceptable condition and working order, shall operate and maintain all water and sewer system facilities and shall perform such other duties as required by the Utilities Manager subject to the approval of the Town Manager.

(B) The Utilities Manager shall be general executive officer in charge of operations, equipment and facilities of the Utilities Department. She/he shall also control the water supply and at all times insure the sufficiency and quality thereof and shall notify the public, unless an emergency requires otherwise, of the necessity of shutting off any pipeline for the purpose of making repairs, extensions, or connections, should she/he have cause to expect to know beforehand of the necessity to so shut off the water from any line. She/he shall establish and have general supervision over, subject to the approval of the Town Manager and Town Council (as required), all charges for water and sewer services, departmental policies, agreements, new connections, repairs, and the like, and for all charges not expressly provided for in this chapter. The Town Manager shall have the authority to waive the collection or imposition of risk deposits, delinquent fees or late charge fees imposed by the provisions of this chapter.

(Ord. O2011-03, passed 2-7-11; Am. Ord. O2015-07, passed 10-5-15)

§ 52.003 AUTHORITY OF UTILITIES MANAGER TO MAKE DECISIONS.

The Utilities Manager shall have the authority to decide any question that may arise which is not fully covered by the provisions contained in this chapter.

(Ord. O2011-03, passed 2-7-11; Am. Ord. O2015-07, passed 10-5-15)

§ 52.004 SHUT-OFF VALVES.

All shut-off valves on the public water system are installed by the town for the use of the Utility Department. Such shut-off valves shall not be used or in any way molested or manipulated by customers of water. All customers shall provide their own valve for ordinary usage. This valve shall be located on the customer's side of the meter ahead of the first water outlet. Tampering with or bypassing water system shutoff valves is prohibited.

(Ord. O2011-03, passed 2-7-11) Penalty, see § 52.999

§ 52.005 FIRE HYDRANTS; PURPOSE AND USE.

(A) Fire hydrants are provided for the primary purpose of extinguishing fires and shall be opened and used only by the Utility Department and the Fire Department or such persons as may be authorized to do so by the Utilities Manager. Unauthorized taking of water from a fire hydrant is a violation of this code. No application to open and use a fire hydrant shall be approved and existing approvals shall be cancelled to any person who has violated any of the provisions of this chapter or whose indebtedness to the town for water used or damage to hydrants is delinquent, until such violation or delinquency is cured. Every person authorized to open fire hydrants will be required to replace the caps on the outlets when such are not in use and will keep hose connections in good repair. Failure to do so will be sufficient cause to prohibit further use of the hydrants and the refusal to grant subsequent permits for the use of such fire hydrants.

(B) An application for construction use of a fire hydrant may be obtained from the Town of Cave Creek Utilities Department. A meter deposit as specified in the utilities rate section of this code (§ 52.405) shall be paid in advance of the installation of the hydrant meter. Water use via an approved hydrant meter is subject to water availability for construction use. It is the prerogative of the Utilities Manager to limit or halt approved use of a hydrant. Water consumption rates are specified in the utilities rate section of this code.

(C) Fire hydrants may not be altered in any way including painting or attachment of any appliance or other feature not authorized in writing by the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.006 OBSTRUCTING ACCESS TO FIRE HYDRANTS; UNLAWFUL USE, TAMPERING WITH OR INJURING.

(A) It shall be unlawful for any person to obstruct access to any fire hydrant by placing around, on or within 20 feet of such hydrant any stone, brick, lumber, dirt, rubbish or other material or to open or operate any fire hydrant or to draw or attempt to draw water or to willfully or carelessly injure such hydrants or in any manner to tamper with or injure such hydrants.

(B) It shall be unlawful to paint, decorate or otherwise change the appearance of a fire hydrant, or external building standpipe, hose or sprinkler system.

(Ord. O2011-03, passed 2-7-11)

§ 52.007 UNAUTHORIZED POSSESSION, SALE OR FABRICATION OF UTILITY DEPARTMENT KEYS OR HYDRANT WRENCH.

It shall be unlawful for any unauthorized person to knowingly have and keep in his possession or under his control any curb cock key, valve key or hydrant wrench to the town water supply system and no person shall, without authority from the Utility Department, make, construct, buy, sell or in any way dispose of to any person any curb cock key, valve key or hydrant wrench for use on the town

water supply system.

(Ord. O2011-03, passed 2-7-11)

§ 52.008 UNAPPROVED WATER USE AND/OR REMOVAL OF SEALS FROM FIRE PREVENTION SYSTEM.

(A) Should the flow detector meter on a fire prevention service line show consumption without a fire having occurred and without prior notice to the Utilities Manager, a charge as follows shall be paid to the Town of Cave Creek: \$100 per occurrence.

(B) Should any sealed valve on a sprinkler type fire prevention system be opened without prior notification and approval of the Utilities Manager, a charge as follows shall be made: \$100 per occurrence.

(Ord. O2011-03, passed 2-7-11)

§ 52.009 INTERRUPTION OF SERVICE.

The water may at any time be shut off from the town's mains without notice, due to emergencies or for the purpose of making repairs, extensions, or any other necessary work. The town will not be liable for any damage that may occur as a result of the water being turned off or on for any purpose or because of the breaking of any pipe or fixtures by the water from the town mains. Water customers who have any machinery, material, process or plant which requires a constant supply of water shall install upon their premises such water storage facilities as will prevent any damage in case the town water supply may, for any reason, be interrupted or discontinued.

(Ord. O2011-03, passed 2-7-11)

§ 52.010 STREET WORKS; UTILITY RELOCATION; NOTICE TO UTILITY DEPARTMENT.

All persons handling street work, such as grading, regrading, filling and trenching or paving, and the like, shall give the Manager written notice in the event it becomes necessary during the work to remove, displace or change any water mains, pipes, fittings, meters, gates or other waterworks appurtenances that may interfere with the prosecution of such work, together with proof of insurance or other financial assurance, in an amount sufficient to restore or repair damages resulting from the street work. Where the amount of work to be done does not exceed the amount of \$300, the notice shall be delivered not less than 48 hours before the services of the Utility Department are required. Where the amount of work does exceed the amount of \$300, the notice shall be delivered not less than five days before the services of the Utility Department are required. Failure to furnish such notice shall make the person liable to the Utility Department in case damages should result from such failure.

(Ord. O2011-03, passed 2-7-11)

§ 52.011 DAMAGE TO UTILITY INFRASTRUCTURE DUE TO CONSTRUCTION ACTIVITIES.

It is the responsibility of all parties conducting construction in the vicinity of the town's water or sewer lines, to have the area of the proposed construction activity surveyed by Arizona Bluestake. Any construction activity which causes damage to the town's water or sewer infrastructure in areas marked by Arizona Bluestake as containing infrastructure assets will be liable for the cost of repairing any resulting damages.

(Ord. O2011-03, passed 2-7-11)

§ 52.012 RIGHT OF ENTRY FOR INSPECTION; CREDENTIALS.

(A) Any authorized employee of the Utility Department shall, upon presentation of his/her credentials, have free access at all reasonable hours to any premises supplied with town water for the purpose of making any inspection of the entire water system upon such premises.

(B) In case any authorized employee be refused admittance to any premises, or, being admitted, shall be hindered or prevented

from making such examination, the Manager may cause the water to be turned off from such premises after giving 24 hours' notice to the owner or occupant of such premises of her/his intention to do so.

(C) Service personnel and other employees of the Utility Department whose duty it may be to enter upon private premises to make inspection and examination of the pipes, fixtures or attachments used in connection with the water supply, shall be provided with credentials to identify them as authorized agents for the Department.

(D) No person not an authorized employee of the Utility Department shall have or exhibit credentials of the Utility Department. It shall be the duty of each employee of the Utility Department upon resignation or dismissal, to surrender and deliver at the office of the Manager, all credentials of the Department.

(E) No one except authorized town personnel shall be permitted to install, remove, or reinstall water meters. Any developer whose contractor, plumber (or others) removes, changes, or relocates water meters shall be charged the cost to the town for restoring meters to their authorized and designated locations of record. Such costs together with any cost incurred by the town for repairing defective service connections installed by developer's contractors shall be due and payable within 60 days of billing for said charges by the town.

(Ord. O2011-03, passed 2-7-11)

§ 52.013 WASTE OF WATER; FAILURE OF CUSTOMER TO MAKE REPAIRS TO PIPES, VALVES AND FIXTURES.

(A) Owners of property served by town water are responsible for all leaks, or damages on account of leaks, from the service pipes leading from the customer's side of the meter to the premises served.

(B) Every customer shall at all times maintain in good repair their water pipes, faucets, valves, sprinklers, plumbing fixtures or any other water appliances, to prevent waste of water.

(C) Where any customer neglects to make such necessary repairs within 30 days, the water may be shut off by the Utilities Department and shall not be turned on again until such repairs have been made to the satisfaction of the Department and a service activation fee paid by the customer to the Department.

(D) Customers are responsible for all water consumption by leaks or damages on account of leaks from the service pipes leading from the meter to the premises served.

(E) No customer may cause water to flow, discharge or run from any premises, residence or place of business, upon any street, gutter way, sidewalk, alley or public place within the town except upon written authorization from the town. No customer or person may construct or maintain any channel, ditch, flume, or conduit, by means of which water may be discharged into or upon any street, gutter, way, sidewalk, alley or public place, from such premises, residence or place of business except upon written authorization from the town.

(F) In addition to any other remedy available to the town under this chapter, a violation of any provision of this section is subject to a civil sanction in the amount of \$100 for each violation.

(Ord. O2011-03, passed 2-7-11)

§ 52.014 INTERFERENCE WITH WATER SYSTEM FACILITIES.

Any person who in any manner willfully defaces damages, illegally uses, or interferes with the operation of any well, pump, hydrant, valve, pipe, construction trench, or any other waterworks facility, or anyone who shall pollute the potable water supply of the town or violate any provision of this chapter shall be guilty of a misdemeanor in addition to any penalties under applicable state or federal laws. Any expense caused to the town for the repair or replacement of damaged, stolen, or misused waterworks facilities shall be charged against and collected from the person or persons who caused the expense. The violation of any provision of this chapter, or failure to pay for damages to town waterworks facilities, shall be sufficient cause for the Manager to discontinue town water service to any property owned or used by said person or persons.

(Ord. O2011-03, passed 2-7-11)

§ 52.015 OBSTRUCTION OF WATER SYSTEM.

No person shall place upon or about any valve, valve box, curb cock, water meter box or water gate connected with the water system of the town any object, material, debris or structure of any kind that shall prevent free access to the same at all times or in any manner tamper with or injure such appurtenances. No person shall fill up or cover over any valve or meter box.

(Ord. O2011-03, passed 2-7-11)

§ 52.016 AUTHORITY OF UTILITY DEPARTMENT TO TURN OFF WATER SERVICE.

For any violation of this chapter or for nonpayment of water charges for either domestic, sprinkling or other purposes, the Utility Department has the right to turn off the water without further notice as required. After it has been turned off from any service pipe on account of nonpayment or violation of the chapter, the water shall not be turned on until all back charges are paid, together with the payment of all fees, and the applicable deposit paid, if required in accordance with § 52.402.

(Ord. O2011-03, passed 2-7-11)

§ 52.017 RULES AND REGULATIONS TO BE ENFORCED; EXCEPTION.

The rules and regulations of this chapter are made for the benefit of the water customers in town water service area and for the protection of the water supply system of the town. Their enforcement shall in no case be willfully ignored by any town official or employee. When a strict enforcement of any rule could work a gross injustice on a customer of water from the town mains, the Utilities Manager may in her/his discretion order a suspension of the rule as to that particular case, with the approval of the Town Manager.

(Ord. O2011-03, passed 2-7-11; Am. Ord. O2015-07, passed 10-5-15)

NEW MAINS, MAIN EXTENSIONS AND CONSTRUCTION

§ 52.101 AGREEMENTS FOR CONSTRUCTION OF WATER FACILITIES AUTHORIZED.

The Utilities Manager may permit the limited construction of water facilities to provide water service in areas where no water service is available, subject to applicable state law. Construction may be accomplished by the applicant's contractor (private contract) where permitted by state law.

(A) The Utilities Manager is authorized to permit construction of water facilities by private contract upon written application. Agreements for construction of water facilities shall provide that all costs are at the sole expense of the applicant except as noted in the agreement.

(1) The facilities will be constructed, at the sole expense and cost of the applicant, within streets, avenues, alleys and rights-of-way pursuant to grants of easements.

(2) Plans for construction will be provided by the applicant, certified by a registered professional engineer, and reviewed and accepted by the Utilities Manager or his/her designee.

(3) With each application for the construction of water facilities authorized by this section, the applicant shall execute and deliver to the Utilities Manager, an agreement for the construction thereof by private contract. If the agreement conforms to the provisions of this chapter, the Utilities Manager will authorize construction of the applicant's water facilities.

(4) The construction of water facilities so authorized will be inspected and tested for water quality and water pressure by the Utilities Manager or his/her designee, and will comply in every respect with the material and installation standard of the Department.

(5) The applicant will be assessed fees for plan review, inspection, and system isolation (for connection of constructed water facilities to the existing system). Plan review fees will be collected upon plan submittal or resubmittal, in accordance with the following schedule:

<i>REVIEW SERVICE</i>	<i>FEE</i>
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<i>Master plan only</i>		
First submittal	First sheet	\$250
	Each subsequent sheet	120
Each re-submittal of plan		130
<i>Design review only</i>		
First submittal	First sheet	365
	Each subsequent sheet	120
First re-submittal of design	First sheet	130
	Each subsequent sheet	60
Each subsequent resubmittal of design		150
<i>Master plan and design review</i>		
First submittal	First sheet	485
	Each subsequent sheet	235
First resubmittal of MP and design	First sheet	250
	Each subsequent sheet	60
Each subsequent resubmittal of MP and design		150
Plan revision		140

(6) Construction inspection fees will be collected prior to the Utilities Manager's authorization of construction of applicant's water facility. Fees will be calculated as follows:

(a) Pipeline inspection:

1. Projects of 200 linear feet or less: \$345
2. Projects greater than 200 linear feet, per linear foot: \$5
3. Other facility inspection (non-pipeline), per facility: \$4,005
4. System isolation fee, per pipeline project or facility: \$285

(B) The Utilities Manager may require an applicant to install "on-site" or "off-site" water facilities of a size greater than is required to provide service to the applicant's development; provided, however, that the Utilities Manager refund the incremental cost of the oversizing to the applicant. The refund amount for oversized pipelines and valves shall be established by agreement between the applicant and the town. Where field conditions require extraordinary costs, the Utilities Manager may reimburse a share proportionate to the oversizing required by the town. In these situations the applicant shall provide documentation of actual costs incurred.

(C) Every nonparticipating applicant for a connection to a water main installed shall be assessed a fee designed to recover a pro rata share of the initial capital cost of the following:

(1) *Minimum size distribution main installation.* The fee shall be based on the lineal foot frontage of the subdivision, lot or parcel to be served, as measured along the street, alley or easement right-of-way line to which the connection will be installed.

(2) *Water facilities other than distribution mains.* The fee shall be calculated and based upon the percentage of nonparticipant's acreage or service connections to the total anticipated service area acreage or number of services possible to be served by the facility and factored against the total cost of the facility's construction. In addition, the applicant shall pay a protected facility service fee of \$70, such fee recovering the costs of administering the protected facility program.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11; Am. Ord. O2015-07, passed 10-5-15)

§ 52.102 PROVISIONS FOR REFUND OF COST OF WATER MAINS OR FACILITIES INSTALLED BY PRIVATE CONTRACT UNDER CERTAIN CONDITIONS AUTHORIZED.

Should water facilities installed pursuant to § 52.101(C) be installed in such a manner as to provide water service to a property not participating in the construction cost, the Utilities Manager may enter into an agreement for partial refund of the cost of the facilities so installed.

(A) In no case will the agreed refund amount exceed the total funds to be collected as authorized in § 52.101(C).

(B) Such refunds shall continue for a maximum period of 15 years from the date of the agreement. Any balances remaining unpaid shall be considered canceled, and the town shall be fully discharged from any further obligation under the agreement.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11)

§ 52.103 PROVISIONS FOR REFUND OF COST OF WATER MAINS OR FACILITIES FUNDED AND INSTALLED BY THE TOWN UNDER CERTAIN CONDITIONS AUTHORIZED.

Should water mains or water facilities installed and funded by the town to provide water service to a property not participating in the construction cost, the Utilities Manager may designate the water main or water facility as "town protected" and collect a protected main fee or a protected facility fee and service fee pursuant to § 52.101(C).

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11)

§ 52.104 MAIN EXTENSIONS; CONNECTIONS WITH DISTRIBUTION SYSTEM.

Persons desiring to connect water main extensions to the existing distribution system shall make application to the Utility Department in writing and shall pay established fees and charges.

(Ord. O2011-03, passed 2-7-11)

§ 52.105 EXTENSIONS; CONSTRUCTION; OWNERSHIP AND MAINTENANCE.

The extension of all water mains and service connections shall be constructed in strict accordance with plans and specifications to be approved by the Utility Department. All extensions and service connections shall be and remain the property of the Utility Department after acceptance by the town. Main extensions and service connections shall be maintained by the Department up to and including the customer's meter and shall be operated by the Department, as part of the distribution system. The Department shall exercise complete control over such extensions and upon completion the person responsible for the construction of the extension shall relinquish all right to or interest in the ownership of the extensions.

(Ord. O2011-03, passed 2-7-11)

§ 52.106 PUBLIC EASEMENT REQUIRED FOR EXTENSIONS.

Private entities desiring to extend a water line to serve individual or multiple parcels shall provide the town with a dedicated utility easement in accordance with town guidelines or codes.

(Ord. O2011-03, passed 2-7-11)

§ 52.107 POLICY OF TOWN FOR EXTENSIONS.

The water main extension policy of the town for town water mains and the policy to be followed in connection therewith shall be, and the same is hereby declared to be as follows:

- (A) Developers must pay all costs for constructing mains of such sizes as to afford adequate service during peak demands.
- (B) The minimum water requirements will be per applicable state and federal regulations.
- (C) The Utilities Manager or his/her designee will review and approve the required size and layout of public water mains that will meet both domestic water needs and fire flow requirements as specified in the Water and Wastewater Technical Design Guidelines.
- (D) The Utility Department will not perform field engineering nor submit detailed plans and specifications for any developer. This work is to be performed by a civil engineer registered in the state and employed by the developer. Before construction begins, final detailed plans and specifications for the water main extensions in the development must be approved by the Utility Department. The cost of staking the location of the new water mains and the cost of inspecting the construction shall be assumed by the developer. The town will perform the inspection during construction.
- (E) Where booster pumps are necessary to maintain adequate pressures in the mains due to the development being near or above the hydraulic gradient of the distribution system of the town service area, the developer shall construct, at his own expense, the necessary booster pumping station and storage facilities to town specifications as addressed in the town's Water and Wastewater Technical Design Guidelines. The town will assume ownership, maintenance and operation of such booster pump installation upon its completion and acceptance by the town.
- (F) All extensions must comply with the town's Water Master Plan.

(Ord. O2011-03, passed 2-7-11)

§ 52.108 EXTENSIONS IN SUBDIVISIONS, SINGLE LOT, AND SUBLLOT DEVELOPMENTS AND ALL OTHER DEVELOPMENTS.

- (A) In all new subdivisions and single lot developments, and all other developments, where the town is to provide water service, the developer shall furnish and install in accordance with plans approved by the Utilities Manager all water mains, service connections, valves, fittings and appurtenances within the boundary of the development as well as the streets bounding the entire development. Review fees shall be paid as established by Town Council resolution. In addition, the developer shall furnish and install all off-site water mains as necessary to complete a looped connection, if feasible, to existing town mains as determined by the Utilities Manager. All water lines are to be constructed to conform to the town's Water Master Plan, and are to be constructed as a general area improvement whether they do, or do not, directly service the property being developed. For developments principally residential in character, water infrastructure development shall follow the town's Water and Wastewater Technical Design Guidelines.
- (B) For all developments, fire hydrants, valves, pipe, and fittings required for the hydrant installation shall also be installed by the developer in accordance with plans approved by the Utilities Manager. Review fees shall be paid as set forth in § 52.101(A)(5) of the Town Code. The maximum spacing of fire hydrants along public water mains shall be approximately 500 feet in single-family residential developments. Refer to the Utilities Technical Design Guidelines for additional fire hydrant requirements.
- (C) Existing lines larger than eight inches in diameter are considered part of the transmission system, and are not part of the water distribution system. Developers may be required to construct distribution mains of the required size in parallel to such existing transmission system mains. Where existing distribution system mains within a development, or the streets bounding a development, are smaller in size, or are otherwise inadequate, the developer may be required to replace or parallel such mains with those of the required size.
- (D) Where no water main is existing along the frontage of a single, existing, residential lot zoned for single-family use (R18-R35 through DR43-DR190), and the owner/developer of the single lot requests water service, sufficient length of main shall be constructed by the owner/developer to extend the new main from an existing water main to the point of the requested service connection plus an additional 20 feet. Additional easement along the entire property frontage may be requested to allow for future extension of new water mains.
- (E) The service connections installed by a developer's or owner's contractor shall be guaranteed against any and all defects by the owner/developer for a period of two years after acceptance of the installations by the Utility Department.

(F) After acceptance by the town of the water mains and service connections, the owner/developer or his agent may make application to the Utility Department for the installation of one or more meters to be installed on the new service connections to measure construction water used. The developer will be held responsible for all water used from the date the meter is set until there is a change of ownership.

(Ord. O2011-03, passed 2-7-11)

§ 52.109 CONSTRUCTION WATER THROUGH METERED SERVICE CONNECTIONS; RATES.

The Utility Department will accept applications from a developer or his authorized agent for the installation of a meter to measure water to be used for construction provided that a service connection, including a curb stop and meter box, has been installed and accepted for service by the town. The Utility will prepare a separate billing for each metered service connection used to supply water for construction.

(Ord. O2011-03, passed 2-7-11)

§ 52.110 EXTENSIONS: ENGINEERING COSTS; INSPECTION OF CONSTRUCTION.

(A) The costs for the preparation of construction plans for the proposed water mains as well as the cost of staking the location of the water mains, the cost of inspecting the construction, the cost of acquiring rights-of-way and easements, and preparation of as-built plans, shall be part of the construction cost assumed by the developer in accordance with plans approved by the Utilities Manager. Review fees shall be paid as set by resolution of the Town Council.

(B) The Utility Department will not perform field engineering or submit detailed plans and specifications for the developer. This latter work is to be performed by a civil engineer registered in the State of Arizona employed by the developer. The final detailed plan and specification for the "approach main" extension must be approved by the Utility Department and the Utilities Manager before construction begins.

(Ord. O2011-03, passed 2-7-11)

SERVICE CONNECTIONS

§ 52.201 CONNECTION TO WATER MAINS REQUIRED AND EXCEPTIONS.

Service connections shall extend at right angles from the main to the boundary of the property with the public right-of-way or utility easement and shall be installed in accordance with MAG Standard Detail. The number, location, manner of construction and size of all service connections shall be subject to the approval of the Manager. New water services are to be installed at the cost of the customer requesting service.

(Ord. O2011-03, passed 2-7-11)

§ 52.202 BUILDINGS TO HAVE SEPARATE SERVICE CONNECTIONS; EXCEPTIONS.

(A) Every separate building supplied served with town water must have its own separate service connection with the town mains, except two or more buildings located on the same lot or on contiguous lots under a single ownership, or property that is known as a court, apartment house, trailer court or other similar developments covering more than one lot may be, upon written permission granted by the Utilities Manager, supplied through a single metered connection with the town main as long as single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises having the indirect connection.

(B) In case there is no water main on any street on which such premises abut, and the customer first in order of service from the main guarantees in writing the payment of water charges for all parcels of property so served, the Manager may permit such connection to be installed or remain until a water main is laid in such abutting street. When a water main is laid in the abutting street, customers will be required to disconnect from the main line and reconnect to the main in the abutting streets. Customers who fail to

comply with the requirements of this section shall be subject to shut off, upon 30 days' notice by the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.203 UNAUTHORIZED CONNECTION WITH WATER MAINS.

No person shall connect any pipe, tube or other instrument with any main service pipe, conduit or fire hydrant for conducting water belonging to the town, for the purpose of taking water from such without a permit from the proper authorities of the town.

(Ord. O2011-03, passed 2-7-11) Penalty, see § 52.999

§ 52.204 APPLICATION FOR NEW SERVICE CONNECTIONS GENERALLY; INFORMATION REQUIRED.

(A) Each person making application for a service connection shall present a valid plumbing permit issued by the Town Building Official, or his authorized representative, to the Utility Department as a prerequisite for the approval of the requested service connection.

(B) The applicant shall state the following in his/her application: his/her name; a description of the lot, block and addition; the desired location where the town main is to be tapped; the desired size of the tap to be made; the official house number assigned to the premises as shown by the records in the office of the Planning Department; and the purpose for which the water is to be used.

(C) The Department, as a condition to granting such application and furnishing water to such premises, is authorized to and shall require payment for the installation of service connections and/or meters.

(Ord. O2011-03, passed 2-7-11)

§ 52.205 SERVICES AND MATERIALS TO BE PROPERTY OF UTILITY DEPARTMENT; CUSTOMER LIABILITY FOR DAMAGES.

All service and water meters and all materials supplied by the Utility Department in the installation or repair of any meter and all materials supplied in the installation of any service connection with the town mains shall remain at all times the property of the Utility Department and shall be maintained, repaired and renewed by the Utility Department when rendered unserviceable through normal use. Where replacements, repairs to pipes, meters or other materials are rendered necessary by the act, negligence or carelessness of the customer or any member of his/her family or person in his/her employ, any expenses caused to the Utility Department for such repair shall be charged against and collected from the customer. The Utility Department may refuse to furnish water through the service until the account is paid in full.

(Ord. O2011-03, passed 2-7-11)

§ 52.206 SERVICE CONNECTIONS ON EXISTING MAINS.

Where all or part of a new residence, commercial building or subdivision is served by existing town water mains, only authorized personnel of the Town Utility Department shall make taps for service connections. Hired contractors may be permitted to tap service connections under the supervision of Utilities Department staff, and at the discretion of the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.207 DEVELOPER TO INSTALL SERVICE CONNECTIONS ON NEW MAINS IN NEW SUBDIVISIONS.

In all new subdivisions or other developments where there are no existing Town water mains, developers are required to have their contractors install all one inch service connections simultaneously with the installation of the subdivision's water mains. No connections smaller than one inch shall be permitted. Services one and one half inches or larger may also be installed by the developers if so approved by the Utilities Manager. The concrete vaults required for services three inches and larger shall be constructed by the developer or his contractor in accordance with applicable MAG Specifications and Details. In all new subdivisions or other

developments where the developer's contractors install the service connections, application must be made to the Town Utilities Department, as otherwise provided in the Code, for installation of water meters.

(Ord. O2011-03, passed 2-7-11)

§ 52.208 CHANGES TO EXISTING SERVICE CONNECTION.

When new buildings are to be erected on the site of old ones and it is desired to increase the size of or to change the location of the old service connection or where a service connection to any premises is abandoned or no longer used, the Department may immediately reclaim and disconnect such connection at the main, after which, should a service connection be required to such premises, a new service shall be placed only upon the owner making application and paying for a new service in the regular manner.

(Ord. O2011-03, passed 2-7-11)

§ 52.209 RELOCATION OF MAINS; CONNECTION TO NEW MAIN REQUIRED.

When older water mains are replaced by new water mains, customers will be required to connect to these new water mains at their own expense except that the town will provide a service tap to the new water line and install meter box, shutoff valve and meter at a location agreed upon by both the Utility Department and the customer. The customer will be responsible for providing a permitted service connection from the meter to the existing or new water service entrance.

(Ord. O2011-03, passed 2-7-11)

§ 52.210 SERVICE PIPES; LOCATION AND REQUIRED COMPONENTS.

(A) Permits for connections will not be granted or may be revoked when the service pipe passes over or through premises which at the time are, or may become, the property of persons other than the owner of the premises to be supplied from such connections.

(B) No water service pipe will be permitted to be laid in a sewer trench or within six feet of such trench.

(C) No water service may pass through a private sewage disposal system (septic system and related systems) or any components thereof.

(D) The customer service line shall include, within three feet of the customer side of the meter, a shut-off valve, a check valve and a pressure regulating valve (PRV).

(E) Shut off valves, check valves and PRV's shall comply with standards set in the Utilities Department Design Guidelines.

(Ord. O2011-03, passed 2-7-11)

§ 52.211 SERVICE PIPES; EXCAVATIONS UNDER SIDEWALKS; INSTALLATION.

(A) Where basement areas have been excavated beneath sidewalks, water service pipes shall be laid by the town only to the inside of the area wall and the owner shall be required to construct, from plans approved by the Utilities Manager, a suitable meter pit and sidewalk opening with cover in order to locate the meter abutting the sidewalk side of the curb line in regular position.

(B) The installation of water service pipes extending from the main to the meter, together with the necessary labor and materials for such construction, shall be made by the Utility Department at the expense of the customer.

(Ord. O2011-03, passed 2-7-11)

§ 52.212 SPECIAL CONNECTIONS FOR FIRE PREVENTION SERVICE; INSTALLATION AND FEES; USE.

(A) Any person desiring to install a separate fire prevention service line, building standpipe and hose or sprinkler system, where such service line or systems will not be connected to or supplied water through a regular water service meter, shall file an application

with the Utility Department for a fire line tap and standby fire prevention service. Such special fire prevention systems shall be installed in accordance with Utility Department requirements, and review fees shall be paid as set forth in § 52.101(A)(5) of the Town Code.

(B) A double check valve backflow prevention assembly shall be installed on the first prevention service line ahead of the first point of water use.

(C) Whenever a detector check valve and bypass meter is required, all materials and equipment shall be furnished and installed by the applicant. The bypass meter shall be tested and sealed by the Meter Testing Section of the Utility Department prior to its installation. The detector check valve and meter shall be enclosed in a vault acceptable to the Utilities Manager. Should the detector meter on a fire prevention service line show consumption without a fire having occurred and without prior notice to the Utilities Manager, a charge for water used and other costs as established by the Utilities Manager, subject to the approval of the Town Manager, will be invoked during the month when illegal consumption is indicated, and the fire line service shall be cut off unless such charge is paid, except in matters of an emergency nature.

(D) Every outlet valve on a non-metered sprinkler system shall be sealed. Seals may be removed for authorized purposes only, such as testing of the system. The owner or tenant may test the fire prevention apparatus at any time by notifying the Utility Accounting Division that such a test is desired. A mutually agreeable time shall be set for the test to be made. All outlet valves shall be sealed immediately after completion of any test on a non-metered system. A charge shall be established and imposed in case any sealed valve is opened without prior notification of the Utility Department, and the water shall be turned off and remain off until such charge is paid. In addition, a detector check valve and bypass meter may be installed by the Utility Department and the cost thereof charged to the owner.

(E) In no case shall any tap be made upon any pipe or tank used for fire purposes, nor shall the use of any water be permitted through any fire service, nor through any pipes, tank or fixtures for any purpose other than the extinguishing of fire on the premises.

(F) The premises upon which any such fire protection service is installed shall be open to the inspection of any authorized representative of the Utility Department at all times and the owner or tenant shall give such representative all reasonable facilities for making the inspection and any information she/he may require.

(G) An inside town and outside town charge shall be established for standby fire prevention service provided by the town.

(Ord. O2011-03, passed 2-7-11)

§ 52.213 SERVICE CONNECTION FEES.

The fee to be charged and collected in advance by the Utility Department for laying and constructing service connections from three-fourth inches to six inches in diameter shall be the current fee for such work as noted by the Utilities Manager, subject to the approval of the Town Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.214 CROSS CONNECTIONS FROM OR TO SOURCE OF WATER SUPPLY OTHER THAN THAT OF TOWN.

It shall be unlawful for any customer to cause a connection to be made or to allow one to exist for any purpose whatsoever between the town water supply and any other source of water supply without the approval of the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.215 ESTABLISHMENT OF A CROSS-CONNECTION (BACKFLOW) CONTROL PROGRAM.

In compliance with the Arizona Administrative Code:

(A) The town may require a customer to pay for and install, maintain, test and repair a backflow- prevention assembly if required by the Arizona Administrative Code.

(B) A backflow-prevention assembly required to be installed by the customer under this section shall comply with the requirements set forth in the Arizona Administrative Code.

(C) The town shall give any customer who is required to install and/or test a backflow-prevention assembly written notice of said requirement. The customer shall be given 30 days in which to comply with this notice.

(D) Testing shall be in conformance with the requirements of the Arizona Administrative Code.

(E) The customer shall provide the town with records of installation and testing. For each backflow assembly, these records shall include:

- (1) Assembly identification number and description;
- (2) Location;
- (3) Date(s) of test(s);
- (4) Description of repairs made by tester; and
- (5) Tester's name and certificate number.

(F) If the backflow-prevention assembly has not been installed or fails any test, the assembly shall be installed and/or repaired by the customer and tested within 14 days of written notice by the town. Failure to install or to remedy the deficiency or dysfunction of the assembly, or failure to retest, shall be grounds for termination of water utility service.

(Ord. O2011-03, passed 2-7-11)

METERS

§ 52.301 SERVICES TO BE METERED.

(A) Whenever a service shall be installed, connecting any property or water using equipment with the water supply system of the town, the water will be supplied to such property or equipment through meter only, except as provided in § 52.212, for sprinkler type fire prevention systems.

(B) Wherever a water meter is installed, connecting any property or water using equipment with the water supply system of the town, there shall be an established water billing/service account. Water meters installed without a corresponding service account shall be removed by the utilities department.

(Ord. O2011-03, passed 2-7-11; Am. Ord. O2016-02, passed 6-6-16)

§ 52.302 LOCATION OF METERS.

All new meters installed by the Utility Department shall be located within a public right-of-way or easement at or near the boundary of the parcel or building to which water service will be provided. Meters will be installed in accordance with standard construction details as approved by the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.303 COST OF CHANGING SIZE OF METER OR SERVICE.

In case a larger or smaller meter or service is applied for other than the one already in service, the applicant shall pay for the installation of the new service in accordance with the schedule of charges as established by the Utilities Manager, subject to the approval of the Town Manager. The original tap shall be permanently disconnected and the applicant given a refund for the old meter removed by the Department, in accordance with a refund schedule approved by the Utilities Manager.

(Ord. O2011-03, passed 2-7-11)

§ 52.304 UNAUTHORIZED TAMPERING OR REMOVAL OF METERS.

(A) Meters when installed on any property shall only be removed by an authorized employee of the Utility Department or upon order of the Utilities Manager. If a meter is removed in violation of this provision, the water service to the property shall be turned off and a charge equal to the costs incurred by the town for restoring the meter to its authorized and designated location must be paid before water service is again turned on. In case the meter has been removed by a plumber, his plumber's business license shall be revoked and not again reissued until the charge has been paid.

(B) Meter locks may only be removed by Utilities Department employees. Cutting, disabling or installation of non-authorized locking mechanisms is strictly prohibited and will result in an immediate disconnection of water service.

(Ord. O2011-03, passed 2-7-11)

§ 52.305 REPLACEMENT OF METERS.

The Utility Department may replace any meter at such time as it may see fit and shall be the judge of the size and type of any water meter installed. In the event there is an excessive rate of flow through an installed meter the Town may require the owner, at his/her expense, to install a meter of adequate size.

(Ord. O2011-03, passed 2-7-11)

§ 52.306 MAINTENANCE AND REPAIR; CUSTOMER TO PAY FOR DAMAGES.

The Utility Department shall maintain and repair all meters when rendered unserviceable through normal use and shall renew them if necessary. Where replacements, repairs, or adjustments of any meter are tendered necessary by the act, neglect, or carelessness of the owner or occupant of any premises, including all damage to meters due to hot water, breaking meter seals, tampering with working parts of meter, and the like, any expense caused to the Utility Department thereby shall be charged against and collected from the owner of the premises, or person supplied. The Department may refuse to furnish water through the service until all charges are paid in full.

(Ord. O2011-03, passed 2-7-11)

§ 52.307 TESTING METER ACCURACY.

(A) When any customer makes a complaint that the bill for any past time reflects excessive water use, the Utility Department will, upon written request, have such meter re-read and the service inspected for leaks.

(B) Any customer may, upon written request and payment of the established fee, have the accuracy of the meter, through which water is being furnished to his premises, examined and tested by the Utility Department.

(C) If the meter is found to register more than 3% in excess of the actual quantity of water passing through it, such meter shall be removed and another meter installed in lieu thereof, the customer's water bill for the current period adjusted in such manner as the Utilities Manager and Finance Director may deem fair and just; and no fee will be charged the customer for testing the meter.

(D) If the meter is found to register more than 3% less than the actual quantity of water passing through it, such meter may be removed and replaced with a new meter. The customer's water bill may be adjusted as above in division (C).

(E) The customer shall have the privilege, if she/he requests, to be present when such test is made and to verify the accuracy of such test.

(Ord. O2011-03, passed 2-7-11; Am. Ord. O2015-07, passed 10-5-15)

§ 52.308 ESTIMATION OF METER READINGS.

Water meter readings may be estimated whenever construction conditions, obstructions, inclement weather or emergency situations prevent completion of the regular meter reading cycle. The town shall endeavor to electronically or manually read each meter each month but shall not estimate meter readings more than two consecutive months.

(Ord. O2011-03, passed 2-7-11)

§ 52.309 CONDEMNED BUILDINGS.

Whenever the Town Building Official shall report in writing to the Utilities Manager that any building has been condemned by him as a structure not habitable and dangerous to human life and whenever the County Health Officer shall report in like manner to the Utilities Manager that any building has been condemned by him as unsanitary and not fit for habitation, the Utilities Manager shall at once shut off the water from such building and not permit it to be turned on again until the building has been made safe or sanitary, as the case may be, which condition must be reported to the Utilities Manager by the Town Building Official or the County Health Officer, respectively, as soon as it exists.

(Ord. O2011-03, passed 2-7-11)

§ 52.310 CHARGE WHEN METER NOT REGISTERING PROPERLY.

In the event any water meter has failed to register the water used, the charge for the water service shall be based on the average consumption for the previous three months, or the same amount used in the same month or period for the year preceding, whichever is the lowest amount.

(Ord. O2011-03, passed 2-7-11)

§ 52.311 DRINKING FOUNTAINS, TOILETS AND OTHER FIXTURES.

Wherever any watering troughs, drinking fountains, toilets, urinals or other fixtures are placed for the benefit of the public by private parties, such fixtures shall be supplied through meter only and water shall be charged for at regular meter rates.

(Ord. O2011-03, passed 2-7-11)

ESTABLISHMENT OF SERVICE; RATES; FEES; CHARGES; BILLING PROCEDURES

§ 52.401 FEES ESTABLISHED.

The rates for the use of water for customers shall be established by the Mayor and Council by resolution, subject to change, revision and modification in their discretion.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11; Am. Ord. O2013-11, passed 12-2-13)

§ 52.402 FINANCIAL RESPONSIBILITY DEPOSITS.

(A) Property owners who reside in or do not lease/rental/contract/ their residential properties are not required to post a deposit with the town.

(B) Rental customers must post a deposit with the town. This deposit is equal to two times the average bill for a residence, or two times the average in the system if history is not available. In the event the rental customer fails to post the required deposit, water service will not be initiated or will be discontinued.

(C) For rental customer accounts that do not have a billing record sufficient to calculate a deposit as provided in division (A), a deposit shall be determined by using an average 12 month billing for similar residential or commercial accounts.

(D) (1) Deposits shall be refunded if: upon discontinuance of service when the rental customer has paid in full all outstanding amounts for utility services if the customer's account has been established less than 12 consecutive months.

(2) Upon discontinuance of utility service, the account deposit shall first be applied to any outstanding utility billing amounts, and

any remaining deposit will be refunded to the rental customer.

(Ord. O2011-03, passed 2-7-11; Ord. O2013-02, passed 5-20-13; Am. Ord. O2016-04, passed 5-2-16)

§ 52.403 LIABILITY OF CUSTOMER OF RECORD FOR CHARGES.

The customer of record, as indicated in the utility's records, is responsible for paying all charges for the provision of water service to a property or premises, regardless of whether the customer of record or another party has actually used the water delivered to the property.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11)

§ 52.404 ACTIVATION OR REACTIVATION OF WATER SERVICE.

Service applications are required of all customers requesting activation or reactivation of water service. Application information must be submitted for each service address. An application must also be submitted when requesting the transfer of service from one customer to another. Service applications will require the following information:

(A) Residential.

- (1) Name of responsible party (must be an individual).
- (2) Driver's license number or other state issued identification card.
- (3) Mailing address.
- (4) Service address.
- (5) If tenant, landlord's name and address.
- (6) Requested turn-on date.

(B) Commercial.

- (1) Legal name of firm.
- (2) Service address.
- (3) Contact person.
- (4) Nature of business.
- (5) Dining on premises.
- (6) Employer's I.D. number.
- (7) Mailing address.
- (8) Name and address of owner(s).
- (9) If tenant, landlord's name and address.
- (10) Requested turn-on date.

(C) A service fee for activation or reactivation of service will include obtaining a beginning meter reading and will be charged according to the fee schedule listed in § 52.405 below.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2011-03, passed 2-7-11)

§ 52.405 RATES AND CHARGES FOR WATER SERVICE IN THE COMBINED CAVE CREEK AND DESERT HILLS SERVICE AREAS ESTABLISHED.

Charges for water utility service shall be made at monthly intervals and shall, to the extent possible, be consistent with the policy for charging for water in direct proportion to the cost of securing, developing and delivering water to the customers of the town water system in the particular service area. Water charges will be computed through the summation of the monthly minimum, the monthly water use charge, and any special assessments, taxes or surcharges that are or may be imposed by any governmental agency. Water fees are adopted by the Town Council by resolution, and current fees are on file in the office of the Town Clerk and in the Town Utility Department.

(A) *Fire protection service in the Cave Creek service area.*

(1) *Charges.* Charges for unmetered water service at fire standpipes or fire hydrants in the Cave Creek service area shall be \$10 per month per fire hydrant or fire standpipe.

(2) *Service.* The town will supply only such water at such pressures as may be available from time to time as a result of normal operations of its water system. The town does not guarantee a specific water pressure or gallons-per-minute flow rate at any of the fire hydrants installed. In the event service is interrupted or irregular or defective or fails, the town will not be liable for any injuries or damages arising therefrom. The customer shall make no claim against the town for any loss or damage resulting from fire protection services provided. The town shall furnish, install, own and maintain all public fire hydrants, subject to any advance-in-aid-of-construction agreement or maintenance agreement that may be required by the town. Water shall not be used from fire hydrants for any purpose other than fire protection unless prior written consent is obtained from the town, and charges will be made therefor at the estimated quantity rates under the town's general service rate.

(B) *Standpipe charges.* This service is available in the Cave Creek and Desert Hills service areas only at designated locations for the use of hauling water when and if authorized by the town. The town will supply water on a when-available basis, as determined by the town. Water will be supplied only during normal working hours except where a coin or card operated standpipe is available.

(C) *Service minimum for non-use.* All metered services, open or closed or active or inactive and regardless of water usage, shall be charged the base rate fee to the corresponding service size.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11; Am. Ord. O2013-11, passed 12-2-13; Am. Ord. O2016-03, passed 9-19-16)

§ 52.406 CHARGES FOR INSTALLATION OF WATER METERS AND SERVICE CONNECTIONS.

There shall be an installation charge for all water service connections.

(A) Charges for the installation in the Cave Creek service area of a metered water service connection, including the service line, the meter, and which does not require pavement replacement, shall be established by the Town Council by resolution.

(B) Where paved roadways must be crossed, the actual cost of cutting and repaving will be added to the above charges.

(C) The town may, at its option, request the customer to enter into an agreement for contribution or advance in aid of construction in lieu of the meter and service connection charges.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Ord. O2011-03, passed 2-7-11; Am. Ord. O2013-11, passed 12-2-13)

§ 52.407 MISCELLANEOUS SERVICE FEES AND CHARGES.

Fees for miscellaneous services shall be established by the Town Council by resolution.

(A) Bills are due and payable when rendered. Any payment not received within 20 days from the date the bill is rendered shall be considered delinquent. A late payment charge of 1.5% of the current charges will be assessed if payment is not received within the 20 day period. The town may terminate water service upon any delinquent account on providing the customer written notice at least ten days prior to termination.

(B) In addition to the returned check charge list above, the town may require the customer to make payments in cash, money order, certified check, or other means acceptable to the town. Tendering a check covered by insufficient funds does not relieve the customer of the obligation to make timely payments on the original billing, nor prevent the town from otherwise terminating service for non-payment.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2009-02, passed 3-2-09; Am. Ord. O2011-03, passed 2-7-11; Am. Ord. O2013-11, passed 12-2-13)

§ 52.408 UNREGISTERED OR UNASSESSED WATER.

A service applicant or customer who has been furnished water by the town, if such may not have been registered or assessed for water charges on the books of the Utility Department, shall be assessed the water charges for the amount of water used.

(Ord. O2007-09, passed 5-21-07; Am. Ord. O2011-03, passed 2-7-11)

§ 52.409 UNPAID BILLS AT PREVIOUS LOCATION.

As a term and condition of providing service, the Utility Department requires that outstanding amounts owed at a previous location served by the Utility Department for services rendered and/or due to labor supplied or materials furnished by the Utility Department be paid. If a service is activated with outstanding indebtedness to the town at a previous location, the account will be considered delinquent and subject to turnoff for nonpayment of services previously provided.

(Ord. O2011-03, passed 2-7-11)

§ 52.410 DISCONTINUANCE OF SERVICE ON ORDER OF CUSTOMER.

(A) All requests for turning off water service must be made by the named applicant on a service account or his/her authorized agent. When the water service is ordered turned off from any premises, a final meter reading will be obtained and all charges for services supplied to such premises shall be calculated and due on the date specified on the bill. The customer requesting discontinuance of service must also furnish the Utility Department with a change of address.

(B) Until such notice and payments shall have been made, such premises shall be deemed occupied by such customer and his/her liability continued.

(C) In the event that such notice and customer shall have made a deposit to the Utility Department, and said deposit is still being retained by the Department, the deposit amount will be applied to the balance owing on the account. All credits will be refunded.

(D) When the former customer has been notified of the amount of billing remaining due after deduction of customer's deposit, any accounts remaining due may be assigned to an agent of the Utility Department for collection purposes.

(Ord. O2011-03, passed 2-7-11)

§ 52.411 RESUMPTION OF SERVICE.

(A) Full payment of all amounts owed on an account must be paid prior to resuming service and the Utilities Manager may require payment of a risk deposit.

(B) When the foregoing conditions are fulfilled, it shall be the duty of the Department to cause the water to be turned on for the use of such premises, unless there are extenuating circumstances such as broken or leaking pipes or other causes which are, in the opinion of the Utilities Manager, sufficient reason to refuse to turn on the service.

(Ord. O2011-03, passed 2-7-11)

DROUGHT MANAGEMENT

§ 52.501 DROUGHT MANAGEMENT RESPONSE PROCEDURE.

The Utility Department will develop a Drought Management Response Procedure in cooperation with the Citizens' Water Advisory Committee (WAC). This response plan will be updated periodically to reflect changing water availability and climatic conditions or at

the direction of the WAC or the Cave Creek Town Council.

(Ord. O2011-03, passed 2-7-11)

CITIZENS' WATER ADVISORY COMMITTEE

§ 52.601 CREATION.

There is hereby established a permanent entity to be called the Citizens' Water Advisory Committee (the "Committee") to the Town of Cave Creek.

(Ord. O2013-01, passed 5-20-13)

§ 52.602 FUNCTIONS AND PURPOSES.

The functions, purposes, powers and duties of the Committee shall be to:

(A) Act as the official advisory body on water capital improvement program planning and rate structure formulation to Town Council;

(B) Annually review the proposed water system capital improvement program, and recommend to the governing body an annual and a six-year capital budget;

(C) Quarterly review the water revenue requirements of the water system and recommend to the governing body of the town rate and fee adjustments as required; promote the concerns of the town's water customers by ensuring that recommended water rate adjustments are just and reasonable, consistent with adopted Mayor and Council plans and policies; and ensure that the water system delivers safe, high-quality water to all its customers;

(D) Review and report to the governing body of the town on the long-term (20-30 years) water source and capital needs of the water system, utilizing staff of the water utility and other sources for the information necessary for such review;

(E) In consultation with the Utilities Manager, report to the Town Council the water resources development needs as deemed appropriate by the Committee;

(F) Review quarterly, or sooner if deemed required, the town's water resources plans and recommend revisions thereto to the Town Council as required; and

(G) Review or make recommendations on policies affecting those water issues which the Committee deems appropriate.

(Ord. O2013-01, passed 5-20-13)

§ 52.603 MEMBERSHIP, COMPOSITION, TERMS AND QUALIFICATIONS.

(A) *Appointment.* The Citizens' Water Advisory Committee shall be composed of no more than seven and no less than five members, each of whom shall be a customer of the town's water utility, as either a residential user or owning an enterprise using town water, and shall serve without compensation. Each community within the town's water service area, Cave Creek, Desert Hills, and Carefree, shall be represented with at least one member. *Exception:* should a resident of Cave Creek who is on private well water possess an area of expertise that the Mayor and Town Council deem of significant value to the WAC, they may appoint that individual to serve on the Committee.

(B) *Term.* The term of each member will be two years. Each member will serve at the pleasure of the Mayor and Town Council.

(C) *Selection process.* Citizens interested in serving on the WAC shall submit a letter of intent and resume to the Town Clerk who will submit all names to the Mayor and Town Council for consideration and selection. It is strongly recommended that appointed members have professional or technical competence in one of the following areas:

(1) Utility rate making;

- (2) Water resource planning;
- (3) Business management;
- (4) Accounting;
- (5) Financial analysis;
- (6) Public health;
- (7) Water system engineering;
- (8) Resource economics;
- (9) Hydrology;
- (10) Landscape architecture; and
- (11) Water law.

(Ord. O2013-01, passed 5-20-13)

§ 52.604 COMMITTEE ORGANIZATION.

The Citizens' Water Advisory Committee chairperson and a vice-chairperson shall be selected by a majority of the Committee members annually on the second Monday of January, and shall meet at such times and places within the town's water service area as determined by the Committee. Meetings will be open to the public.

(Ord. O2013-01, passed 5-20-13)

§ 52.605 COMMITTEE REPORTS.

The Citizens' Water Advisory Committee shall render to the Mayor and Council an annual report on or before June 1 and send additional reports and recommendations every two months, or as requested by the Mayor and Council. Minutes of the Committee shall be published online with all other Town of Cave Creek committee minutes.

(Ord. O2013-01, passed 5-20-13)

§ 52.606 LIMITATION OF POWERS.

Neither the Citizens' Water Advisory Committee nor any member may incur town expenses without prior authorization of the Mayor and Council, nor may it obligate the town in any manner or form.

(Ord. O2013-01, passed 5-20-13)

§ 52.999 PENALTY.

Any person who takes an unauthorized act, acts without a permit or approval required by this chapter, or violates any provision of this chapter shall be guilty of a Class 1 misdemeanor pursuant to the provisions of § 10.99 of the Town Code.

(Ord. O2011-03, passed 2-7-11)

CHAPTER 53: CAPACITY CHARGES

53.01 Capacity charges

53.02 Purpose; intent

53.03 Definitions

53.04 General provisions; applicability

53.05 Procedures for imposition, calculation and collection

53.06 Appropriation of capacity charges; refunds

53.07 Appeals

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§ 53.01 CAPACITY CHARGES.

<i>Meter Size</i>	<i>Capacity Charges: Cave Creek and Carefree Service Area</i>					
	<i>Inside the Town of Cave Creek Jurisdictional Boundary</i>			<i>Outside the Town of Cave Creek Jurisdictional Boundary</i>		
	<i>Water</i>	<i>Wastewater</i>	<i>Total</i>	<i>Water</i>	<i>Wastewater*</i>	<i>Total</i>
$\frac{5}{8}$ " and $\frac{3}{4}$ "	\$4,589	\$8,475	\$13,064	\$4,589	\$0	\$4,589
1" and 1.25"	\$7,628	\$13,912	\$21,540	\$7,628	\$0	\$7,628
1.5"	\$15,160	\$27,382	\$42,542	\$15,160	\$0	\$15,160
2"	\$24,234	\$43,612	\$67,846	\$24,234	\$0	\$24,234
3"	\$48,461	\$86,946	\$135,307	\$48,461	\$0	\$48,461
* These areas are not in the wastewater service area of the town.						

<i>Meter Size</i>	<i>Capacity Charges: Desert Hills Service Area</i>		
	<i>Water</i>	<i>Wastewater*</i>	<i>Total</i>
$\frac{5}{8}$ " and $\frac{3}{4}$ "	\$7,451	\$0	\$7,451
1" and 1.25"	\$12,408	\$0	\$12,408
1.5"	\$24,691	\$0	\$24,691
2"	\$39,489	\$0	\$39,489
3"	\$79,001	\$0	\$79,001
* These areas are not in the wastewater service area of the			

town.

(Ord. O2017-05, passed 5-1-17)

§ 53.02 PURPOSE; INTENT.

The purposes and intent of these capacity charge procedures are:

- (A) To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of capacity charges imposed on new development;
- (B) To implement the goals, objectives and policies of the Cave Creek General Plan relating to assuring that new development defrays the costs of water and water facilities reasonable necessitated by such new development;
- (C) To ensure that new development is reasonably benefitted by the provision of the facilities provided with the proceeds of capacity charges;
- (D) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures.

(Ord. O2017-05, passed 5-1-17)

§ 53.03 DEFINITIONS.

For the purpose of this chapter, the following definitions will apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person who files an application with the town for a building permit; OR requests access, use or connection to the town's water and/or wastewater system(s).

APPROPRIATION or TO APPROPRIATE. An action by the town to identify specific facilities that capacity charges may be used. This may include capital facilities, capital improvement programs, related debt, or related construction costs of water and/or wastewater facilities, in whole or in part; and/or the actual expenditure of capacity charges for those purposes.

CAPACITY CHARGES. Charges that are imposed on new development on a pro rata basis in connection with and as a condition of connecting to water and/or wastewater systems of the town and that is calculated to defray all or a portion of the costs of the water and/or wastewater facilities required to accommodate new development at town-designated level of service standards and that benefits the new development.

CONNECTION. The physical tie-in of a developer's water, effluent or sewer service to the town's water, effluent or sewer main; or when a developer or customer applies for actual service in the case where a permit was not obtained from the town.

DIRECTOR. The Director of Planning or his or her designee.

DEVELOPER. The individual, firm, corporation, partnership, association, syndication, trust or other legal entity that is responsible for creating a demand for town facilities and services.

GOVERNING BODY. The Mayor and Town Council of the Town of Cave Creek, Arizona.

MUNICIPAL PLANNING AREA. An area outside of the present Cave Creek town limits, but where the town may provide water and wastewater treatment services.

NEW DEVELOPMENT. Any new construction, reconstruction, redevelopment, rehabilitation, structural enlargement, structural extension, or new use that requires a new water meter or installation of a larger water meter, except as provided in § 53.05, any change in use of an existing building, structure or lot requiring any form of town building permit or approval or connection to the town water and/or wastewater system(s), and increases the required water meter size or requires installation of a larger water meter, except as provided in § 53.05, or, any change in use of an existing building or structure or change in use of land, that requires an increase in water meter size or installation of a larger water meter, except as provided in § 53.05.

SERVICE AREA. The area the town manages water and/or wastewater services and where the town will collect and expend

capacity charges to serve new development within the area.

WASTEWATER CAPACITY CHARGE. Charges imposed on all new development to defray costs of: the wastewater collection and wastewater treatment systems and necessary improvements, capital equipment and appurtenances thereto and related debt to accommodate new development.

WATER CAPACITY CHARGE. Charges imposed on all new development to defray costs of water treatment, storage and distribution systems and necessary capital improvements and capital equipment and appurtenances thereto and related debt to accommodate new development.

(Ord. O2017-05, passed 5-1-17)

§ 53.04 GENERAL PROVISIONS; APPLICABILITY.

(A) *Term.* This chapter and the procedures established herein will remain in effect unless and until repealed, amended or modified by the Mayor and Council in accordance with applicable state law and the town code, ordinances and resolutions.

(B) *Affected area.*

(1) *Service area.* Capacity charges will be imposed on new development in the areas the town provides water and/or wastewater services, that for purposes hereof, may be divided into service areas by the town.

(2) *Municipal planning areas.* Capacity charges imposed by the town may, if necessary and appropriate, be collected by other state and local governments on new development within the municipal planning areas and/or service areas, and are outside of the Cave Creek town limits, pursuant to an intergovernmental agreement that provides that the capacity charges collected be transferred to the town.

(3) *Identification.* The affected areas are the areas that the town does and is legally and physically able to provide water and/or wastewater services to.

(4) *Change in service areas.* By resolution, the town may change the boundaries of the service areas that capacity charges are charged within at times when deemed necessary to carry out the purposes and intent of this chapter and applicable legal requirements for use of capacity charges.

(C) *Type of development affected.* This chapter applies to all new development as herein defined in the capacity fee ordinances.

(D) *Type of development not affected.* This chapter will not apply to:

(1) *Previously-issued building permits within the town limits.* No capacity charges will be assessed on a previously issued building permit which has paid a prior assessed water/wastewater development fee or capacity fee. Previously issued building permits which have not paid a water/ wastewater and/or development fee(s) will be required to pay water and/or wastewater capacity fee(s).

(2) *Previous payment of capacity fees to the town.* No capacity charges will be due at a later stage of the development permit or approval process if capacity charges have been paid for the fully assessed development for water and/or wastewater facilities at an earlier stage in the development permit or approval process to the town.

(3) *No net increase in non-residential square footage.* No capacity charges will be imposed on any new non-residential development that does not add square footage, unless the new non-residential development increases the demand for water and/or wastewater facilities.

(4) *Development of other governmental entities.* Capacity charges will be imposed on new development by the State of Arizona, school districts organized pursuant to Arizona state laws, or the federal government, or agencies thereof, and (if mutually agreed by the parties) pursuant to payment terms established in an intergovernmental agreement with the town.

(E) *Effect of payment of capacity charges on other applicable town land use, zoning, platting, subdivision or development regulations.*

(1) The payment of capacity charges will not entitle the applicant to a building permit unless all other applicable land use, zoning, planning, platting, subdivision or other related requirements, standards and conditions have been met. Such other requirements, standards and conditions are independent of the requirement for payment of a capacity charge.

(2) This chapter will not affect, in any manner, the permissible use of property, density/intensity of development, design and

improvement standards or other applicable standards or requirements of the town land development regulations, that will be operative and remain in full force and effect without limitation.

(F) *Amendments.* This chapter may be amended from time to time by the Mayor and Council.

(G) *Effect of imposition of capacity charges in a special district.* In calculating and imposing capacity charges applicable to land in any type of special district established under state statutes, the town will take into consideration any water and/or wastewater facilities provided by the special district and capital costs paid by the special district for necessary water and/or wastewater facilities and will not assess a portion of the capacity charges otherwise calculated to be due that would duplicate the infrastructure provided by the district or the costs imposed by the district on new development.

(Ord. O2017-05, passed 5-1-17)

§ 53.05 PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION.

(A) *In general.* An applicant will be notified by the town of the applicable capacity charges required at the time of application for a building permit or connection is requested. Capacity charges will be assessed by the town at the time of application for a building permit or connect is requested and will be paid by the applicant prior to the issuance of the building permit or water and/or wastewater services are provided.

(B) *Calculation.*

(1) Upon receipt of an application for a water service agreement, the town will determine the fees based on the requested meters size(s) and the number of meter(s) requested.

(2) (a) Upon receipt of an application for a building permit, the town will determine if it is for a change in use. In such cases, the capacity charges due will be based only on the incremental difference in meter size.

(b) If the meter size increases from the existing meter to the new requested meter, the client will be assessed the difference in capacity charges.

(c) If the meter size decreases from the existing meter to the new requested meter, the town will not refund the difference in fees assessed.

(3) (a) After making these determinations (meter size and number of meters), the town will assess the new development for water and/or wastewater facilities a capacity charge incorporating any applicable offset if set forth in the particular capacity charge calculation methodology. The final decision of the Town Engineer may be appealed pursuant to § 53.07 herein.

(b) An applicant may request a non-binding estimate of capacity charges due for a particular new development at any time by filing a request on a form provided for such purpose by the Engineering Department; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and shall in no way bind the town nor preclude it from making amendments or revisions to any provisions of this chapter, the specific capacity charge implementing ordinances or the capacity fee schedules.

(4) The calculation of capacity charges due from a multiple-use new development shall be based upon the aggregated size and number of water meters requested in the new development.

(5) The calculation of capacity charges due from a phased new development will be based upon the size and number of water meters requested within the phase of development for which a separate building permit is requested.

(6) Capacity charges will be calculated based on the capacity charge amount in effect at the time of application for a building permit or connection request is made.

(C) *Offsets.*

(1) Offsets against the amount of capacity charges due from a new development will be provided for, among other things, contributions made or to be made in the future in cash, or by dedication of land or by actual construction of all or part of a water or wastewater facility by the affected property owner for public facilities meeting or exceeding the demand generated by the new development and the contribution is determined by the town to be a reasonable substitute for the cost of water or wastewater facilities which are included in the particular capacity charge calculation methodology.

(2) The amount of the excess contribution will be determined by the town upon receipt of an application form requesting an

offset; provided, however, that:

(a) The town will make no reimbursement for excess contributions unless it is part of a negotiated development agreement accepted by a vote of the Mayor and Town Council.

(b) The excess contribution may not be transferred or credited to any other type of charges or fees calculated to be due from that development for other type of public facilities.

(3) No offset will be allowed unless the town has approved the contribution or expenditure before it is made.

(4) Offsets for dedication of land or provision of water or wastewater facilities will be applicable only as to capacity charges imposed for the same types of facilities that are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a facility exceeds the capacity charges due for the type of water or wastewater facility, the excess value may not be transferred to capacity charges calculated to be due from the applicant for other types of public facilities that capacity charges or development fees maybe imposed. Offsets may, however, be transferred to the same applicant or to other applicants for new development, which are proposed within the final approved platted area of the same development and for the same type of public facility.

(D) *Collection.* The town will collect all applicable capacity charges at the time of issuance of a water service agreement or meter set application and will issue a receipt to the applicant for such payment unless:

(1) The applicant is determined to be entitled to a full offset; or

(2) The applicant has filed an appeal and a bond or other surety in the amount of the capacity charges, as calculated by the town and approved by the Town Attorney and Town Engineer, has been posted with the town.

(Ord. O2017-05, passed 5-1-17)

§ 53.06 APPROPRIATION OF CAPACITY CHARGES; REFUNDS.

(A) *Appropriation of capacity charges.*

(1) *In general.* Water and wastewater capacity charges may be appropriated for water and wastewater facilities, for capital facility expenditures and for the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the town or other applicable local governmental entities to finance such water and wastewater facilities and water and wastewater public facility expenditures. All appropriations of capacity charges will be documented and filed within the Finance Department.

(2) *Restrictions on appropriations.* Capacity charges will be appropriated only:

(a) For the particular public facility that they were imposed, calculated and collected;

(b) For the purpose collected to serve the new development; and

(c) Capacity charges will not be appropriated for funding maintenance or repair of water or wastewater facilities nor for operational or personnel expenses associated with the provision of the water or wastewater facility.

(3) *Appropriation of capacity charges outside of area where collected.* Capacity charges may be appropriated for a water or wastewater facilities located outside of the service area only if the demand for the water or wastewater facility is generated in whole or in part by the new development or if the facility will actually serve the new development.

(B) *Refunds.*

(1) *Eligibility for refund.*

(a) *Expiration or revocation of building permit.* An applicant who has paid a capacity charge for a new development that the necessary building permit has expired or that the building permit has been revoked prior to construction will be eligible to apply for a refund of capacity charges paid on a form provided by the town for such purposes.

(b) *Abandonment of development after initiation of construction.* An applicant who has paid a capacity charge for a new development that a building permit has been issued and construction has been initiated, but the construction is abandoned prior to completion and issuance of a certificate of occupancy, will not be eligible for a refund unless the uncompleted building is completely

demolished.

(c) A 5% administrative fee, but not to exceed \$200, will be deducted from the amount of any refund granted and will be retained by the town to defray the administrative expenses associated with the processing of a refund application.

(2) Except as provided in divisions (B)(1)(a) and (b) and (B)(5) of this section, refunds will be made only to the current owner of property on that the new development was proposed or occurred.

(3) *Processing of applications for a refund.* Applications for a refund will be made on a form provided by the town for such purposes and will include all information required in (B)(4) of this section, as appropriate. Upon receipt of a complete application for a refund, the town will review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment will be made following an affirmative determination by the town.

(4) (a) Applications for refunds due to abandonment of a new development prior to completion will be made on forms provided by the town and will be made within 60 days following expiration or revocation of the building permit. The applicant will submit:

1. Evidence that the applicant is the property owner or the duly designated agent of the property owner;
2. The amount of the capacity charges paid by category and receipts evidencing such payments; and
3. Documentation evidencing the expiration or revocation of the building permit or proof of demolition of the structure pursuant to a valid demolition permit.

(b) Failure to apply for a refund within 60 days following expiration or revocation of the building permit or demolition of the structure will constitute a waiver of entitlement to a refund. No interest shall be paid by the town in calculating the amount of the refunds.

(5) The town may, at its option, make refunds of capacity charges by direct payment, by offsetting such refunds against other fees due for new development on the same property, or by other means subject to agreement with the property owner.

(Ord. O2-17-05, passed 5-1-17)

§ 53.07 APPEALS.

(A) An appeal from any decision of a town official pursuant to this chapter will be made to the Mayor and Council by filing a written appeal pursuant to the appropriate town form with the Town Clerk within 30 days following the decision that is being appealed; provided, however, that if the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the Town Attorney and the Town Engineer in an amount equal to the capacity charges calculated to be due, a building permit may be issued to the new development and/or the requested connection can be made. The filing of an appeal will not stay the imposition or the collection of the capacity charges as calculated by the town unless a cash bond or other sufficient surety has been provided.

(B) The burden of proof will be on the appellant to demonstrate that the decision of the town is erroneous.

(C) All appeals will detail the specific reasons for the appeal and include all other relevant information that will be filed on a form provided by the town for such purposes.

(Ord. O2017-05, passed 5-1-17)

§ 53.08 WAIVERS.

(A) *Filing of application.* Petitions for exemptions to the application of the provisions of this chapter or waivers from specific capacity charges will be filed with the Mayor and Town Council on forms provided by the town.

(B) *Development agreements.* Nothing herein will be deemed to limit the town's authority or ability to enter into development agreements pursuant to A.R.S. § 9-500.05 with applicants for new development who may provide for dedication of land, payments in lieu of capacity charges, or actual infrastructure improvements. Such development agreements may allow offsets against capacity charges for contributions made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of water and/or wastewater facilities dedicated to the town by the affected property owner.

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC REGULATIONS
- 72. PARKING REGULATIONS
- 73. TRAFFIC SCHEDULES

Cross-reference:

Penalties for traffic and parking, see § 10.99

CHAPTER 70: GENERAL PROVISIONS

Section

Administration and Enforcement

- 70.01 Administration and enforcement authority for parking and traffic regulations
- 70.02 Records of traffic violations
- 70.03 Accidents

Statutory reference:

Authority over street and traffic, see A.R.S. §§ 9-240(B)(3) and (4), 28-627, and 28-643

Cross-reference:

Penalties for traffic and parking, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 70.01 ADMINISTRATION AND ENFORCEMENT AUTHORITY FOR PARKING AND TRAFFIC REGULATIONS.

It shall be the duty of the Police Department under the direction of the Town Marshal to provide for the enforcement of the street traffic regulations of the town (enumerated in Title VII: Traffic Code of the Town Code) and all of the state vehicle laws applicable to roadway parking and traffic in the town, to make arrests for such violations, to investigate accidents and to assist in developing ways and means to improve traffic conditions, and to carry out all duties specially imposed upon the Police Department by Title VII of this code.

(’87 Code, § 13-1-1; Am. Ord. O2007-11, passed 9-24-07)

§ 70.02 RECORDS OF TRAFFIC VIOLATIONS.

(A) The Town Marshal shall keep a record of all violations of the traffic laws of the town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year

period.

(B) All forms for records of violations and notices shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(C) All records and reports shall be public records.

(`87 Code, § 13-1-2)

§ 70.03 ACCIDENTS.

(A) *Investigations.* It shall be the duty of the Police Department under the direction of the Town Marshal to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

(`87 Code, § 13-1-3)

(B) *Studies.* Whenever the accidents at any particular location become numerous, the Town Marshal shall conduct studies of such accidents and determine remedial measures.

(`87 Code, § 13-1-4)

(C) *Reports.*

(1) The Town Marshal shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location.

(2) The Police Department shall receive and properly file all accident reports made to it under state law or under any law of the town. All such accident reports made by drivers shall be for the confidential use of the town. No such report shall be admissible in any civil or criminal proceeding other than upon request of any person making such report or upon request of the court having jurisdiction, to prove compliance with the laws requiring the making of any such report.

(`87 Code, § 13-1-5)

Statutory reference:

Accidents, see A.R.S. §§ 28-661 et seq.

CHAPTER 71: TRAFFIC REGULATIONS

Section

Traffic Control Authority

71.01 Authority to direct traffic

71.02 Authority to place and maintain parking signs and traffic control devices

71.03 Authority to designate crosswalks, safety zones, and traffic lanes

71.04 Authority to place turning markers

71.05 Authority to place restricted turn signs

Prohibitions and Regulations

71.15 Obedience to parking and traffic regulations required

71.16 Driving on private and public property

71.17 Obedience to parking and traffic control devices

- 71.18 Obedience to turning markers
- 71.19 Obedience to restricted turn signs
- 71.20 U-turns
- 71.21 One-way streets and alleys
- 71.22 Stop and yield intersections
- 71.23 Obedience to signs
- 71.24 Processions
- 71.25 Speed limits
- 71.26 Violations
- 71.27 Use of motor vehicles on trails
- 71.28 Yielding on trails

Cross-reference:

General offenses; obstruction of view of traffic, see § 130.09

TRAFFIC CONTROL AUTHORITY

§ 71.01 AUTHORITY TO DIRECT TRAFFIC.

The Town Marshal and members of the Police Department are hereby authorized to direct all traffic by voice, hand, or signal.

(‘87 Code, § 13-2-1)

§ 71.02 AUTHORITY TO PLACE AND MAINTAIN PARKING SIGNS AND TRAFFIC CONTROL DEVICES.

The Town Engineer, with the approval of the Town Council, shall place and maintain parking signs and traffic control devices, signs, and signals when and as required under the parking and traffic regulations of the town to make effective the provisions of said regulations, and may place and maintain such additional control devices as he or she may deem necessary to regulate traffic under the parking and traffic laws of the town or under state law or to guide or warn traffic.

(‘87 Code, § 13-2-4(A); Am. Ord. O2007-11, passed 9-24-07)

Statutory reference:

Conformance to state manual and specifications required, see A.R.S. § 28-643

§ 71.03 AUTHORITY TO DESIGNATE CROSSWALKS, SAFETY ZONES, AND TRAFFIC LANES.

The Town Engineer is hereby authorized, on approval by the Town Council:

(A) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he or she may deem necessary.

(B) To establish safety zones of such kind and character and at such places as he or she may deem necessary for the protection of pedestrians.

(C) To mark lanes for traffic on street pavement at such places as he or she may deem advisable, consistent with the traffic laws

of the town and principles of traffic engineering.

(`87 Code, § 13-2-5)

§ 71.04 AUTHORITY TO PLACE TURNING MARKERS.

The Town Engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

(`87 Code, § 13-2-6(A))

§ 71.05 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Town Engineer, on approval by the Town Council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs, or such signs may be removed when such turns are permitted.

(`87 Code, § 13-2-7(A))

PROHIBITIONS AND REGULATIONS

§ 71.15 OBEDIENCE TO PARKING AND TRAFFIC REGULATIONS REQUIRED.

(A) It is unlawful, except as otherwise provided in this code, for any person to do any act forbidden or fail to perform any act required by Title VII: TRAFFIC CODE or willfully fail or refuse to comply with any lawful order or direction of the Town Marshal, police officer or officer of the Maricopa County Sheriff's Department.

(B) No driver shall drive upon or through any private property such as an oil station, vacant lot, or similar property to avoid obedience to any regulation in Title VII: TRAFFIC CODE.

(`87 Code, §§ 13-2-2, 13-2-11; Am. Ord. O2007-11, passed 9-24-07) Penalty, see § 10.99

§ 71.16 DRIVING ON PRIVATE AND PUBLIC PROPERTY.

(A) It is a civil traffic violation for any person to operate, drive, or leave any motor vehicle, motorcycle, motor scooter, minibike, trail bike, dune buggy, jeep, or other form of transportation propelled by an internal combustion engine upon the private property of another or upon public property which is not held open to the public for vehicle use, without permission from the owner of the property or the person entitled to immediate possession thereof, or the authorized agent of either.

(B) Whenever any person is stopped by a police officer for investigation of a violation of (B) above, the person shall show proof that the permission required has been obtained, and from whom permission was obtained.

(C) Any violation of division (B) of this section constitutes a civil traffic violation as defined by the provisions of A.R.S. §§ 28-1591 et seq. and shall be punishable as provided in § 10.99.

(`87 Code, § 13-2-3) Penalty, see § 10.99

§ 71.17 OBEDIENCE TO PARKING AND TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any parking or traffic control device applicable thereto placed in accordance with the parking and traffic regulations of the town unless otherwise directed by the Town Marshal, subject to the exceptions granted in Title VII: TRAFFIC CODE or by state law. No such regulations shall be effective unless signs are erected and in place at the time

of any alleged offense or violation.

(`87 Code, § 13-2-4(B); Am. Ord. O2007-11, passed 9-24-07) Penalty, see § 10.99

§ 71.18 OBEDIENCE TO TURNING MARKERS.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(`87 Code, § 13-2-6(B)) Penalty, see § 10.99

§ 71.19 OBEDIENCE TO RESTRICTED TURN SIGNS.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(`87 Code, § 13-2-7(B)) Penalty, see § 10.99

§ 71.20 U-TURNS.

The driver of any vehicle shall not upon any street turn a vehicle so as to proceed in the opposite direction upon any street unless such movement can be made in safety and without interfering with other traffic.

(`87 Code, § 13-2-8) Penalty, see § 10.99

§ 71.21 ONE-WAY STREETS AND ALLEYS.

(A) The Town Council shall by resolution designate any streets or alleys which are to be limited to one-way traffic.

(B) When any resolution of the Town Council designates any one-way street or alley, the Town Engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(`87 Code, § 13-2-9)

§ 71.22 STOP AND YIELD INTERSECTIONS.

(A) The Town Council shall by resolution designate through streets, intersections where stops are required, and intersections where vehicles shall yield the right-of-way.

(B) When any resolution of the Town Council shall designate any through street or intersection where vehicles are to stop or yield the right-of-way, the Town Engineer shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right-of-way.

(`87 Code, § 13-2-10)

§ 71.23 OBEDIENCE TO SIGNS.

Whenever traffic signs are erected in accordance with Title VII: TRAFFIC CODE, every driver of a vehicle shall obey such signs unless directed to proceed by the Town Marshal or a traffic control signal.

(`87 Code, § 13-2-11; Am. Ord. O2007-11, passed 9-24-07) Penalty, see § 10.99

§ 71.24 PROCESSIONS.

(A) No procession or parade, except funeral processions, shall be held without first securing a permit from the Town Marshal, and all such requests for permits shall state the time, place of formation, proposed line of march, destination, and such procession shall comply with any other regulations as the Town Marshal may set forth in the permit.

(B) A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the Town Marshal.

(C) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic control signals or the Town Marshal.

(D) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(`87 Code, § 13-2-12) Penalty, see § 10.99

Statutory reference:

Funeral procession right-of-way, see A.R.S. § 28-776

§ 71.25 SPEED LIMITS.

Any speed in excess of 25 miles per hour shall be prima facie evidence that the speed is not reasonable and is a civil traffic violation on every public street of the town, except those streets designated in Chapter 73, Schedule 1 as having other speed limits.

(`87 Code, § 13-2-13) (Ord. 91, passed 6-25-91) Penalty, see § 10.99

Cross-reference:

Traffic schedules; speed limits, see Chapter 73, Schedule I

§ 71.26 VIOLATIONS.

Any violation of this chapter shall constitute a civil traffic offense, punishable as provided in § 10.99(B).

(Ord. O-2005-07, passed 6-20-05)

§ 71.27 USE OF MOTOR VEHICLES ON TRAILS.

(A) It shall be unlawful for any person to operate, drive, or leave any motor vehicle upon any trail which has been identified as such by the posting of signs or notices.

(B) This section shall not apply to persons, who would otherwise be in violation of this section, when a motor vehicle is being used for the purpose of or incidental to the:

(1) Performance of authorized inspection, maintenance, construction, repair, other works or activities, pursuant to the prior written approval of the Town Manager, or the Town Manager's designee, which approval shall be revocable without cause or notice;

(2) Performance of rendering of police, fire or emergency search and rescue, medical or veterinary services, including the operation of emergency vehicles performing emergency work;

(3) Operation of a motor vehicle on, over, or across a street, driveway, highway, or other right-of-way which is used, open, or activated for public or private motor vehicle use.

(C) This section shall be inapplicable to the use and operation of a motorized wheelchair by a person. This subsection shall not be construed, however, to limit the town's ability to establish rules and regulations prohibiting the use of such equipment in specific areas, when it is deemed necessary for safety purposes.

§ 71.28 YIELDING ON TRAILS.

All users of public trails shall yield to equestrians. Cyclists shall yield to all others. A person using designated public trails and approaching a horse-drawn vehicle, a horse on which a person is riding, a horse which a person is leading, or livestock being driven or shepherded on the trail shall exercise reasonable precaution to prevent frightening and to safeguard the animals and to ensure the safety of the persons riding or driving the animals. At the request of the person in control of the animals, the trail user shall reduce its speed or shall not proceed further until the animals have passed.

(Ord. O2015-01, passed 2-2-15)

CHAPTER 72: PARKING REGULATIONS

Section

Parking Control Authority

- 72.01 Authority to erect signs and regulate parking
- 72.02 Authority to designate no-parking zones
- 72.03 Authority to remove unlawfully parked vehicles

Prohibitions and Regulations

- 72.15 Applicability and interpretation
- 72.16 Parking method
- 72.17 Obstruction of traffic
- 72.18 School areas
- 72.19 Obedience to parking signs
- 72.20 Commercial vehicles and trailers
- 72.21 Prohibited purposes
- 72.22 Handicap parking areas
- 72.23 Abandoned vehicles
- 72.24 No-parking areas

Junk, Inoperable, or Unregistered Vehicles

- 72.35 Junk motor vehicles
- 72.36 Vehicles on public rights-of-way
- 72.37 Commencement of proceedings for violations

Private Parking

- 72.50 Private parking areas generally
- 72.51 Consent; notice to public
- 72.52 Permission required to remove vehicles
- 72.53 Notice to sheriff

72.54 Maximum towing charges; 24-hour vehicle retrieval

72.98 Violations

72.99 Penalty

Statutory reference:

Stopping, standing, and parking regulations, see A.R.S. §§ 28-871 et seq.

PARKING CONTROL AUTHORITY

§ 72.01 AUTHORITY TO ERECT SIGNS AND REGULATE PARKING.

The Town Marshal, upon approval by the Town Council, may erect signs requiring parking at an angle to the curb, allowing parking on the left hand curb on one-way streets, notifying drivers that parking is prohibited, and restricting parking in any way that may be necessary.

(‘87 Code, § 13-3-4)

§ 72.02 AUTHORITY TO DESIGNATE NO-PARKING ZONES.

(A) The Town Marshal and Town Engineer are hereby authorized to designate no-parking zones in which vehicles shall not stop, stand or park except for:

- (1) Use of spaces designated by the Town Marshal or Town Engineer;
- (2) Avoiding or responding to bona fide emergencies;
- (3) Compliance with traffic control devices or instructions of the Town Marshal;
- (4) Obedience to an authorized emergency vehicle as defined by A.R.S. § 28-101; or
- (5) The parking of authorized emergency vehicles.

(B) Any restricted area shall be marked by the posting of official signs or by painting the curb red. No person shall stop, stand or park a vehicle in disobedience to such restrictions.

(Ord. 97-18, passed 6-30-97; Am. Ord. O2007-11, passed 9-24-07)

§ 72.03 AUTHORITY TO REMOVE UNLAWFULLY PARKED VEHICLES.

The Town Marshal and other law enforcement officials are hereby authorized to remove vehicles parking in violation of this chapter.

(Ord. 97-18, passed 6-30-97)

Statutory reference:

Removal of illegally stopped vehicles, see A.R.S. § 28-872

PROHIBITIONS AND REGULATIONS

§ 72.15 APPLICABILITY AND INTERPRETATION.

(A) The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(B) The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

(`87 Code, § 13-3-8)

§ 72.16 PARKING METHOD.

Except as otherwise provided by resolution of the Town Council, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within 18 inches of the right-hand curb.

(`87 Code, § 13-3-1) Penalty, see § 10.99

§ 72.17 OBSTRUCTION OF TRAFFIC.

(A) No person shall stop, stand, or park any motor vehicle or other vehicle upon a roadway in the town in such a manner or under such conditions as to leave available less than the entire width of the roadway for the free movement of vehicular traffic in all lanes of travel, except that a person may:

(1) Park a motor vehicle or other vehicle in a parking space designated by the Town Marshal or Town Engineer;

(2) Stop, stand or park a motor vehicle or other vehicle for bona fide emergencies, including to avoid striking a vehicle, person or animal in the roadway;

(3) Stop a motor vehicle or other vehicle temporarily when necessary in the observance of traffic control devices or the instructions of the Town Marshal;

(4) Stop, stand or park a motor vehicle or other vehicle for the purpose of compliance with the laws regarding authorized emergency vehicles as defined by A.R.S. § 38-101; or

(5) Stop, stand or park authorized emergency vehicles upon the street in such a manner that allows for the safe movement of traffic and pedestrians.

(B) No person shall park a motor vehicle or other vehicle within an alley or entrance to a private driveway except for the loading or unloading of materials, and not then unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

(C) No person shall stand on or adjacent to a street or highway and solicit or attempt to solicit employment, business or contributions from the occupant of any vehicle.

(D) The Town Manager is authorized to suspend the application of parking provisions of Title VII: TRAFFIC CODE, in writing and for defined durations of time, based upon a determination that such temporary suspension is beneficial to the public convenience of the town. The temporary suspension of the application of parking regulations under Title VII is effective without approval by the Town Council or the issuance of a permit.

(`87 Code § 13-3-2; Am. Ord. O2007-11, passed 9-24-07) Penalty, see § 10.99

§ 72.18 SCHOOL AREAS.

When signs are erected indicating no parking on that side of the street adjacent to any school property, no person shall park a vehicle in any such designated place for one hour before school opens until one hour after school closes on any school day.

(`87 Code, § 13-3-3) Penalty, see § 10.99

§ 72.19 OBEDIENCE TO PARKING SIGNS.

When signs have been erected pursuant to § 72.01, no person shall stop or stand a vehicle in disobedience to such parking restrictions.

(`87 Code, § 13-3-4) Penalty, see § 10.99

§ 72.20 COMMERCIAL VEHICLES AND TRAILERS.

The parking of any commercial vehicle or any trailer, whether unattached or attached to a vehicle, which because of its size or contents would be a hazard to traffic, property, or the safety of persons or animals in the area is prohibited on any street within the corporate limits of the town.

(`87 Code, § 13-3-6) Penalty, see § 10.99

§ 72.21 PROHIBITED PURPOSES.

No person shall park a vehicle upon any street or state, county, or town right-of-way for the principal purpose of:

- (A) Displaying such vehicle for sale.
- (B) Washing, changing the oil of, greasing, or repairing such vehicle, except repairs necessitated by an emergency.
- (C) Displaying advertising.
- (D) Displaying commercial exhibits.

(`87 Code, § 13-3-7) Penalty, see § 10.99

§ 72.22 HANDICAP PARKING AREAS.

(A) No person shall park a vehicle in a parking space set aside and identified for use only by persons with physical disabilities unless the vehicle has displayed thereon a distinguishing insignia as provided in A.R.S. §§ 28-881 et seq.

(B) Division (A) of this section shall apply only to those parking spaces that are identified with standard signs or other markers, as approved by the Police Department.

(C) Any person or business which causes a parking space to be set aside for use only by persons with physical disabilities and identifies such parking space by the methods described in division (B) of this section shall be deemed to have given consent to the Police Department to enforce a violation of this section when such violation occurs on the private property of such person or business.

(`87 Code, § 13-3-9) Penalty, see § 10.99

§ 72.23 ABANDONED VEHICLES.

Any vehicle left unattended for more than 48 hours within the right-of-way of a highway, road, street, or other public thoroughfare or on any sidewalk is declared to be an abandoned vehicle, and the police shall forthwith remove the same from the sidewalks or streets of the town at the expense of the owner of such vehicle.

(`87 Code, § 13-3-10) Penalty, see § 10.99

Statutory reference:

Abandoned, seized, and junk vehicles; state regulations and procedures, see A.R.S. §§ 28-4801 et seq.

Limitations on abandoned vehicle removal, see A.R.S. §§ 28-2411, 28-2481 and 28-4832

§ 72.24 NO-PARKING AREAS.

(A) *Prohibition.* Except if necessary to avoid conflict with other traffic or if in compliance with law or the directions of a police officer or traffic control device, a person shall not stop, stand, or park a vehicle in any of the places set forth in division (B) of this section.

(B) *Locations.*

(1) On a sidewalk.

(2) In front of a public or private driveway, except that this subdivision does not apply to a vehicle or the driver of a vehicle engaged in the official delivery of the United States mail if both of the following apply:

(a) The driver does not leave the vehicle.

(b) The vehicle is stopped only momentarily.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) On a crosswalk.

(6) Within 20 feet of a crosswalk at an intersection.

(7) Within 30 feet on the approach to any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a roadway.

(8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the lawful authority indicates a different length by signs or markings.

(9) Within 50 feet of the nearest rail or a railroad crossing or within 8 feet, 6 inches of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars.

(10) Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly posted.

(11) Alongside or opposite a street excavation or obstruction when stopping, standing, or parking would obstruct traffic.

(12) On the roadway side of a vehicle stopped or parked at the edge or curb of a street.

(13) On a bridge or other elevated structure on a highway or within a highway tunnel.

(14) At any place where official signs prohibit standing or stopping.

(15) On a controlled access highway except for emergency reasons or except in areas specifically designated for parking such as rest areas.

(A.R.S. § 28-873)

(16) In that area between the curb and sidewalk. On those roadways without curbs no person shall park a vehicle so as to force a pedestrian to walk in the traveled portion of the roadway.

(Ord. 97-18, passed 6-30-97) Penalty, see § 10.99

JUNK, INOPERABLE, OR UNREGISTERED VEHICLES

§ 72.35 JUNK MOTOR VEHICLES.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

JUNK MOTOR VEHICLE. Any motor vehicle the condition of which is wrecked, dismantled, partially dismantled, or

inoperative or from which the wheels, engine, transmission, or other substantial part thereof has been removed.

MOTOR VEHICLE. Any vehicle which is self-propelled and designed to travel along the ground and includes, but is not limited to, automobiles, motor homes, buses, motor bikes, motorcycles, motor scooters, and trucks which are required to be registered and licensed with the Arizona State Department of Motor Vehicles.

(B) *Storing, parking, or leaving junk motor vehicles on private property prohibited.* It is unlawful and shall constitute a nuisance for a person to park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle for a period in excess of five days upon any private property within the town unless progress is being made toward immediate repair of such junk motor vehicle, provided that the provisions of this section shall not apply to any junk motor vehicle in an enclosed building or an area completely screened from view, or on the premises of a business enterprise which is properly operated in the appropriate business zone pursuant to the Zoning Ordinance of the town.

(`87 Code, § 13-4-1) (Ord. 88-12, passed 6-20-88)

§ 72.36 VEHICLES ON PUBLIC RIGHTS-OF-WAY.

(A) No person shall park any vehicle which is inoperable on any street or public right-of-way. It is an affirmative defense to a violation of this division (A) that the vehicle was removed from the street or public right-of-way within 48 hours of becoming inoperable.

(B) No person shall park any vehicle which does not display current registration on any street or public right-of-way.

(`87 Code, § 13-4-2) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 72.37 COMMENCEMENT OF PROCEEDINGS FOR VIOLATIONS.

(A) An action to hear and determine an alleged violation of this chapter shall be commenced by issuance of a citation by the Town Marshal, Deputy Town Marshal, or other peace officer of the state.

(B) The citation shall be in substantially the form of the Uniform Arizona Traffic Ticket and Complaint provided for in the Arizona Rules of Procedure in civil traffic violation cases, or in such other form as may be prescribed by resolution of the Town Council.

(C) Service of any citation for violation of this chapter may be accomplished and will be deemed proper and complete by any of the following methods:

(1) By having the defendant sign the citation with a promise to appear in the Town Court ten or more days after issuance of the citation.

(2) If the defendant refuses to sign the citation, by hand delivering a copy of the citation to the defendant.

(3) By affixing the citation to any motor vehicle owned by the defendant and the parking, location, or abandonment of which constitute the offense charged in the citation.

(4) In the event service cannot be accomplished as set forth above, the defendant may be served by any means authorized by the Arizona Rules of Civil Procedure for the Superior Court.

(Ord. O-2005-07, passed 6-20-05)

PRIVATE PARKING

§ 72.50 PRIVATE PARKING AREAS GENERALLY.

No person shall park a vehicle in any private parking area without the express or implied consent of the owner or person in lawful possession of such property.

(Ord. O-2004-02, passed 3-1-04) Penalty, see § 72.99

§ 72.51 CONSENT; NOTICE TO PUBLIC.

(A) The owner or person in lawful possession of any private parking area shall be deemed to have given consent to unrestricted parking by the general public in such parking area unless such parking area is posted with signs as prescribed by this section which are clearly visible and readable at each entrance to the parking area and as required by the Town Engineer. The signs shall contain the following information:

- (1) Any restrictions on parking.
- (2) That violator's vehicle will be towed away at violator's expense.
- (3) The words "CONTACT MARICOPA COUNTY SHERIFF'S OFFICE (602) 876-1011" or current correct telephone number.
- (4) The maximum cost to the violator, including storage fees and any other charges that could result from the disposition of his or her vehicle parked in violation of parking restrictions.
- (5) That each sign shall state C.C.T.C. § 72.51.

(B) No person shall tow or transport a vehicle from a private parking area unless the signs are posted as required by this section and contain all the information specified in division (A) of this section.

(Ord. O-2004-02, passed 3-1-04) Penalty, see § 72.99

§ 72.52 PERMISSION REQUIRED TO REMOVE VEHICLES.

No person shall tow or transport any vehicle from a private parking area without the permission of the owner or operator of the vehicle unless such person receives the express written permission from the owner or agent of the owner of the private parking area. The owner or his or her agent shall either sign each towing order or authorize the towing by written contract, which is valid for a specific length of time. The person towing or transporting the vehicle may not act as the agent of the owner.

(Ord. O-2004-02, passed 3-1-04) Penalty, see § 72.99

§ 72.53 NOTICE TO SHERIFF.

Any person towing or transporting any vehicle from a private parking area without the express permission of the vehicle owner shall notify the Maricopa County Sheriff's Office immediately upon the taking of such action and provide the following information:

- (A) The name and address of the owner of the vehicle, if known.
- (B) The vehicle license number and description.
- (C) The reason the vehicle was moved without the permission of the person parking such vehicle.
- (D) The location where the vehicle was taken.
- (E) The name, address and telephone number of the person or company that towed or transported the vehicle.

(Ord. O-2004-02, passed 3-1-04) Penalty, see § 72.99

§ 72.54 MAXIMUM TOWING CHARGES; 24-HOUR VEHICLE RETRIEVAL.

(A) The maximum rate and charge for towing, transporting and impounding a motor vehicle from private property without the permission of the owner or operator of the vehicle shall be \$75 for each 24-hour period or part thereof.

(B) No person towing or transporting the vehicle from a private parking area shall charge any fee or amount in excess of the amount specified in this section.

(C) Any person towing or transporting a vehicle from the private parking area shall maintain personnel able and authorized to release any vehicle to its owner on a 24-hour basis, seven days a week.

§ 72.98 VIOLATIONS.

- (A) Any violation of this chapter shall constitute a civil traffic offense, punishable as provided in § 10.99(B).
- (B) In any proceeding alleging the commission of a civil traffic offense by reason of the parking, location, or abandonment of any motor vehicle at any time or place, or under any circumstances, which shall constitute a violation of this chapter, the registered owner of such motor vehicle and/or the owner of recorded title to the premises on which the alleged violation occurred shall be held prima facie responsible for any such violation and shall be subject to paying the sanction for such violation, provided, however, that any such vehicle owner or landowner may provide as a matter of affirmative defense that some other specifically identified person committed the civil traffic offense complained of or that the offense was committed without his or her knowledge and was corrected within ten days after he or she received a citation with respect thereto.
- (`87 Code, Art. 13-5) (Ord. 91-20, passed 7-9-91; Am. Ord. O-2005-07, passed 6-20-05)

§ 72.99 PENALTY.

Violations of §§ 72.50*et seq.* shall be punishable as set forth in § 10.99 of this code.

(Ord. O-2004-02, passed 3-1-04)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

I. Speed limits

Statutory reference:

Alteration of speed limits, see A.R.S. § 28.703

SCHEDULE I. SPEED LIMITS.

Any speed in excess of 25 miles per hour shall be prima facie evidence that the speed is not reasonable and is a civil traffic violation on every public street of the town, except those streets noted below as having other speed limits.

<i>Street</i>	<i>From</i>	<i>To</i>	<i>Speed Limit (m.p.h.)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Carefree Highway	52nd Street	Cave Creek Road	55	91-10	6-25-91
Cave Creek	South town limits	Blue Ridge	45	91-10	6-25-91
	Blue Ridge	Approximately 100 yards south of Spur Cross Road	40	91-10	6-25-91

Road	Spur Cross	300 feet east of School House Road	30	91-10	6-25-91
	300 feet east of School House Road	East corporate limits of the town	35	91-10	
Egret Street	Hidden Valley Drive	Sunset Trail	15	91-10	6-25-91

<i>Street</i>	<i>From</i>	<i>To</i>	<i>Speed Limit (m.p.h.)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Fleming Springs	Spur Cross Road	The end of the pavement	35	91-10	6-25-91
Grapevine Road	School House	Eastward for a distance of 2700 feet	15	91-10	6-25-91
Lone Mountain	Echo Canyon	Fleming Springs	35	91-10	6-25-91
School House Road	Fleming Springs	Grapevine Road alignment	40	91-10	6-25-91
	From the point of the Grapevine Road alignment (above)		35	91-10	6-25-91
	At the top of the hill adjacent to the library entrance		25	91-10	6-25-91
Spur Cross	Generally		35	91-10	6-25-91
	As posted on curves		25	91-10	6-25-91
	On sharp turn at Grapevine Road		15	91-10	6-25-91
	Approaching Cave Creek Road		25	91-10	6-25-91

('87 Code, § 13-2-13) (Am. Ord. 91-10, passed 6-25-91) Penalty, see § 10.99

Cross-reference:

Speed limits, see § 71.25

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. NUISANCES

92. HEALTH AND SANITATION

93. STREETS, SIDEWALKS, AND WATERWAYS

94. PARKS AND RECREATION

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Definitions

Regulations

90.10 Vicious animals

90.11 Noisy animals

90.12 Livestock and poultry at large

90.13 Conditions where animals kept

90.14 Dogs

90.15 Unlawful interference with enforcement agent

90.16 Removal of impounded animals prohibited

Administration

90.25 Rabies and animal control services contracts

Statutory reference:

Authority of town over animals, see A.R.S. §§ 9-240(B)(16) and 11-1018

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any animal of a species that is susceptible to rabies, except man.

AT LARGE. Being neither confined by an enclosure nor physically restrained by a leash.

DEPARTMENT. The State Department of Health Services.

ENFORCEMENT AGENT. That person in each county who is responsible for the enforcement of this chapter and the rules adopted under this chapter or any other applicable law.

IMPOUND. The act of taking or receiving into custody by the Enforcement Agent any dog or other animal for the purpose of confinement in a pound in accordance with the provisions of this chapter.

KENNEL. An enclosed, controlled area inaccessible to other animals in which a person keeps, harbors, or maintains five or more dogs under controlled conditions.

LIVESTOCK. Neat animals, horses, sheep, goats, swine, mules, and asses.

OWNER. Any person keeping an animal other than livestock for more than six consecutive days.

POUND. Any establishment authorized for the confinement, maintenance, safekeeping, and control of dogs and other animals that come into the custody of the Enforcement Agent in the performance of his or her official duties.

RABIES QUARANTINE AREA. Any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to this area.

STRAY DOG. Any dog three months of age or older running at large that is not wearing a valid license tag.

VACCINATION. The administration of an anti-rabies vaccine to animals by a veterinarian.

VETERINARIAN. Unless otherwise indicated, any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

VETERINARY HOSPITAL. Any establishment operated by a veterinarian licensed to practice in this state that provides clinical facilities and houses animals or birds for dental, medical, or surgical treatment. A veterinary hospital may have adjacent to it or in conjunction with it or as an integral part of it pens, stalls, cages, or kennels for quarantine, observation, or boarding.

VICIOUS ANIMAL. Any animal of the order *carnivora* that has a propensity to attack, to cause injury to, or to otherwise endanger the safety of human beings without provocation or that has been so declared after a hearing before a justice of the peace or a city magistrate.

(A.R.S. § 11-1001) ('87 Code, § 6-2-1) (Am. Ord. O-2003-10, passed 11-17-03)

REGULATIONS

§ 90.10 VICIOUS ANIMALS.

(A) *Generally.* It is unlawful to permit any vicious animal of any kind to run at large within the town, and such animals shall be immediately impounded by the Town Marshal or other peace officer. Exhibitions or parades of animals which are *ferae naturae* in the eyes of the law may be conducted only upon securing a permit from the Town Marshal.

('87 Code, § 6-1-1)

(B) *Killing vicious animals.* The Town Marshal, any peace officer, or the Town Enforcement Agent is authorized to kill any vicious animal of any kind when it is necessary for the protection of any person or property.

(C) *Exceptions.* The provisions of this section shall not apply to dogs owned or used by a law enforcement agency and which are used in the performance of police work.

(D) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

('87 Code, § 6-1-2) Penalty, see § 10.99

Statutory reference:

Vicious dog attacks, felony offenses, see A.R.S. § 13-1208

§ 90.11 NOISY ANIMALS.

It is unlawful to harbor or keep any animals that unreasonably and continually disturb the peace by loud noises at any time of the day or night, if such noise has been documented.

('87 Code, § 6-1-3) Penalty, see § 10.99

§ 90.12 LIVESTOCK AND POULTRY AT LARGE.

Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep, or other livestock or poultry shall keep such livestock or poultry fenced to prevent their roaming at large within the corporate limits of the town. Any such livestock or poultry running at large may be impounded by any police officer of the town.

(`87 Code, § 6-1-4(A)) Penalty, see § 10.99

§ 90.13 CONDITIONS WHERE ANIMALS KEPT.

It is unlawful to cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome.

(`87 Code, § 6-1-4(B)) Penalty, see § 10.99

§ 90.14 DOGS.

(A) *Dogs not permitted at large; wearing license.*

(1) Dogs may not be permitted at large in any part of the town. Each dog shall be confined to the owner's property, or when off the owner's property shall be either secured by a leash or directly under the owner's immediate control by voice command and within sight of the owner at all times.

(2) In a rabies quarantine area, no dogs shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property, or secured so that a dog is confined entirely to the owner's property, or on a leash not to exceed six feet in length and directly under the owner's control when not on the owner's property.

(3) Any dog over the age of three months shall wear a collar or harness to which is attached a valid license tag. Dogs used for control of livestock or while being used or trained for hunting, or dogs while being exhibited or trained at a kennel club event, or dogs while engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events need not wear a collar or harness with a valid license attached, provided that they are properly vaccinated, licensed, and controlled.

(4) Any dog at large in violation of this division (A) shall be apprehended and impounded by an Enforcement Agent.

(a) Said agent shall have the right to enter upon private property when it is necessary to do so in order to apprehend any dog that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such dog and shall not include entry into a domicile or enclosure which confines a dog unless it be at the invitation of the occupant.

(b) Said agent may issue a citation to the dog owner or person acting for the owner when the dog is at large. The procedure for the issuance of notice to appear shall be as provided for peace officers in A.R.S. § 13-3903, except the Enforcement Agent shall not make an arrest before issuing the notice. The issuance of citations pursuant to this division (A) shall be subject to provisions of A.R.S. § 13-3899.

(c) In the judgment of the Enforcement Agent, if any dog at large or other animal that is dangerous or fierce and a threat to human safety cannot be safely impounded, it may be slain.

(`87 Code, § 6-2-9) (Am. Ord. 93-06, passed 2-1-93; Am. Ord. O-2003-10, passed 11-17-03)

(B) *Liability.* Injury to any person or damage to any property by a dog while at large shall be the full responsibility of the dog owner or person or persons responsible for the dog when such damages were inflicted.

(`87 Code, § 6-2-14) Penalty, see § 10.99

Statutory reference:

Dogs at large, similar provisions, see A.R.S. § 11-1012

Enforcement, see A.R.S. § 11-1007

§ 90.15 UNLAWFUL INTERFERENCE WITH ENFORCEMENT AGENT.

(A) It is unlawful for any person to interfere with the Enforcement Agent in the performance of his or her duties.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 6-2-12) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

Statutory reference:

Similar provisions, see A.R.S. § 11-1015

§ 90.16 REMOVAL OF IMPOUNDED ANIMALS PROHIBITED.

(A) No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the Enforcement Agent except in accordance with the provisions of this chapter and the regulations promulgated thereunder.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 6-2-13) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

Statutory reference:

Similar provisions, see A.R.S. § 11-1016

ADMINISTRATION

§ 90.25 RABIES AND ANIMAL CONTROL SERVICES CONTRACTS.

In lieu of establishing a rabies/animal control department, the town may enter into an intergovernmental agreement or contract for the provision of rabies/animal control services.

(`87 Code, Art. 6-3)

Statutory reference:

Contracts with the county and county enforcement, see A.R.S. § 11-1007

CHAPTER 91: NUISANCES

Section

- 91.01 Nuisances
- 91.02 Abatement notice
- 91.03 Signs to be posted at nuisances
- 91.04 Abatement by town
- 91.05 Abatement costs
- 91.06 Appeals

Cross-reference:

Nuisances, especially excessive or offensive noises, prohibited in zoning districts, see § 130.07

Statutory reference:

Criminal nuisances, see A.R.S. §§ 13-2908 and 13-2917

Environmental nuisances, see A.R.S. §§ 49-141 et seq.

Keeping unsanitary premises, see A.R.S. § 36-168

Health nuisances, see A.R.S. §§ 36-601 et seq.

Nuisance, authority to abate, see A.R.S. § 9-240(B)(21)

Obstructing highways, see A.R.S. § 13-2906

§ 91.01 NUISANCES.

(A) *Unsafe conditions.* Any unguarded well, cesspool, excavation pit, or hole which by virtue of abandonment, dilapidation, or lack of maintenance is unsafe is hereby declared to be a public nuisance and shall be abated by an appropriate method in accordance with the procedure specified in this chapter.

(B) *Adoption of Uniform Code for the Abatement of Dangerous Buildings.* That certain code entitled *Uniform Code for the Abatement of Dangerous Buildings*, 1997 Edition, published by the International Conference of Building Officials, is hereby adopted by reference as the "Uniform Code for the Abatement of Dangerous Buildings of the Town of Cave Creek" and made a part of this chapter the same as though said code was specifically set forth in full herein; and three copies of said code shall be filed in the office of the Clerk and be kept available for public use and inspection.

(C) *Unsanitary conditions.* Leaking sewage from broken sewer lines and other similar unsanitary conditions shall be abated within 24 hours by the removal of water service to the building or by other legal means available to the town.

(`87 Code, Art. 7-11(A) through (C)) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-23, passed 1-2-96; Am. Ord. 2000-03, passed 5-15-00) Penalty, see § 10.99

Cross-reference:

General offenses; electric fences as nuisances, see § 130.04

General offenses; excavations, see § 130.02

§ 91.02 ABATEMENT NOTICE.

The Building Official shall examine or cause to be examined every unsafe or unsanitary condition and if found to be an unsafe condition or unsanitary condition as defined in § 91.01(A) and (C), the Building Official shall give the owner of such unsafe or unsanitary conditions written notice stating the defects thereof. This notice may require the owner or person in charge of the premises within 48 hours to commence either the required repairs or improvements or demolition and removal of the hazard or portions thereof, and all such work shall be completed within 90 days from the date of notice, unless otherwise stipulated by the Building Official. Proper service of such notice shall be by personal service or registered or certified mail upon the owner of record if he or she shall be found within the town limits. If he or she is not found within the town limits, such service may be made upon said owner by registered or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the Building Official shall begin as of the date of receipt of the notice.

(`87 Code, Art. 7-11(D)) (Am. Ord. 88-16, passed 8-1-88) Penalty, see § 10.99

§ 91.03 SIGNS TO BE POSTED AT NUISANCES.

The Building Official shall cause to be posted at each entrance to such unsafe or unsanitary condition a notice to read: "Unsafe Conditions Exist. Do Not Enter. Building Department, Town of Cave Creek." Such notice shall remain posted until the required repairs, demolition, or removal is completed. Such notice shall not be removed without written permission of the Building Official, and no person shall enter the premises except for purposes of abating the unsafe or unsanitary condition.

(`87 Code, Art. 7-11(E)) (Am. Ord. 88-16, passed 8-1-88)

§ 91.04 ABATEMENT BY TOWN.

In case the owner shall fail, neglect, or refuse to comply with the notice to repair or abate an unsanitary or unsafe condition, the Town Manager may order the owner prosecuted as a violator of the provisions of this code and may order the Building Official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Town Council, who shall cause the same to be paid and levied as a special assessment against the property.

(‘87 Code, Art. 7-11(F)) (Am. Ord. 88-16, passed 8-1-88)

§ 91.05 ABATEMENT COSTS.

Costs incurred under § 91.04 shall be paid out of the Town Treasury. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located and shall be collected in the manner provided for special assessments.

(‘87 Code, Art. 7-11(G))

§ 91.06 APPEALS.

(A) Any person entitled to service under this chapter may appeal from any notice, order, or action by the Building Official within 30 days from the date of the service, or by filing a written appeal with the Building Official setting forth:

- (1) The names of the appellants.
- (2) The legal interest of each of the appellants in the land or buildings involved in the notice or order.
- (3) All facts supporting the contentions of the appellant and the reasons why action should be reversed, modified, or otherwise set aside on the protested order.
- (4) The signatures of all parties named as appellants and their official mailing addresses.
- (5) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

(B) Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it to the Town Council and the public hearing shall be held within ten working days after the Town Council is notified.

(‘87 Code, Art. 7-11(H))

CHAPTER 92: HEALTH AND SANITATION

Section

Litter; Graffiti

- 92.01 Definitions
- 92.02 Prohibitions and restrictions
- 92.03 Duties of property owner
- 92.04 Enforcement procedure

Solid Waste

- 92.15 Garbage and refuse
- 92.16 Dumping refuse

- 92.20 Purpose
- 92.21 Definitions
- 92.22 Enforcement, violations and penalties
- 92.23 Vehicle parking and use on vacant lots
- 92.24 Operation of vehicles on public and private property
- 92.25 Parking, maneuvering, ingress and egress
- 92.26 Leaf blower restrictions
- 92.27 Violations deemed a public nuisance
- 92.28 Remedies not exclusive
- 92.29 Compatibility with other regulations
- 92.30 Severability

Statutory reference:

Criminal damaging, see A.R.S. § 13-1602

Criminal littering, see A.R.S. § 13-1603

Driver's license suspension for minors convicted of graffiti offenses, see A.R.S. § 28-3320

Procedures authorized, see A.R.S. § 9-499

Cross-reference:

Nuisances, see Chapter 91

Sewers, see Chapter 50

Wastewater regulations, see Chapter 51

LITTER; GRAFFITI

§ 92.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. Any carving, scratching, etching, burning, marking, or painting by any means or method which has been placed upon any private or public real or personal property without the express consent of the owner or manager of such property.

LITTER. Any rubbish, trash, weeds, filth, or debris which shall constitute a hazard to public health and safety and shall include all putrescible and nonputrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, and solid market and industrial waste; any deposit, accumulation, pile, or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, or other unsightly or unsanitary matter of any kind.

PRIVATE PREMISES. Any vacant land, dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, or vestibules belonging or appurtenant to such vacant land, dwelling, house, building, or other structures.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys, or other public ways, and any and all public parks, squares,

spaces, grounds, and buildings.

(`87 Code, § 10-2-1) (Am. Ord. 90-26, passed 7-2-90; Am. Ord. 96-26, passed 11-18-96)

§ 92.02 PROHIBITIONS AND RESTRICTIONS.

(A) *Litter on private property.* No person shall throw or deposit litter on any public place or on any occupied or unoccupied private premises within the town, whether owned by such person or not, except that the owner or person in control of private premises may maintain private receptacles for refuse in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place.

(`87 Code, § 10-2-2)

(B) *Placement of debris.* It is unlawful for any person, firm, or corporation to place or cause to be placed any rubbish, trash, filth, or debris upon any private premises or public place not owned or under the control of said person, firm, or corporation. In addition to any fine which may be imposed for a violation of any provision of this division (B), such person, firm, or corporation shall be liable for all costs which may be assessed pursuant to this chapter for the removal of said rubbish, trash, filth, or debris.

(C) *Violation.* Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 10-2-10) (Am. Ord. 96-26, passed 11-18-96; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 92.03 DUTIES OF PROPERTY OWNER.

The owner or person in control of any private premises shall at all times maintain the premises free of litter and graffiti; provided that this section shall not prohibit the storage of litter in suitable containers.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 10-2-3) (Am. Ord. 96-26, passed 11-18-96; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

Cross-reference:

General offenses; graffiti, see § 130.10

§ 92.04 ENFORCEMENT PROCEDURE.

(A) *Procedure to compel removal of litter and graffiti.*

(1) *Litter.* The Town Marshal or any other town officer shall enforce the provisions of §§ 92.02(A) and 92.03 by prosecuting violators of said sections in the Town Magistrate's Court pursuant to the criminal provisions of this code. If such prosecution fails to secure compliance with the provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their persons, the Clerk shall compel the removal of litter by the procedures outlined below.

(`87 Code, § 10-2-4)

(2) *Graffiti.*

(a) *Removal required.* The town shall provide, without charge, materials for the removal of graffiti to the owner or person in control of any private premises upon which graffiti has been placed. If the person fails to remove or obliterate graffiti within 48 hours after the town has provided the materials and has given the person written notice to remove or obliterate the graffiti, the town may compel the removal or obliteration of graffiti by the procedures set forth for the removal of litter outlined below.

(b) *Method of removal or obliteration.* For the purposes of this division (2), **TO REMOVE OR OBLITERATE GRAFFITI** means to make the graffiti indistinguishable as a message, code, depiction, or marking. If not removed, the obliteration of the graffiti shall be made with material of a color which is similar to the material on which the graffiti has been placed.

(c) *Appeals.* The owner or person controlling such premises may, prior to the date of compliance, appeal in writing to the Town Council from the notice to remove or obliterate the graffiti. The Town Council shall, at its next regular meeting after receiving

the appeal, hear and determine the same and the decision of the Town Council shall be final. The Town Council may either affirm or reverse the notice to remove or obliterate the graffiti; or may modify the scope of work as required in the notice.

(B) *Notice to remove.* To compel the removal of litter through the provisions of this chapter, if a person owning or controlling any property fails, neglects, or refuses to remove or properly dispose of litter located on property owned or controlled by such person, he or she shall be given written notice by the Clerk to remove all litter or cut such weeds from such property within 30 days from the date the notice was received by him or her, and prior to the date of compliance on the notice. Such notice shall be received not less than 30 days before the date set thereon for compliance, and shall contain the following: an estimate of the cost of removal by the town; a statement that unless the person owning or controlling such property complies therewith within 30 days from the date such written notice is received the town will, at the expense of the person owning or controlling said property, perform the necessary work at a cost not to exceed the estimate given in the notice; and a statement that such person may appeal in writing to the Town Council within 30 days from the date the notice is received by him or her and prior to the date of compliance.

(‘87 Code, § 10-2-5)

(C) *Service of notice.* Notice shall be personally served on the owner or person controlling such property by the Town Manager or any other town officer in the manner provided in A.R.C.P. 4(d), or mailed to the owner or person controlling such property at his or her last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property, a duplicate notice shall also be sent to him or her by certified or registered mail at his or her last known address.

(‘87 Code, § 10-2-6)

(D) *Appeal to Town Council.* Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the Town Council from the demand of the Clerk. The Town Council shall, at its next regular meeting after receiving the appeal, hear and determine the same and the decision of the Town Council shall be final. The Town Council may either affirm or reverse the decision of the Clerk or modify the scope of the work as required in the notice.

(‘87 Code, § 10-2-7)

(E) *Removal by town.* When any such person to whom notice, as aforesaid, has been given, and on or before the date of compliance on the notice, or within such further time as may have been granted by the Town Council on appeal, fails, neglects, or refuses to move from such property any or all litter and weeds, the Clerk is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such property. Upon completion of the work, the Clerk shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the property on which said work was done, including 5% for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in division (C) above. The owner or person controlling such property shall have 30 days from the date of service upon him or her to appeal in writing to the Town Council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Clerk within such 30-day period, then the amount of the assessment as determined by the Clerk shall become final and binding. If an appeal is taken, the Town Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Town Council shall be final and binding on all persons.

(‘87 Code, § 10-2-8)

(F) *Lien for removal.* If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Town Council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the office of the County Recorder and, from the date of its recording, shall be a lien on said lot or tract of land until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The town shall have the right to bring an action to enforce the lien in the superior court 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 thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

(‘87 Code, § 10-2-9) (Am. Ord. 90-27, passed 7-2-90; Am. Ord. 90-28, passed 7-2-90; Am. Ord. 96-26, passed 11-18-96)

§ 92.15 GARBAGE AND REFUSE.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. All putrescible wastes, except sewer and body wastes, including all organic wastes that have been prepared for or intended to be used as food or have resulted from the preparation of food, including all such substances from public and private establishments and residences.

REFUSE. All putrescible and nonputrescible wastes, organic or inorganic wastes, hazardous and toxic wastes, or combustible and noncombustible wastes, but not including human body waste or other sewage waste.

(‘87 Code, § 10-1-1)

(B) *Hauling refuse.* It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue, or alley in the town in violation of any of the provisions of this chapter.

(‘87 Code, § 10-1-2)

(C) *Vehicles and receptacles to be watertight.* It is unlawful for any person to haul or cause to be hauled on or along any public street in the town any garbage unless such garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking, or spilling and any odor from escaping.

(‘87 Code, § 10-1-3)

(D) *Spilled Refuse.* Any person hauling any refuse along the streets of the town shall immediately replace in the conveyance used for such hauling any refuse which may fall upon any street.

(E) *Garbage Collection.*

(1) All garbage haulers providing refuse collection in the town, shall, as part of said collection:

(a) Provide reliable service, which shall include, but not be limited to, collection no less than one time per week;

(b) Provide fly-tight containers that are in good condition;

(c) Completely empty the containers on each visit to the residence and immediately clean up any refuse spilled during the collection process. If any fly larvae are found in the container, the container must be immediately removed and replaced by the hauler.

(2) Residents shall do the following:

(a) Keep their garbage containers reasonably clean and free from fly larvae, other vectors and intense odors;

(b) Bag and tie all garbage, including grass, to prevent fly breeding and control offensive odors (brush trimmings do not have to be bagged);

(c) Place the container at a convenient location for collection not more than 12 hours prior to the scheduled refuse collection. The containers shall be returned to the storage area within 12 hours after collection;

(d) If any fly larvae are found in a container, immediately remove and replace that container.

(3) Enforcement.

(a) Except as otherwise specifically provided in §§ 34.70 et seq. of the Town Code (Civil Offenses), violations of this section shall be civil in nature.

(b) Civil violations shall be enforced as provided in §§ 34.70 et seq. of the Town Code, except that no citation shall be issued pursuant to the provisions of §§ 34.70 et seq. until the remedies set forth in division (c), below, have been exhausted.

(c) Notice and opportunity to cure.

1. The Town Manager or designee or any peace officer may issue a notice pursuant to this section.

2. The notice will notify the resident that a violation of division (2), above, has been observed on property owned or occupied by the resident.

3. The notice shall describe the nature of the violation, and shall specify the provision of division (2), above, that gives rise to the violation.

4. The notice shall require the resident to cure the violation or cause others to cure the violation within 14 days of the date of the notice.

5. If the violation is not cured within 14 days as specified in the notice, then a citation shall be issued as provided in §§ 34.70 et seq. of the Town Code.

6. If, within a three-month period, more than two notices are served on a resident in regard to a violation of this section on the same property, then subsequent violations on that property shall be enforced as provided by §§ 34.70 et seq. of the Town Code, until the expiration of a 12-month period during which no citations have been issued against the property for a violation of this section.

(d) Violations of this section are in addition to any other violation established by town ordinance or state statute; and this section in no way limits the penalties, actions or abatement procedures which may be taken by the town for any violation of this section which is also a violation of any other ordinance or other provision of the town or statute of this state.

(`87 Code, § 10-1-4) (Am. Ord. O-2001-08, passed 10-15-01) Penalty, see § 10.99

Statutory reference:

Criminal littering (including felony offenses), see A.R.S. § 13-1603

Littering from a vehicle, see A.R.S. § 28-7056

Solid waste offenses, see A.R.S. § 49-791

§ 92.16 DUMPING REFUSE.

(A) It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the town, except as specifically permitted in this chapter.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 10-1-5) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

AIR QUALITY AND FUGITIVE DUST

§ 92.20 PURPOSE.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the town by improving air quality through the regulation of fugitive dust and PM-10 particles to the maximum extent practicable as required by federal and state law. The town hereby finds and declares that this subchapter is not a land use law. The town hereby finds and declares the objectives of this subchapter are:

(A) To regulate the contribution of fugitive dust and PM-10 from any town resident, developer or visitor; and

(B) To establish legal authority to implement all inspection, surveillance, monitoring, and enforcement procedures necessary for compliance with this subchapter; and

(C) To meet requirements imposed by state and federal law; and

(D) To limit or prohibit situations that could be recognized as public nuisances; and

(E) To allow for the protection of the public's health and safety, including, transportation or traffic control, health and sanitation and pollution control.

(Ord. O2008-01, passed 5-5-08)

§ 92.21 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA A. The part of the greater Phoenix metropolitan area where specific pollution control programs are in place for ozone, carbon monoxide, and particulate matter, as defined in A.R.S. § 49-541(1).

COUNTY DUST CONTROL PERMIT. A permit issued by Maricopa County evidencing that a dust generating operation has a satisfactory dust control plan in place approved by the Maricopa County Air Quality Department.

FUGITIVE DUST. The particulate matter not collected by a capture system that is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of this subchapter, **FUGITIVE DUST** does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, or from pile drivers.

LANDSCAPE DEBRIS. Debris generated or accumulated as a result of, or moved in the course of, landscape operations. **LANDSCAPE DEBRIS** includes, but is not limited to, grass clippings, leaves, branches, vegetative matter, rubbish, soil and rock.

LEAF BLOWER. Any device that generates a stream of air that is designed, or used, to move landscape debris.

OFF-ROAD VEHICLE. A self-propelled device and its appurtenances, including, but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies and excluding devices moved by human power or used exclusively on stationary rails or tracks and excluding motorized wheelchairs.

PM-10. The standard adopted by the Environmental Protection Agency that focuses on smaller particulates in the air that are likely responsible for adverse health effects because of their ability to reach the lower regions of the respiratory tract. The PM-10 standard includes particles with an aerodynamic diameter smaller than or equal to ten microns (micrometers) as measured by the applicable state and federal reference test methods.

PERSON. Any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, or the state and any of its departments or agencies, or political subdivisions.

PUBLIC ROADWAY. Any street, alley, road, highway or thoroughfare of any kind that is used by the public or that is open to the public as a matter of right, for the purpose of vehicular travel.

STABILIZED. A surface that has been stabilized with asphaltic concrete, cement concrete, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, suggested two-inch minimum decomposed granite cover, suggested two-inch minimum crushed granite cover, suggested two-inch minimum aggregate cover, suggested two-inch minimum gravel cover, or any combination of such stabilizing or other effective method.

TOWN. The Town of Cave Creek, Arizona.

UNSTABILIZED. A surface that has not been stabilized.

VACANT LOT. Any of the following:

- (1) An unsubdivided or undeveloped tract of land.
- (2) A subdivided residential, industrial, institutional, governmental, or commercial lot that contains no approved or permitted buildings, structures, or uses of a temporary or permanent nature.
- (3) A partially developed residential, industrial, institutional, governmental, or commercial lot.
- (4) For the purpose of this subchapter, a vacant lot is not a public roadway.

VEHICLE. A self-propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

(Ord. O2008-01, passed 5-5-08)

§ 92.22 ENFORCEMENT, VIOLATIONS AND PENALTIES.

(A) Responsibility for administration.

(1) The Enforcement Officer, acting through and designated by the Town Manager, shall administer the provisions of this subchapter involving air quality and fugitive dust. The Enforcement Officer is authorized with the responsibility to administer this subchapter by filing an enforcement action as a civil code infraction pursuant to § 31.28 of the Town Code.

(2) The term **ENFORCEMENT OFFICER** means a person who is authorized by the Town Manager to administer the provisions of this subchapter and who has authority to enforce the Town of Cave Creek rules, regulations, resolutions and ordinances.

(B) *Violations, penalties of general applicability for subchapter.* Unless an alternative process or penalty is expressly indicated within this subchapter or the Town Code, any violation of this subchapter shall constitute a civil code infraction subject to the provisions of §§ 10.99 and 31.28 of the Town Code.

(C) This subchapter shall not apply during a period of public emergency as declared by the town, state authorities or federal authorities or if the operation is directed by a peace officer or other public authority.

(D) Pursuant to A.R.S. § 9-500.04(H), the requirements of §§ 92.23, 92.25 and 92.26 do not apply to any site that has a permit issued by a control officer as defined in A.R.S. § 49-471 for the control of fugitive dust from dust generating operations.

(Ord. O2008-01, passed 5-5-08)

§ 92.23 VEHICLE PARKING AND USE ON VACANT LOTS.

A person shall not park or use a vehicle on an unstabilized vacant lot within the town. This section does not apply to sites that have been issued a county dust control permit for the control of fugitive dust from dust generating operations.

(Ord. O2008-01, passed 5-5-08)

§ 92.24 OPERATION OF VEHICLES ON PUBLIC AND PRIVATE PROPERTY.

(A) A person shall not operate any vehicle, including off-road vehicles, on unstabilized public property that is not a public roadway or lawful easement, without lawful authority. Lawful authority shall consist of rules, regulations, or orders of a federal agency, this state, a county or municipality, which shall be made available to the public by any one of the following methods:

(1) A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

(2) Orders of a government land management agency; and

(3) Most current maps approved by such government land management agency.

(B) A person shall not operate any vehicle, including off-road vehicles, on unstabilized private property that is not a private road, street or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county or a municipality or by a proper posting, without the consent of the lawful owner. Consent of the lawful owner consists of either or both of the following:

(1) A sign to designate the property is/as open. Such sign shall be in compliance with the standard travel management sign protocol used by Southwest Land Management Agencies and shall at a minimum be conspicuously placed at all points of vehicular access and contain the following information: "Travel Must Remain On Designated Routes." Copies of the standard travel management sign protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004;

(2) Prior written permission which contains the following:

(a) The name, address and telephone number of the person granting permission for the use of the property;

- (b) A description of the interest the person granting permission has in the property (i.e., property owner, lessee or agent);
 - (c) If the person granting permission is not the owner of the property, the written permission shall also contain the name, address and telephone number of the property owner;
 - (d) Specific period of time for which permission for the use of the property is being granted; and
 - (e) The signature of the person granting permission for the use of the property.
- (C) Whenever any person is stopped by an Enforcement Officer for a violation of this section, he/she shall, upon the request of the Enforcement Officer identify or present the lawful authority or consent of the lawful owner required in this section.
- (D) The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.
- (E) Exemption. This section shall not apply to the operation of vehicles used in the normal course of business, including the uses and maintenance permitted by the underlying zoning or the normal course of government operations, as long as such use does not violate any other applicable laws.
- (F) Exemption. This section shall not apply to operations directed by utilities for operation, distribution, and transmission systems provided that both of the following conditions are satisfied:
- (1) Operations are performed with a marked company vehicle; and
 - (2) If operations are performed with a personal vehicle, then identification of the company shall be visible and readable by the public.
- (G) As mandated by A.R.S. § 9-500.27, a person who violates this section is guilty of a class 3 misdemeanor.
- (H) As mandated by A.R.S. § 9-500.27, if a person is deemed to have violated this section, in addition to or in lieu of a fine, a judge may order the person to perform at least eight but not more than 24 hours of community restitution or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.

(Ord. O2008-01, passed 5-5-08)

§ 92.25 PARKING, MANEUVERING, INGRESS AND EGRESS.

(A) Other than residential.

- (1) All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units with one or more of the following stabilization methods:
- (a) Asphaltic concrete;
 - (b) Cement concrete;
 - (c) Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate;
 - (d) A stabilization method approved by the town and consistent with this subchapter.

(2) Pursuant to A.R.S. § 9-500.04(A)(6), commencement of enforcement of this division (A) related to other than residential may commence on October 1, 2008.

(B) Residential.

(1) All persons who are owners, tenants or operators shall maintain parking, maneuvering, ingress and egress areas that are 3,000 square feet or more in size at residential buildings with four or fewer units with a stabilization method authorized by the Town Code or permit and consistent with this subchapter.

(2) Pursuant to A.R.S. § 9-500.04(A)(7), commencement of enforcement of this division (B) related to residential may commence on October 1, 2009.

(Ord. O2008-01, passed 5-5-08)

§ 92.26 LEAF BLOWER RESTRICTIONS.

- (A) A person shall not operate a leaf blower in a manner that causes landscape debris to be blown into a public roadway.
 - (B) No person who is an employee or contractor of the town shall operate a leaf blower on any high pollution advisory day forecast by the department of environmental quality, except while in vacuum mode.
- (Ord. O2008-01, passed 5-5-08)

§ 92.27 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily 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.

(Ord. O2008-01, passed 5-5-08)

§ 92.28 REMEDIES NOT EXCLUSIVE.

- (A) The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the town to seek cumulative remedies.
 - (B) The town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this subchapter, including monitoring expenses.
- (Ord. O2008-01, passed 5-5-08)

§ 92.29 COMPATIBILITY WITH OTHER REGULATIONS.

This subchapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this subchapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this subchapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

(Ord. O2008-01, passed 5-5-08)

§ 92.30 SEVERABILITY.

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

(Ord. O2008-01, passed 5-5-08)

CHAPTER 93: STREETS, SIDEWALKS, AND WATERWAYS

Section

General Provisions

- 93.01 Curb cut alterations
- 93.02 Riparian areas

93.15 Permit required; exceptions

93.16 Permit application

93.17 Bond

93.18 Insurance

93.19 Liability

93.20 Fees

93.21 Work begun without permit

93.22 Emergencies

93.23 Construction

Cross-reference:

Flood control, see Chapter 152

GENERAL PROVISIONS

§ 93.01 CURB CUT ALTERATIONS.

(A) Where the use, convenience, and necessity of the public require, the Town Engineer shall have the authority to order the owners or agents in charge of property adjacent to which curb cuts are maintained to alter the curb cuts in such manner as he or she shall find reasonably necessary under the circumstances.

(B) The notice required by this section shall:

- (1) Require compliance by the permittee within 60 days of the notice.
- (2) Be in writing.
- (3) Be served upon the permittee personally, or by certified or registered mail.

('87 Code, § 7-12-2) (Ord. 88-13, passed 7-18-88)

§ 93.02 RIPARIAN AREAS.

(A) The town and its employees and contractors shall not remove soil, sand, or rock materials from any washes, arroyos, and drainage channels on property that is privately owned or on property where the title is transferred to or acquired by the town unless it falls within the public right-of-way or permission is granted by the property owner.

(B) The town shall not provide funding for the modification of the normal flow of permanent or intermittent water across the topography of the town on public or privately owned property by the construction of side bank channelization unless needed to protect existing public improvements.

(C) (1) The town and its employees and contractors shall not remove, relocate, or trim any vegetation in washes, arroyos, and drainage channels on property that is privately owned.

(2) The Town Engineer, after consultation with PARCs, shall be responsible for identifying a list of projects and presenting a report on each proposed road construction and/or reconstruction project to the Town Council for approval.

(3) After each project has been approved by the Town Council, a description of the project location will be sent to the Chair of PARCs for a final recommendation concerning what, if any, vegetation contained within the proposed construction area is readily salvageable.

(4) The first opportunity for plant salvage and relocation shall belong to the PARCs Commission.

(5) Fifteen working days after the PARCs Chair or designee has received the salvage list, if no salvage action has been taken by PARCs, the Town Engineer shall notify each property owner along and adjacent to the construction area of the proposed project. The property owners shall be allowed 14 days to salvage any vegetation in the proposed construction area.

(D) The town and its employees and contractors shall not dump, fill, or otherwise dispose of any materials within drainage channels on private property unless emergency conditions exist where placing of material is needed to protect public improvements. On public property where the title is transferred to or acquired by the town, no materials should be placed without contacting the PARCs Commission, the Town Council, and the County Health and Flood Control District officials unless needed to protect existing public improvements.

(E) The town will not permit persons subdividing private property to construct additional public roads that traverse major drainage channels (that is, Galloway Wash, Grapevine Wash, Cave Creek Wash), washes, and creeks unless the actual crossing is either a bridged roadway or a paved at-grade roadway for a low water crossing allowing for a two-year frequency storm and nuisance water to pass under said crossing and a paved dip-section with cut-off walls to allow a 100-year flood to pass over the dip section.

(`87 Code, § 7-12-3) (Ord. 94-14, passed 6-20-94)

CONSTRUCTION AND PLANTINGS WITHIN PUBLIC RIGHTS-OF-WAY AND UTILITY EASEMENTS

§ 93.15 PERMIT REQUIRED; EXCEPTIONS.

(A) *Permit required.* It is unlawful for any person to work, build, construct, reconstruct, repair, alter, or grade, including the placement of any structures, including utility lines and poles, pipelines, signs, and plantings, within the public rights-of-way or within a public utility easement of the town without first obtaining a permit from the town, obtaining approval for the planned work, and having the work supervised and inspected by the town.

(B) *Exceptions.*

(1) (a) Plantings by residents of property abutting the right-of-way are exempt from this permit requirement so long as such planting:

1. Does not interfere with travel on the public street or the visibility of traffic signs;
2. Is on that portion of the right-of-way abutting the resident's property; and
3. Is more than 25 feet from an intersection.

(b) The town shall immediately remove any plantings in the right-of-way if the Town Engineer determines that the requirements of this division (1) are not met. The town shall have no obligation to provide reimbursement for the plantings removed.

(2) Utilities which have been granted franchises to utilize public streets and other public areas in the town are exempt from the permit fees specified in §§ 93.20 and 93.21.

(`87 Code, § 7-12-1(A)) (Ord. 88-13, passed 7-18-88; Am. Ord. 90-21, passed 7-2-90) Penalty, see § 10.99

Cross-reference:

Obstruction of view of traffic prohibited, see § 130.09

§ 93.16 PERMIT APPLICATION.

An applicant for a permit hereunder shall file with the town an application showing:

- (A) The name, address, and license number of the party doing the work.
- (B) The location of the work area.
- (C) Plans (attached to the application) showing details of the proposed work. Said plans shall be prepared and sealed by an

engineer duly registered and licensed in the state unless this requirement is waived in writing by the town.

(D) The estimated cost of alteration.

(E) Such other information as the Town Engineer shall find reasonably necessary to determine whether a permit should be issued hereunder.

('87 Code, § 7-12-1(B)) (Ord. 88-13, passed 7-18-88)

§ 93.17 BOND.

(A) Each applicant must deposit with the town an amount in cash or a performance bond of 100% of the amount of the cost of work proposed in the application, as determined by the Town Engineer, as a guarantee that the work will be completed in accordance with the permit and the town's adopted or approved details and specifications. If the application is solely for the placement of a structure in the right-of-way which will require disturbance of the roadway or other public facilities, the amount of the cash deposit or bond shall be 100% of the estimated cost of restoration of the roadway or public facility.

(B) The bond shall be joint and several in form and made payable to the town. The bond shall be signed by the applicant, or the property owner if he or she is not the applicant, and a qualified surety company authorized to transact business in the state. The condition shall be that the applicant will faithfully complete the work described in the application in accordance with the plans, specifications, and conditions thereof.

(C) The bond shall be released upon satisfactory completion and acceptance of the work, or may be cancelled after the applicant has provided other security satisfactory to the town which will cover obligations that remain.

(D) No deposit shall be less than \$50 on work done under this subchapter.

(E) An applicant issued numerous small permits throughout the year may post a continuing bond to cover work under more than one permit; however, this continuing bond provision is not intended for use on new subdivision work. The continuing bond shall be of value sufficient to cover all work under construction by the permittee at any time and shall be satisfactory to the town.

(F) The bond is subject to cancellation as noted above, or may be terminated after all obligations are fulfilled which were "permitted" prior to the Town Engineer receiving cancellation notice from the surety. The surety shall not cancel, change, or amend any bond without ten-days prior written notice having been served on the Town Engineer.

('87 Code, § 7-12-1(C)) (Ord. 88-13, passed 7-18-88)

§ 93.18 INSURANCE.

(A) No applicant shall be entitled to a permit unless and until he or she shall have filed and maintained on file with the town a certificate certifying that he or she or his or her company or business firm carries public liability and property damage insurance issued by an insurance carrier authorized to do business in the state insuring the applicant and the town and its agents against loss by reason of injuries to, or death of, persons, or damages to property arising out of or related to work performed by the applicant, its agents, or its employees while performing any work under such permit. Such insurance shall be primary and provide coverage for all liability assumed by the applicant under this section, and shall be provided by any permittee in the following minimum amounts:

- (1) \$500,000 for death of, or injury to, any one person in any one accident;
- (2) \$1,000,000 for death of, or injuries to, more than one person in any one accident;
- (3) \$500,000 for damages to property.

(B) Failure by the applicant to provide the town with such a certificate, and failure by the town to demand the filing by the permittee of such a certificate before such a permit is issued, shall not be deemed to waive the permittee's obligation to provide the insurance specified herein. Such insurance certificate shall remain in effect and be kept on file with the Town Engineer until all work to be performed by the permittee under the permit has been completed. Where an encroachment involves a permanent obstruction, such insurance certificate requirements and other resolution stipulations shall remain in effect until such construction is removed. The insurance certificate shall provide that coverage cannot be cancelled or expire without providing 15-days written notice of such action to the town also noting the permit number.

(C) This insurance requirement may be waived by the town if the Town Engineer determines the financial resources of the applicant are sufficient to indemnify the town pursuant to § 93.19.

(D) No evidence of liability insurance or surety bond shall be required as a condition precedent to the issuance of a permit to:

(1) A resident owner of a residential property where he or she proposes to perform minor driveway construction in front of his or her own property;

(2) A federal, state, county, or political subdivision.

(`87 Code, § 7-12-1(D)) (Ord. 88-13, passed 7-18-88)

§ 93.19 LIABILITY.

The permittee shall be responsible for all liability imposed by law for personal injury or property damage arising out of or related to work performed by the permittee under the permit, or arising out of the failure on the permittee's part to perform its work under the permit. If any claim of such liability is made against the town, its officers, agents, boards, or employees, the permittee shall defend, indemnify, and hold them, and each of them, harmless from such claim, including claims alleging the joint negligence of the town, its officers and employees, and the permittee, except to the extent actual negligence of the town has been established.

(`87 Code, § 7-12-1(E)) (Ord. 88-13, passed 7-18-88)

§ 93.20 FEES.

The Town Council shall, by resolution, establish a schedule of fees for the application processing and plan checking and for plan reviews and inspection permits required by this subchapter.

(`87 Code, § 7-12-1(F)) (Ord. 88-13, passed 7-18-88; Am. Ord. 92-09, passed 8-31-92; Am. Ord. 93-04, passed 1-19-93; Am. Ord. 94-03, passed 2-7-94)

§ 93.21 WORK BEGUN WITHOUT PERMIT.

If any work is undertaken prior to securing a permit therefor, the Town Engineer may require the road right-of-way to be restored to its original condition prior to granting a permit, or may charge a reasonable fee not to exceed \$500 in addition to the normal fee schedule for inspection and examination of the work done prior to issuance of a permit. All work shall cease until the Town Engineer determines whether the public road should be restored to its original condition or to grant a permit in accordance with this subchapter.

(`87 Code, § 7-12-1(H)) (Ord. 88-13, passed 7-18-88) Penalty, see § 10.99

§ 93.22 EMERGENCIES.

This subchapter shall not prevent any person from maintaining any pipe or conduit lawfully on or under any public street, or from making excavation as may be necessary for the preservation of life or property when an urgent necessity therefor arises during the hours the offices of the Town Engineer are closed, except that those making emergency use shall apply for a permit within one calendar day after the offices are again opened.

(`87 Code, § 7-12-1(I)) (Ord. 88-13, passed 7-18-88)

§ 93.23 CONSTRUCTION.

(A) All work done in public roads, streets, alleys, ways, or trails shall be done in accordance with the permit and specifications of the town for such installation. The Town Engineer may require, in the public interest, such structures as designated by him or her to properly control traffic, provide access to adjoining property, and maintain other facilities in the area. Installation or construction of hard surface materials, such as concrete, asphalt, bricks or pavers, across designated public trails is prohibited, unless such prohibition is inconsistent with the reserved rights of the property owner.

(B) Any person, corporation, association, or political subdivision doing work under any permit as set forth in this subchapter shall notify the Town Engineer at least one full working day in advance of the time and place the work will begin.

(`87 Code, § 7-12-1(J), (K)) (Ord. 88-13, passed 7-18-88; Am. Ord. O2015-01, passed 2-2-15) Penalty, see § 10.99

CHAPTER 94: PARKS AND RECREATION

Section

Parks

- 94.01 Definitions
- 94.02 Rules and regulations

Camping

- 94.15 Definitions
- 94.16 Public property
- 94.17 Private property

PARKS

§ 94.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE. Alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe, or compound or mixture of any of them, or any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than 0.5% of alcohol by volume.

AMPLIFY SOUND. To increase, make larger or stronger, and increase the strength of sound.

ENTER OR REMAIN UNLAWFULLY. An act of a person who enters or remains in an area closed to public use when such person's intent for so entering or remaining is not licensed, authorized, or otherwise privileged.

KNOWINGLY. With respect to conduct or to a circumstance described by an ordinance defining an offense, means that a person is aware or believes that his or her conduct is of that nature or that the circumstances exist. It does not require a knowledge of the unlawfulness of the act or omission.

PARK. A park, parkway, recreational area, playground, mountain park, open space area, or mountain preserve area established, maintained, or administered by the town.

PERMITTEE. Any person to whom a permit for use of park facilities has been issued by the town.

(`87 Code, Art. 20-1) (Ord. 94-20, passed 9-26-94)

§ 94.02 RULES AND REGULATIONS.

(A) *Park hours.* Park hours shall be as follow:

- (1) June 1 - October 31: 6:00 a.m. to 9:00 p.m.

(2) November 1 - May 30: 8:00 a.m. to 8:00 p.m.

(B) *Compliance with rules and regulations.* All persons shall comply with all federal, state, county, and town laws, rules, and regulations.

(C) *Pets.* All pets must be on a leash at all times except when participating in an obedience class authorized by the town.

(D) *Horses and bikes.* Horses and bikes shall use designated paths and areas only.

(E) *Glass containers.* Glass beverage containers are prohibited.

(F) *Motorized vehicles.* All motorized vehicles are restricted to designated parking areas and roadways.

(G) *Overnight parking or camping.* Overnight parking or camping is prohibited in all park areas and parking lots.

(H) *Speed.* A maximum speed of ten miles per hour shall be in effect at all times for motor vehicles.

(I) *Skates and skateboards.* Skates and skateboards are prohibited for use within the park areas.

(J) *Firearms and weapons.* Use or possession of firearms and weapons, including but not limited to BB guns, air rifles, blow guns, pellet guns, slingshots, archery equipment, cross-bows, and knives with blades longer than three and one-half inches, is prohibited.

(K) *Fires.* The only fires allowed are charcoal or propane within designated areas only.

(L) *Plants and natural materials.* The destruction, collection, or removal of plants or natural materials is prohibited.

(M) *Public property.* The defacing or damaging of any public building, facility, structure, equipment, or property, either real or personal, within a town park is prohibited.

(N) *Closed facilities.* No person shall use any park facility which has been declared "closed" and which has been so posted by the town.

(O) *Alcoholic beverages.* The consumption of any alcoholic beverage within the boundaries of any town owned and/or maintained park shall be prohibited.

(P) *Amplified sound.* The use of any amplified sound within the boundaries of any town owned and/or maintained park shall be prohibited.

(Q) Any violation of divisions (G), (J), (K), (L), (M), or (N) of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C). Any violation of divisions (A), (B), (C), (D), (E), (F), (H), (I), (O), or (P) of this section shall constitute a civil code infraction, punishable as provided in § 10.99(A).

(`87 Code, Art. 20-2) (Ord. 94-20, passed 9-26-94; Am. Ord. 97-09, passed 5-5-97; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

CAMPING

§ 94.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPING or **CAMP.** The use of an area outdoors for living accommodation purposes, and shall include, but not be limited to, erecting a tent or other type of shelter, or laying down bedding material, or both, for the purpose of, or in such a way as will permit it to be used for, living accommodation purposes or for sleeping purposes, or parking a trailer, camper, or other vehicle for the foregoing purposes.

(Ord. 98-07, passed 8-24-98)

§ 94.16 PUBLIC PROPERTY.

(A) No person shall camp on property owned, leased, or licensed by the town unless that property is specifically posted with signage allowing camping, or is otherwise a specifically designated camping area.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(Ord. 98-07, passed 8-24-98; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 94.17 PRIVATE PROPERTY.

(A) No person shall camp on private property unless that person has in his or her possession written permission from the property owner or lawful tenant of that property.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(Ord. 98-07, passed 8-24-98; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES
- 111. PEDDLERS, SOLICITORS AND BUSINESS LICENSES
- 112. [RESERVED]
- 113. CABLE TELEVISION
- 114. SPECIAL EVENTS

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Liquor license application fee

Cross-reference:

Alcoholic beverages prohibited in parks, see § 94.02

§ 110.01 LIQUOR LICENSE APPLICATION FEE.

There is herewith established a liquor license application fee, hereafter "fee," to be charged for processing liquor license applications for new businesses or transfers. The Town Council may from time to time, by resolution, establish a fee in such amount as it deems appropriate and necessary.

(’87 Code, Art. 8-3) (Ord. 95-08, passed 5-23-95)

Statutory reference:

Licensing and application procedure, see A.R.S. § 4-201

CHAPTER 111: PEDDLERS, SOLICITORS AND BUSINESS LICENSES

Section

General Provisions

111.01 Applicability and exemptions

111.02 Definitions

Registration

111.10 Registration fees

111.11 Identification required

111.12 Registration card issuance

111.13 Registration card revocation

Prohibitions and Restrictions

111.25 Peddling without registration card

111.26 Selling on streets and sidewalks without permit

111.27 Signs to be obeyed

Administration

111.40 Administrator designated

Business Licenses

111.50 Business license required

111.51 Application; issuance

111.52 Term of licenses

111.53 Number of licenses

111.54 License to be exhibited

111.55 Inspector of licenses

111.56 Duties and powers of inspectors

111.57 Transfer of license

111.58 Prorating prohibited

111.59 Business license fees

111.60 Restrictions; suspension; revocation

111.61 Appeals

Statutory reference:

Business licensing and regulation authorized, see A.R.S. § 9-240(B)(18) and (19)

County business and occupation license required, see A.R.S. § 11-1601

GENERAL PROVISIONS

§ 111.01 APPLICABILITY AND EXEMPTIONS.

(A) Newsboys and newsgirls are exempt from the provisions of this chapter for the sale of newspaper subscriptions.

(B) Such other persons and groups as specified by resolution of the Town Council shall be exempt from the provisions of this chapter.

(‘87 Code, § 8-1-8)

§ 111.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall unless the context clearly indicates or requires a different meaning.

CONTRACTOR.

(1) Synonymous with the terms **BUILDER, DUAL LICENSED CONTRACTOR, COMMERCIAL CONTRACTOR** and **RESIDENTIAL CONTRACTOR**.

(2) Any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does himself or herself or by or through others, or directly or indirectly supervises others to:

(a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or any other structure or work in connection with the construction.

(b) Connect such structure or improvements to utility service lines and metering devices and the sewer line.

(c) Provide mechanical or structural service for any such structure or improvements.

(3) **CONTRACTOR** includes subcontractors, specialty contractors, floor covering contractors, landscape contractors and consultants representing themselves as having the ability to supervise or manage a construction project for the benefit of the property owner, including the hiring and firing of specialty contractors, the scheduling of work on the project and the selection and purchasing of construction material.

PEDDLER or **MOBILE MERCHANT**. Any person, individual or corporation, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from a cart, automotive vehicle or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of a scheme or design to evade the provisions herein contained shall be deemed a **PEDDLER** or **MOBILE MERCHANT** subject to the provisions herein contained. **PEDDLER** shall include the words **HAWKER** and **HUCKSTER**.

SOLICITOR. Any person, individual or corporation, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, taking or attempting to take orders for sale of goods, wares, merchandise, edible foodstuffs, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; provided that such definition shall include any person or firm who, for themselves or itself, or for another person or firm hires, leases, uses or occupies any building, structure, tent, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.

TRANSIENT MERCHANT, ITINERANT MERCHANT or **ITINERANT VENDOR**. Any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edible foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer.

(Ord. O-2004-16, passed 4-5-04)8-1-8)

REGISTRATION

§ 111.10 REGISTRATION FEES.

(A) Any person operating as a solicitor, peddler, hawker, salesperson, or vendor of goods, wares, merchandise, magazines, or services who goes from house to house, or to only one house, in the town shall register with the Town Clerk and obtain an identification card showing such registration.

(B) The peddler's fee is \$50 for a three-month period.

(C) Any person required to register under this chapter shall pay the appropriate registration fee in the amounts as determined by resolution of the Town Council.

(`87 Code, § 8-1-1) (Am. Ord. 92-03, passed 2-24-92) Penalty, see § 10.99

§ 111.11 IDENTIFICATION REQUIRED.

(A) Applications for registration under the terms of § 111.10 may be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the Police Department. The Chief of Police may require the applicant to file his or her fingerprint identification with the Police Department.

(B) Applicants may be required to furnish to the Police Department a complete description of the product to be sold in the town, together with information regarding sales methods to be used and references that will enable the Chief of Police to determine whether or not such applicant is qualified to receive a registration card as provided in § 111.12. Investigation by the Chief of Police under the provisions of this chapter shall be completed within 15 days after the applicant has given the required information.

(`87 Code, § 8-1-2)

§ 111.12 REGISTRATION CARD ISSUANCE.

Registration cards shall be issued unless the Chief of Police discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons, in which case, in the interest of public safety and protection, the applicant shall not be registered:

(A) He or she has a felony criminal record;

(B) He or she is associated with a company that has engaged in fraudulent dealings; or

(C) The proposed sales proposition includes some element of trickery, fraud, or deceit.

(`87 Code, § 8-1-3)

§ 111.13 REGISTRATION CARD REVOCATION.

Registration cards under this chapter may be revoked by the town at any time if deemed necessary in the interest of public safety and protection.

(`87 Code, § 8-1-4)

PROHIBITIONS AND RESTRICTIONS

§ 111.25 PEDDLING WITHOUT REGISTRATION CARD.

(A) It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling, or vending of goods, wares,

merchandise, magazines, or services from business to business, from house to house, or to only one house in the town without having registered with the Clerk and without having obtained a registration card, without having such card in possession, or failing to exhibit such card when request is made for the registration card by any resident of the town.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 8-1-5) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 111.26 SELLING ON STREETS AND SIDEWALKS WITHOUT PERMIT.

(A) It is unlawful for any person to erect or maintain any booth, stand, or counter on any sidewalk or any right-of-way of the state, county, or town for the purpose of barter, sale, or trade, or keep or maintain upon the streets or alleys any wagon, cart, wheel, vehicle, movable booth, or stand for the purpose of barter or trade, without obtaining permission of the Town Council and obtaining a special use permit.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 8-1-6) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 111.27 SIGNS TO BE OBEYED.

It is unlawful for any peddler, solicitor, or canvasser in the course of his or her business to ring the doorbell or knock at any building whereon a sign bearing the words "no peddlers, solicitors, or canvassers" is exposed to public view.

(`87 Code, § 8-1-7) Penalty, see § 10.99

ADMINISTRATION

§ 111.40 ADMINISTRATOR DESIGNATED.

If the town has entered into a contract for police protection as provided in §§ 32.01 et seq., the Town Clerk or the Town Marshal shall perform the duties assigned to the Police Chief in this chapter.

(`87 Code, § 8-1-9)

BUSINESS LICENSES

§ 111.50 BUSINESS LICENSE REQUIRED.

(A) *Purpose.* The purpose of the business license is to provide an additional protection to the citizens and visitors of the town from fraud and misrepresentation; to ensure that sales tax revenues are reported equitably; and to provide a database of the commercial activities within the community.

(B) *Requirements.* The Town of Cave Creek requires that every person, firm, corporation, partnership or other business organization occupying real property within the town for business purposes shall obtain a business license. In addition, similar businesses which are engaged in business activities within the town but have no fixed place of business in the town shall also be required to obtain a business license.

(C) *Types of business licenses.*

(1) Business license. A business license shall be required of any person, corporation or partnership based within the town limits carrying on any trade, calling, profession, occupation or business. In addition, contractors (as defined in § 111.02) conducting business within the town limits shall also be required to obtain a business license. A business license shall be valid for a period not to exceed one year.

(2) Temporary business license. A temporary business license shall be required of any person operating as a solicitor, peddler, or transient merchant (as defined in § 111.02) within the town. A temporary business license shall be valid for a period not to exceed three consecutive days.

(D) *Violations.*

(1) It is unlawful for any person, whether as principal or agent, either for himself or herself or for another person, or for any corporation, or as a member of any firm or co-partnership, to commence practice, transact or carry on any trade, calling, profession, occupation or business within the town limits without first having procured a business license from the town.

(2) The practicing or carrying on of any trade, calling, profession, occupation or business by any person, corporation or partnership without first having procured a license from the town to do so, or without complying with any and all regulations of such trade, calling, profession, occupation or business, as required by other law or by this subchapter shall constitute a separate violation of this subchapter for each and every day that such trade, calling, profession, occupation or business is practiced, carried on or conducted within the town.

(E) *Exceptions.* The only exceptions to the licensing requirements of this section shall be:

(1) Non-profit educational institutions, fraternal and service clubs, bona fide religious organizations, and agencies of any federal, state or local governments.

(2) Non-profit private clubs where a basic membership fee covers the cost of the use of facilities.

(3) Fund-raising projects of non-profit and bona fide religious organizations, not conducted on a regular basis.

(Ord. O-2004-16, passed 4-5-04)

§ 111.51 APPLICATION; ISSUANCE.

(A) It shall be the duty of the Clerk upon receipt of a properly completed application for a business license and verification of the data contained thereon, to prepare and issue a license under this subchapter for every person, corporation or partnership required to pay a license fee hereunder and to state in each license the amount charged for the same, the period of time covered thereby, the name or the person, corporation or partnership for whom issued and the trade, calling, profession, occupation or business licenses and the location or place of business where the trade, calling, profession, occupation or business is to be carried on, transacted or practiced.

(B) In no case shall any mistake made by the Clerk in issuing any license or collecting the amount of fee for any license or the amount actually due from any person required to pay for a license as provided herein, prevent, prejudice or stop the town from collecting the correct amount of fee or charge for any license or the amount actually due from any person required to pay for a license as provided herein, or revoking any license erroneously issued and refunding the fee collected.

(C) No greater or lesser amount of money shall be charged or received by the Clerk for any license than is provided for in this subchapter, and no license shall be issued for any period of time other than as provided herein.

(D) All charges for a license required by this subchapter shall be paid in advance and in lawful money of the United States of America at the office of the Clerk.

(Ord. O-2004-16, passed 4-5-04)

§ 111.52 TERM OF LICENSES.

(A) The renewal charge for annual licenses provided herein shall become due and payable between January 1 and January 31 of each calendar year and each year thereafter, except that any new license charge shall become due and payable and be paid on or before the day of commencing to carry on, transact or practice the trade, calling, profession, occupation or business for which a license is required by this subchapter.

(B) The charge for daily licenses required by this subchapter shall become due and payable and be paid before each day for which required.

(Ord. O-2004-16, passed 4-5-04)

§ 111.53 NUMBER OF LICENSES.

(A) A separate charge for a license shall be paid for each branch establishment or separate place of business in which any person, corporation or partnership shall carry on, transact or practice a trade, calling, profession, occupation or business.

(B) When more than one trade, calling, profession, occupation or business is carried on, transacted or practiced by the same person, corporation or partnership at one fixed place of business, only one license shall be required and the charge for such license shall be the highest charge applicable to any of the activities, and all activities shall be listed on the license issued.

(C) When more than one trade, calling, profession, occupation or business shall be carried on, transacted or practiced by the same person, corporation or partnership without any fixed place of business, a separate license shall be required and a separate appropriate charge be paid for each activity for which a license is required by this subchapter.

(Ord. O-2004-16, passed 4-5-04)

§ 111.54 LICENSE TO BE EXHIBITED.

(A) Each person, corporation or partnership having a license and having a fixed place of business shall keep the license, while in force, at some conspicuous place or location within the place of business.

(B) Each person, corporation or partnership having a license and having no fixed place of business shall carry such license with them at all times, while engaged in any activity for which the license was issued, except that a person acting for any such corporation, firm or company may carry with them a copy of the license which has been issued by the Clerk and plainly marked or stamped "Duplicate."

(C) Each person, corporation or partnership having a license shall produce and exhibit the license whenever requested to do so by any designated officer of the town or by the Clerk.

(Ord. O-2004-16, passed 4-5-04)

§ 111.55 INSPECTOR OF LICENSES.

(A) The Clerk shall be inspector of licenses and may appoint, with approval of the Manager, such assistant inspectors as may be required to enforce these regulations.

(B) Each assistant inspector of licenses, immediately upon the facts coming to his or her knowledge, shall report to the Clerk the name of any person, corporation or partnership carrying on, transacting or practicing any trade, calling, profession or business within the town without first having obtained a license as required by this subchapter.

(Ord. O-2004-16, passed 4-5-04)

§ 111.56 DUTIES AND POWERS OF INSPECTORS.

(A) The inspector of licenses and assistant inspectors, each in the discharge and performance of his or her duties, shall have and exercise the following powers:

(1) To file a complaint for any violation of the provisions of this subchapter with the Town Magistrate.

(2) To enter, free of charge and at any reasonable time, any place of business for which a license is required by this subchapter and to demand exhibition of the license for the current period of time from any person, corporation or partnership engaged in carrying on, transacting or practicing any trade, calling, profession, occupation or business at such place of business and, if such person, corporation or partnership shall fail then and there to exhibit such license, such person, corporation or partnership shall be liable for the penalties provided for violation of this subchapter.

(B) When the charge for any license required hereunder shall remain unpaid for ten days from and after the due date, the charge shall be delinquent and the Clerk, on the day upon which the charge becomes delinquent, shall add thereto an amount equal to 25% of the charge as a penalty and no receipt or license shall be issued thereafter by the Clerk until the charge and penalty shall be paid in full.

(Ord. O-2004-16, passed 4-5-04)

§ 111.57 TRANSFER OF LICENSE.

No license issued under the provisions of this subchapter shall be assigned or transferred to any other person, corporation or partnership without first obtaining permission from the town.

(Ord. O-2004-16, passed 4-5-04)

§ 111.58 PRORATING PROHIBITED.

No license fee herein provided shall be prorated, except that annual licenses issued after the first of December shall be valid for all of the subsequent year and shall reflect an appropriate expiration date.

(Ord. O-2004-16, passed 4-5-04)

§ 111.59 BUSINESS LICENSE FEES.

(A) *Business license fee.* Required for all business types - \$50.

(B) *Business license renewal fee.*

(1) Annual renewal required - \$50.

(2) Notwithstanding the provisions of § 111.58 prohibiting prorating and consistent with the renewal requirement of § 111.59(B) (1), the business license renewal fee of \$50 shall be reduced during the calendar year 2005 to \$25 for all business license holders who paid the full \$50 in calendar year 2004. The provisions of this division shall not apply to any new license applications during the calendar year 2005, and shall have no effect after December 31, 2005.

(C) *Temporary business license fee.* Maximum three days - \$10/day.

(Ord. O-2004-16, passed 4-5-04; Am. Ord. O-2005-01, passed 1-18-05)

§ 111.60 RESTRICTIONS; SUSPENSION; REVOCATION.

Licenses issued under the provisions of this subchapter may be restricted, suspended or revoked by the Town Clerk, after notice and an opportunity for a hearing, for any of the following causes:

(A) Fraud, misrepresentation or false statement contained in the application for license.

(B) Fraud, misrepresentation of false statement made in the course of carrying on the business.

(C) Any violation of this subchapter.

(D) Conviction of any crime or misdemeanor involving moral turpitude.

(E) Conducting business in violation of any town ordinance, county ordinance or state law relating to the public health, safety and welfare.

(Ord. O-2004-16, passed 4-5-04)

§ 111.61 APPEALS.

(A) Notice of hearing for restriction, suspension or revocation of a license shall be given in writing, by the Town Clerk, setting forth specifically the grounds for the restrictions, suspension or revocation and the time and place of the hearing. The notice shall be mailed to the licensee at the address listed on the business license application at least ten days prior to the date set for the hearing. The

mailing of the notice shall constitute proper notice to the licensee.

(B) Any person aggrieved by the denial of an application for license or by the restrictions placed upon the license or by the suspension or revocation of the license shall have the right to appeal to the Council. The appeal shall be taken by filing with the Town Clerk, within 14 days after the denial, restriction, suspension or revocation, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and a place for hearing of the appeal, and notice of the hearing shall be given to the appellant in the same manner as provided for notice of a hearing on suspension or revocation. The decision and order of the Council on the appeal shall be final.

(Ord. O-2004-16, passed 4-5-04)

CHAPTER 112: [RESERVED]

CHAPTER 113: CABLE TELEVISION

Section

113.01 Adoption of cable television code by reference

§ 113.01 ADOPTION OF CABLE TELEVISION CODE BY REFERENCE.

That certain document known as the "Cable Television Code of the Town of Cave Creek," as amended, is hereby adopted and made a part of this chapter the same as though said code was specifically set forth in full herein, and at least three copies of said code shall be filed in the office of the Clerk and kept available for public use and inspection.

(’87 Code, Art. 15-1) (Ord. 88-22, passed 9-19-88)

CHAPTER 114: SPECIAL EVENTS

Section

114.01 Purpose

114.02 General requirements

114.03 Definitions

114.04 Submittal requirements

114.05 Permit revocation

114.06 Appeal

114.07 Exemptions

114.99 Penalty

§ 114.01 PURPOSE.

The purpose of this chapter is to provide a procedure for issuance of a special events permit in order to protect public health, safety and welfare, and to provide for safe traffic control, public sanitation facilities, emergency care provisions and buffering of nearby neighborhoods.

§ 114.02 GENERAL REQUIREMENTS.

(A) A special event may be held on private property only if the property is located within a commercial zone or has an established primary commercial use. The Town Council may approve a special event on property where there is no established primary commercial use if the Council determines that there is sufficient parking and street access for the event, and that the event will not create a nuisance and will not otherwise threaten the health, safety and welfare of the residents of the town and its visitors. If there is a serious concern for public health, safety and/or welfare, the number of special events occurring concurrently may be limited by the town.

(B) A special event permit is required for the following:

(1) Temporary uses or activities that include outdoor retail sales or display of goods or temporary structures when located on private commercial property involving more than ten vendors; or

(2) If the event requires off-site parking.

(C) All special events, whether on public or private property, shall be limited to a maximum of four consecutive days per event, unless a longer period of time is requested from and granted by the Town Council in advance.

(D) Additional permits, licenses, taxes or regulations may be imposed by the Town Code.

(E) The Town Planning Department may, subject to approval by the Town Council of a specific program allowing for signage on poles, implement and operate such a program allowing for signage on poles located on town property right-of-way that promotes and advertises special events, festivals, and other public and private events occurring in the town. Such signage may also promote and advertise merchants and non-profit entities and associations located within the town. Any signage displayed must be reviewed, permitted and approved by the town, including its Planning Department, Town Marshal, Town Engineer, and Building Official, and may not include any lights on the poles. The signage permitted by the town under this division may be known as signage permitted pursuant to the Street Banner Program. The town, through its Planning Department, may coordinate with the Cave Creek Merchants and Events Association to implement and operate the Street Banner Program, including the collection of charges and fees for such signage. Fees and charges, unrelated to the town's safety review, approval, and permit process for signage, may be collected by the town and/or the Cave Creek Merchants and Events Association as set by the Town Council by resolution.

(Ord. O2009-15, passed 11-2-09; Am. Ord. O2013-12, passed 1-6-14) Penalty, see § 114.99

§ 114.03 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SPECIAL EVENT. An organized event established for a period of time not to exceed four consecutive days and which is open to the public and takes place on:

(1) Public right-of-way, public property; or

(2) Private commercial property.

SPECIAL EVENT PERMIT. A permit issued by the Town of Cave Creek in accordance with this chapter.

USES or ACTIVITIES.

(1) The following and similar uses or activities located upon public right-of-way or public property:

(a) Bicycle races;

(b) 5K - 10K races and marathons;

(c) Parades;

(d) Walk-a-thons;

(2) The following and similar uses or activities located upon private property:

- (a) Arts and crafts shows;
- (b) Farmers markets;
- (c) Flea markets;
- (d) Auctions;
- (e) Carnivals;
- (f) Concerts;
- (g) Dances;
- (h) Fireworks displays;
- (i) Horse shows;
- (j) Rodeos.

VENDOR. An individual, group, institution, business or company that rents, leases or occupies a booth, tent or other temporary structure at a special event for the purpose of selling products made by the vendor or bought by the vendor and resold at the special event.

(Ord. O2009-15, passed 11-2-09)

§ 114.04 SUBMITTAL REQUIREMENTS.

The application for a special event permit shall include the following:

- (A) Completed special event application and fee. The fee for such permits shall be set by the Town Council by resolution.
- (B) Traffic and pedestrian control plan.
- (C) Road closure permit.
- (D) Fire Department approval.
- (E) Town of Cave Creek business license.
- (F) Proof of liability insurance.
- (G) Restroom facilities, as required by Maricopa County Health Code.

(Ord. O2009-15, passed 11-2-09)

§ 114.05 PERMIT REVOCATION.

(A) A special event permit may be revoked by the Town Marshal for any of the following reasons:

- (1) Failure to conduct the special event as presented on the application;
- (2) Failure to comply with special conditions in the approval of the application;
- (3) If the event poses a threat to the public health, safety or welfare.

(B) In the event a special event permit is revoked, a future permit from the same sponsor or business shall not be issued unless the application receives prior approval by the Town Council.

(Ord. O2009-15, passed 11-2-09)

§ 114.06 APPEAL.

(A) If a permit application is denied or a permit is revoked, the Town Marshal shall notify the applicant in writing of the reasons for the denial or revocation. An applicant who has been denied a permit, whose permit has been revoked, or who objects to any special conditions of the permit, may appeal the action of the Town Marshal in writing to the Civil Hearing Officer within ten working days from the denial, revocation, or approval subject to conditions.

(B) Upon receiving the written appeal, the Civil Hearing Officer shall set an appeal hearing in accordance with the provisions provided in the § 31.28, Commencement of Enforcement Action on Civil Code Infraction.

(Ord. O2009-15, passed 11-2-09)

§ 114.07 EXEMPTIONS.

Events occurring on public property or operated/sponsored by the Town of Cave Creek or the Cave Creek School District are exempt from the provisions of this chapter. An event is considered to be sponsored by the Town of Cave Creek if the event is approved by the Town Council at a public meeting.

(Ord. O2009-15, passed 11-2-09)

§ 114.99 PENALTY.

(A) An applicant whose permit has been revoked, and the revocation upheld, or who holds a special event without obtaining a special event permit, shall not be granted another special event permit for a period of one year from the date of the event.

(B) If a special event is held without a permit approved pursuant to the provisions of this chapter, the property owner shall be guilty of a civil code infraction and shall be subject to the provisions in the § 31.28, Commencement of Enforcement Action on Civil Code Infraction.

(Ord. O2009-15, passed 11-2-09)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Dangerous structures
- 130.02 Excavations
- 130.03 Explosives
- 130.04 Electric fences
- 130.05 Curfew for minors
- 130.06 Interference with businesses prohibited
- 130.07 Nuisances
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- 130.09 Obstruction of view of traffic
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- 130.11 Lights
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- 130.13 Weapons and animal traps
- 130.14 Sale of pseudoephedrine
- 130.15 Loitering
- 130.16 Fireworks

Statutory reference:

General powers of the town to regulate and prohibit activity, see A.R.S. § 9-240

Cross-reference:

Civil offenses, see §§ 34.70 et seq.

§ 130.01 DANGEROUS STRUCTURES.

It is unlawful for any person to maintain or allow any signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, construction areas, or places frequented by the public so situated or constructed as to endanger the public safety.

(`87 Code, § 11-1-1) Penalty, see § 10.99

§ 130.02 EXCAVATIONS.

(A) It is unlawful for any person to make any excavation or dig any hole, drain, or ditch in any highway or thoroughfare in the town without providing a sufficient light at night and a temporary fence or suitable warning obstruction around or in front of such excavation during the day.

(B) It is unlawful for any person to maintain a well, cellar, pit, or other excavation of more than two feet in depth on any unenclosed lot without substantial curbing, covering, or protection and warning sign.

(`87 Code, § 11-1-2) Penalty, see § 10.99

Cross-reference:

Nuisances; unguarded excavations and the like, see § 91.01

§ 130.03 EXPLOSIVES.

(A) (1) It is unlawful for any person within the limits of the town to blast, store, or use gun powder (excluding that which is used for the personal reloading of ammunition and loaded ammunition), fireworks, or other explosives without a permit from the town Fire Code Official in writing, with a copy of the permit to be filed with the local Fire Chief.

(2) The use, discharge or ignition of fireworks shall comply with § 130.16 of this Code.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(`87 Code, § 11-1-3) (Am. Ord. O-2005-07, passed 6-20-05; Am. Ord. O2017-08, passed 6-19-17) Penalty, see § 10.99

§ 130.04 ELECTRIC FENCES.

It is unlawful for any person to erect or maintain within the town any electric fence for other than animal containment. Any such fence is hereby declared a public nuisance and subject to abatement by order of the Town Court. All electric fencing used for animal containment shall have suitable warning signs posted and visible to the public.

(‘87 Code, § 11-1-4) Penalty, see § 10.99

Cross-reference:

Nuisances, see Chapter 91

§ 130.05 CURFEW FOR MINORS.

(A) *Definition.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action.

GUARDIAN. A person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or a person at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

INSUFFICIENT CONTROL. Failure to exercise reasonable care and diligence in the supervision of the juvenile.

MINOR. Any person under 18 years of age.

PARENT. A person who is a natural parent, adoptive parent, or stepparent of another person.

(B) *Offenses.*

(1) It is unlawful for any minor under the age of 16 years to be in, about, or upon any place in the town away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

(2) It is unlawful for any minor 16 years of age or older and under the age of 18 years to be in, about, or upon any place in the town away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.

(3) It is unlawful for a parent or guardian of a minor to knowingly permit or by insufficient control allow a minor to violate (B)(1) or (B)(2) as listed above.

(4) It is unlawful for a parent, guardian, or other person having the care, custody, or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him or her by a law enforcement officer who arrests the minor for violation of (B)(1) or (B)(2) as listed above.

(C) *Defenses/exceptions.* It is a defense to prosecution under (B), including (B)(3), of this section that the minor was:

(1) Accompanied by the minor's parent or guardian.

(2) In a motor vehicle involved in interstate travel.

(3) With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the most direct route.

(4) Involved in an emergency.

(5) With prior permission of the parent or guardian, engaged in reasonable, legitimate, and specific business and/or activity. Examples include but are not limited to a juvenile with prior permission of the parent or guardian attending an official school, religious, or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious, or other recreational activity supervised by adults who take responsibility for the minor.

(6) Engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.

(7) Married and 16 years of age or over, or in the military.

(8) On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

(D) *Enforcement.*

(1) Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in division (C) of this section is probably present.

(2) In addition to any other powers he or she may have, any law enforcement officer who arrests a minor for violating any of the provisions of (B)(1) or (B)(2) is also hereby empowered to demand of the parent, guardian, or other person having the care, custody, or supervision of the minor that such parent, guardian, or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian, or other person to take custody of such minor, the officer may then be empowered to take the minor home.

(E) *Violations.* Each violation of the provisions of (B)(1)-(4) shall constitute a separate offense.

(F) *Penalty.* A person convicted of a violation of any provision of this section shall be guilty of a Class 1 misdemeanor. This offense is designated an incorrigible offense for minors under the jurisdiction of the Juvenile Court.

(Ord. 96-21, passed 11-4-96) Penalty, see § 10.99

§ 130.06 INTERFERENCE WITH BUSINESSES PROHIBITED.

(A) It is unlawful for any person, other than the owner, manager, or his or her authorized representative, to interfere individually or collectively with the free enjoyment of such property by the owners thereof; or interfere with the conduct of any lawful business by obstructing entrance to such business or by obstructing free passage to persons or merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

('87 Code, § 11-1-6) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 130.07 NOISE.

(A) *General.* Uses that produce objectionable smoke, dust, radiation, odor, noise, glare, fumes or other conditions that adversely affect public health, safety and general welfare are not permitted in any zoning district.

(B) *Noise.*

(1) *Declaration of policy.* It is hereby declared to be the policy of the Town of Cave Creek to prohibit excessive or offensive noises from all sources subject to its police power. Above certain levels, excessively loud noises are detrimental to the health, safety and welfare of the citizens of the town, and in the public interest such noises should be eliminated.

(2) *Offensive and excessive noise violation.* It shall be unlawful and a violation of this section for any person to make, continue, cause to be made or continued, or to allow or permit any excessive or offensive noise, as defined in division (D).

(C) *Sound level measurement criteria.*

(1) For the purpose of enforcement of the provisions of this section, noise levels shall be measured on the a-weighted scale, with a sound level meter satisfying at least the applicable requirement for Type 2 sound level meters, as defined in the *American National Standard S1.4-1971* or the most recent revisions thereof.

(2) Prior to measurement, the meter shall be set for slow response speed, except that for rapidly varying sound levels, fast response speed may be used.

(3) Prior to measurement, the meter shall be verified and calibrated according to the manufacturer's specifications.

(D) *Enumeration of offensive or excessive noises.* The following enumerated acts or conditions may produce offensive or excessive noise that violates the provisions of this section. Enumeration, or the lack thereof, shall not, however, preclude other sources

of noise that are offensive and/or excessive from also being in violation of the provisions of this section. Exceptions to the provisions of this division are contained in division (E).

(1) *Land use noise.*

(a) Classification of land use districts shall include residential (Single-Family Residential, Desert Rural and Multi-Family Residential) and commercial (General Commercial, Commercial Core and Commercial Buffer) zoning districts, as set out in Chapter 4, *Use Districts*, of the Zoning Ordinance, and shall for purposes of this section be distinguishable as residential and commercial land use classifications, within which the sound levels contained within Table 1 below shall be locally measurable and applied by the use of Leq levels, as defined by § 10.05, and measured in accordance with the methods set forth in § 130.07(C), to evaluate an alleged violation of this section.

(b) It shall be a violation of this section for any person to operate, or to permit to be operated, any site-specific source of sound in which the noise created is in excess of the ambient sound pressure level (Leq) limit (dBA), as indicated in Table 1.

(c) Sound levels shall be measured at:

- 1. On or about the property line of the parcel from which the noise emission is generated.

<i>TABLE 1 - LIMITING SOUND LEVELS FOR LAND USE DISTRICTS</i>		
Land Use District Classifications	Time Periods	Leq Limits (dBA)*
Residential (DR-190, DR-89, DR-70, DR-43, R-35, R-18, MR-8, MR-14, MR-21, MR-43)	10:01 p.m. to 7:00 a.m.	50 dBA
	7:01 a.m. to 10:00 p.m.	60 dBA
Commercial (GC, CC, CB)	12:01 a.m. to 7:00 a.m.	60 dBA
	7:01 a.m. to 12:00 a.m.	75 dBA
* The Leq limits (dBA) specified in Table 1 represent the average Leq over a continuously measured two-minute time interval. Partial Leq levels may be obtained as necessary to assure an accurate indication of the representative sound environment for the site.		

(2) (a) It shall be unlawful to operate any device, such as a sound truck, loudspeaker or sound amplifier, radio or phonograph with a loud speaker or a sound amplifier, or any instrument that exceeds the allowable noise level for the land use district in which it is located, and which is attached to or upon a vehicle, without the town's prior approval.

(b) Prior to the use of the sound-generating equipment, the operator of a vehicle so equipped shall first apply for, and receive authorization from the Town Marshal.

(3) It shall be unlawful for any person to operate a motor vehicle that is not equipped with a muffler as a part of its exhaust system.

(a) The muffler shall be in good working order and in continuous operation.

(b) It shall be unlawful for any person operating any motor vehicle to use a cutout, by-pass, or similar muffler-elimination mechanism.

(E) *Exceptions.* The following activities are exempt from the prescribed time and Leq limits, as shown in Table 1 of this section.

- (1) *Emergencies.* Noise resulting from emergencies, including but not limited to, repair of roofs, windows, doors, electrical,

plumbing and mechanical (HVAC) shall be permitted whenever necessary. An **EMERGENCY** shall be defined as any situation where work must be performed in order to minimize damage to property or extreme discomfort to occupants.

(2) *Emergency equipment.* Safety signals and alarm devices, storm-warning sirens or horns, and the authorized testing of such equipment, emergency vehicle sirens, any electronic equipment or horns used when responding to an emergency, and emergency pressure-relief valves.

(3) *Crowd noises.* Crowd noises resulting from activities such as those planned for school, governmental or community groups, or duly authorized by such groups.

(4) *Construction activities.* Noise-generating construction activities on Monday through Saturday shall commence no earlier than 30 minutes prior to official sunrise, as recorded daily by the National Weather Service, and must stop at official sunset, as recorded daily by the National Weather Service. Construction activities conducted on Sundays shall comply with the hours of operation as established within Table 1 of this section.

(5) *Ranch use activities.* Noise generating ranch use activities shall commence no earlier than 30 minutes prior to official sunrise, as recorded daily by the National Weather Service and must stop at official sunset, as recorded daily by the National Weather Service.

(6) *Collection or removal of garbage or refuse, or delivery or pick up of products for sale.*

(a) In residential land use districts, noise-generating activities related to the collection or removal of garbage or refuse or the delivery or pick up of products for sale shall be restricted to between the hours of 5:30 a.m., or one-half hour before sunrise, whichever is earlier, and 9:00 p.m. (MST).

(b) In commercial land use districts, noise-generating activities related to the collection or removal of garbage or refuse or the delivery or pick up of products for sale shall be restricted to between the hours of 5:30 a.m., or one-half hour before sunrise, whichever is earlier, and 11:00 p.m. (MST).

(F) *Enforcement.*

(1) *Violation a public nuisance.* The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this section shall be deemed, and is declared to be, a public nuisance, and shall be subject to abatement as such.

(2) *Town Marshal's Office as enforcement agency.* The Town Marshal's Office shall coordinate the implementation of this section, in conjunction with the Maricopa County Sheriff's Office, so as to ensure uniform and consistent enforcement.

(3) *Multiple property owners' nuisance complaints.* Multiple property owners' nuisance complaints about noise levels emitted from a single source, which are confirmed by the Town Marshal, may constitute a violation of the nuisance provisions of this section. The nuisance complaint may be deemed valid even if the noise emitted is below the dBA limit for the land use district in which it is located.

(4) *Stop orders.* Whenever any work on a construction project is in violation of the provisions of this section, the Town Building Official may order the construction project stopped by notice, in writing, served on any persons responsible for the project, and any such persons shall forthwith stop work on the project until authorization to proceed is obtained from the Building Official.

(Ord. O-2005-02, passed 2-22-05; Am. Ord. O-2007-02, passed 3-19-07)

Cross-reference:

Nuisances and their abatement, see Ch. 91

§ 130.08 OBSTRUCTION OF STREETS.

(A) It is unlawful for any person to obstruct any public street, alley, sidewalk, park, or other public grounds within the town by committing any act or doing anything which endangers vehicular or pedestrian traffic safety or is injurious to the health or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks, or other public grounds any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by anyone in, upon, facing, or fronting on any of such streets, alleys, sidewalks, parks, or other public grounds in the town.

(B) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(‘87 Code, § 11-1-8) (Am. Ord. O-2005-07, passed 6-20-05; Am. Ord. O2016-07, passed 9-19-16) Penalty, see § 10.99

§ 130.09 OBSTRUCTION OF VIEW OF TRAFFIC.

It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(‘87 Code, § 11-1-9) Penalty, see § 10.99

Cross-reference:

Activity in public rights-of-way regulated, see § 93.15

§ 130.10 GRAFFITI.

(A) It is unlawful for any person to place graffiti on any private or public real or personal property within the town.

(B) For the purpose of this section, **GRAFFITI** is defined as the act of carving, scratching, etching, burning, marking, or painting by any means or method any private or public real or personal property without the express consent of the owner or manager of such property.

(C) Any juvenile who violates this section shall be subject to the provisions of A.R.S. § 8-323.

(D) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(Ord. 96-20, passed 11-18-96; Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

Cross-reference:

Nuisances; graffiti, see §§ 92.01 et seq.

§ 130.11 LIGHTS.

It is unlawful for any person to operate within the town any incandescent or arc-type searchlight, beacon light, or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the Town Council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

(‘87 Code, § 11-1-11) Penalty, see § 10.99

§ 130.12 WATER FLOWS.

(A) It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town.

(B) It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him or her.

(‘87 Code, § 11-1-12) Penalty, see § 10.99

§ 130.13 WEAPONS AND ANIMAL TRAPS.

(A) The use of bows and arrows, spring- or CO₂-operated BB or pellet guns, or slingshots is allowed for the purpose of target shooting if:

- (1) The target area is enclosed in such manner and with materials that will stop the projectiles; and
- (2) Such target shooting is supervised by an adult at all times.

(B) It is unlawful to discharge a firearm within the town, except:

- (1) As allowed pursuant to the provisions of A.R.S. §§ 13-401 et seq.
- (2) On a properly supervised range.
- (3) In an area recommended as a hunting area by the Arizona Game and Fish Department, approved and posted as required by the Town Marshal, but any such area may be closed when deemed unsafe by the Town Marshal or the Director of the Game and Fish Department.
- (4) For the control of nuisance wildlife by permit from the Arizona Game and Fish Department or the United States Fish and Wildlife Service.
- (5) By special permit of the Town Marshal.
- (6) As required by an animal control officer in the performance of duties as specified in A.R.S. § 9-499.04.

(C) A ***PROPERLY SUPERVISED RANGE*** for the purposes of this section means a range operated by a club affiliated with the National Rifle Association of America, the Amateur Trapshooting Association, the National Skeet Association, or any other nationally recognized shooting organization, any agency of the federal government, the State of Arizona, the county, the city, or the town within which the range is located, or any public or private school, and, in the case of air or carbon dioxide gas operated guns, or underground ranges on private or public property, such ranges may be operated with adult supervision.

(D) No trapping of an animal is allowed for any purpose other than humane.

(E) Any violation of this section shall constitute a Class 1 misdemeanor, punishable as provided in § 10.99(C).

(‘87 Code, § 11-1-13) (Am. Ord. O-2005-07, passed 6-20-05) Penalty, see § 10.99

§ 130.14 SALE OF PSEUDOEPHEDRINE.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PSEUDOEPHEDRINE PRODUCT. Any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, or norpseudoephedrine, or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product.

RETAIL ESTABLISHMENT. Any place of business that offers any pseudoephedrine product for sale at retail.

(B) The operator of a retail establishment shall keep all products containing pseudoephedrine behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the establishment.

(C) A person making a retail sale of a product containing pseudoephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser's name, date of birth, quantity of pseudoephedrine product purchased, transaction date and the initials of the seller.

(D) The information required to be obtained by division (C) will be retained by the retail establishment for a period of 90 days, and will be considered a confidential document that will only be available to the operator of the retail establishment, and shall be available to the Town of Cave Creek Town Marshal Department Officers, Arizona Department of Public Safety Officers, Maricopa County Sheriff's Department Officers, and other law enforcement officers.

(E) A violation of this section is a Class 1 Misdemeanor.

§ 130.15 LOITERING.

(A) *Impeding pedestrians.* It shall be unlawful for any person or persons to loaf, loiter or congregate upon any sidewalk or walkway within the town so as to obstruct the use of such sidewalk or walkway by pedestrians.

(B) *Citation.* A law enforcement officer shall, prior to any arrest or citation for an offense pursuant to this section, permit the subject individual or individuals an opportunity to cease their obstruction of pedestrians or traffic by warning the individual(s) to disperse or risk citation under division (C) below.

(C) *Penalty.* Violation of this section shall constitute an offense subject to citation and penalty not to exceed \$500.

(Ord. O2007-12, passed 9-24-07)

§ 130.16 FIREWORKS.

(A) *Definitions.* For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSUMER FIREWORK. Those fireworks defined by A.R.S. § 36-1601, as may be amended.

DISPLAY FIREWORK. Those fireworks defined by A.R.S. § 36-1601, as may be amended.

FIREWORKS. Any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by A.R.S. § 36-1601, as may be amended.

NOVELTY ITEMS. Federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys defined in A.R.S. § 36-1601, as may be amended.

PERMISSIBLE CONSUMER FIREWORKS. Those fireworks as defined by A.R.S. § 36-1601, as may be amended, that may be sold within the Town of Cave Creek even where the use of those items has been prohibited.

SUPERVISED PUBLIC DISPLAY. A monitored performance of display fireworks open to the public and authorized by permit by the town's Fire Code Official or designee.

(B) *Fireworks prohibited; exceptions.*

(1) The use, discharge or ignition of fireworks or novelty items within the town is prohibited except as provided for in this section.

(a) In the town core commercial, general commercial zoning districts and any public golf course and is limited to occurring between the dates of June 24 through July 6 and December 24 through January 3.

(2) Nothing in this section or chapter shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.

(3) Permits may be granted by the town Fire Code Official or designee for conducting a property supervised public display of fireworks and a copy of that permit shall be given to the local Fire Chief. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. Permits shall comply with the requirements of the most recent version of NFPA 1123 Code for fireworks display. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Fire Code Official has authority to impose conditions on any permits issued, including, but not limited to, those requirements contained in A.R.S. Title 36, the Fire Code adopted by the town and any other applicable law.

(4) Failure to comply with any permit requirements issued by the Fire Code Official is a civil code infraction punishable by a civil fine up to \$500 for each violation.

(C) *Sale of fireworks.*

(1) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under 16 years of

age.

(2) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

(3) No person shall sell or permit or authorize the sale of permissible consumer fireworks within the boundaries of the town except during the dates of May 20 through July 6 and December 10 through January 3.

(D) *Posting of signs by persons engaged in the sale of fireworks; civil penalty.*

(1) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

(a) The use of fireworks and novelty items as defined by Town Code, including permissible consumer fireworks is prohibited.

(b) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

(2) Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.

(3) The Fire Code Official or designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the town's website and filed with the Clerk's office.

(4) Failure to comply with divisions (D)(1) and (2) above is a civil code infraction punishable by a civil fine up to \$500 for each violation.

(E) *Authority to enforce violations of this section; means of enforcement.*

(1) The Fire Code Official, or designee, any peace officer, Town Marshal, the Town Attorney, or the Town Prosecutor may issue civil code infraction complaints to enforce violations of this section designated as civil offenses.

(2) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.

(3) Any peace officer, Town Marshal, the Town Attorney or the Town Prosecutor may issue criminal complaints to enforce this section.

(F) *Liability for emergency responses related to use of fireworks; definitions.*

(1) A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this section is prima facie evidence of liability under this section.

(2) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to division (F)(1) above. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed \$ 25,000 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(3) For the purposes of this division (F), the following definitions shall apply unless the context clearly indicates or requires a different meaning:

EXPENSES OF AN EMERGENCY RESPONSE. Reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.

REASONABLE COSTS. Includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who responded to the incident.

(G) *Penalty.* The penalty for violating any prohibition or requirement imposed by this section is a Class 3 misdemeanor unless another penalty is specifically provided for.

(Ord. O2010-09, passed 10-18-10; Am. Ord. O2017-07, passed 6-19-17)

Chapter

150. PLANNING AND DEVELOPMENT**151. BUILDING REGULATIONS****152. FLOOD DAMAGE PREVENTION****153. SUBDIVISION OF LAND****154. ZONING****155. MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION FACILITIES****156. TRANSFER OF DEVELOPMENT RIGHTS****CHAPTER 150: PLANNING AND DEVELOPMENT**

Section

150.01 Fees for development of land

150.02 Dedication and exaction appeals

Appendix: Forms

§ 150.01 FEES FOR DEVELOPMENT OF LAND.

(A) The Town Council shall have the authority after public hearing to determine a schedule of building development fees as it deems necessary and appropriate.

(B) Such fees shall be set by a formal Town Council resolution and shall impose fees on the division of land, the development of single-family residences, multi-family units, commercial and industrial facilities, as well as all improvements and additions thereto, including the infrastructure thereto, including but not limited to water, sewer, electrical and cable television lines and systems, as well as roads, streets, parking lots, curbs, gutters, any accessory buildings or any other improvements thereto.

(C) The fees shall be used to offset the cost and burden to the town of providing necessary services to such new or additional facilities. Such development fees are due and payable prior to the issuance of any building permit.

('87 Code, Art. 18-2) (Ord. 94-09, passed 3-21-94)

Statutory reference:

Development fees authorized, procedures, see A.R.S. § 9-463.05

§ 150.02 DEDICATION AND EXACTION APPEALS.

(A) *Notice to property owners regarding appeals of dedications or exactions.* The Town Manager and Town Attorney shall approve forms which the town shall use to notify persons of the procedures for appealing a dedication or exaction by the town. The town shall distribute the notification forms to property owners who have been granted an approval for the use, improvement, or development of real property subject to the requirement of a dedication or exaction by the town. The initial notification form shall be as set forth in division (C) of this section. The Town Manager and the Town Attorney may hereafter amend the notification form from time to time without Town Council approval.

(B) *Appointment of hearing officers to hear appeals of dedication or exaction requirements.* The Town Manager and Town Attorney shall appoint an independent hearing officer or officers to decide appeals of dedication or exaction requirements.

(C) *Notice of appeal from dedication and exaction determinations.*

NOTICE OF APPEAL FROM DEDICATION AND EXACTION DETERMINATIONS

STATE OF ARIZONA

TOWN OF CAVE CREEK

NOTICE OF APPEAL

Appeal Pursuant of A.R.S. §§ 9-500.12 and 9-500.13 Relating to Appeals of Dedications and Exactions

APPLICANT: _____ CASE # _____

ADDRESS: _____ PARCEL #: _____

LOCATION: _____ ZONING: _____

QUARTER SECTION: _____

Please take notice that _____ appeals the determination by the Cave Creek Zoning Administrator to require the following:

Signature _____ Date _____

(Ord. 97-16, passed 6-16-97)

Statutory reference:

Appeals from dedications and exactions, see A.R.S. § 9-500.12

CHAPTER 151: BUILDING REGULATIONS

Section

Adoption of Codes

- 151.01 Building Code
- 151.02 Residential Code
- 151.03 Mechanical Code
- 151.04 Plumbing Code
- 151.05 Electrical Code
- 151.06 Fire Code
- 151.07 Sprinkler Code
- 151.08 Fuel Gas Code
- 151.09 Existing Building Code
- 151.10 Energy Conservation Code
- 151.11 [Reserved]
- 151.12 [Reserved]
- 151.13 [Reserved]
- 151.14 Fee schedule

151.15 Public Works Code

Regulations

151.20 Conformance with Zoning Ordinance

151.21 Fireplaces, wood stoves, and other solid-fuel burning devices

151.22 Utility installation in new subdivisions

151.23 Improvements to become public property or in public rights-of-way

Administration and Permits

151.35 Building Official

151.36 Permits

Development Fees

151.40 Development fees

151.41 Purpose; intent

151.42 Definitions

151.43 General provisions; applicability

151.44 Procedures for imposition, calculation and collection

151.45 Establishment of development fee accounts; appropriation of development fee funds; refunds

151.46 Appeals

151.47 Exemptions; waivers

151.99 Penalty

Statutory reference:

Applicability of local codes, see A.R.S. § 34-461

Enactment of codes by reference, see A.R.S. §§ 9-801 et seq.

Cross-reference:

Streets, sidewalks, and waterways; curbs and excavations, see Chapter 93

ADOPTION OF CODES

§ 151.01 BUILDING CODE.

Adoption. Effective January 1, 2012, there is herewith adopted, by reference, *The International Building Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title.* These regulations shall be known as the Building Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the

technical code shall apply.

(2) *101.4.4 Property maintenance.* Shall be deleted in its entirety.

(3) *101.5.2 Work exempted from permit.* Items 2 and 9 shall be amended to read as follows:

2.a. Open fences not capable of retaining earth, such as pipe rail, chain link, barbed wire, split rail or of similar construction up to five feet, six inches tall as measured from grade, except for any pool barrier or portion thereof.

2.b. Solid fences of any material that do not retain earth up to four feet tall as measured from bottom of footing, except for any pool barrier or portion thereof.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 18 inches (457 mm) deep, do not exceed 5,000 gallons (18,925 L) and are installed entirely above ground.

(4) *105.3.2 Time limitation of application.* Shall be deleted in its entirety and replaced with the following:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(5) *105.5 Expiration.* Shall be deleted in its entirety and replaced with the following:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one extension of time, for a period not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(6) *109.4 Work commencing before permit issuance.* Shall be deleted in its entirety and replaced with the following:

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee that shall be in addition to the required permit fees. This fee shall be equal to the amount of the permit and plan review fee required by the approved fees. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or other requirements, nor from the penalty prescribed by law.

(7) *109.6 Refunds.* Shall be deleted in its entirety and replaced with the following:

1. The building official shall be permitted to authorize refunding of a fee paid hereunder which was erroneously paid or collected.

2. The building official shall be permitted to authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official shall be permitted to authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

(B) Chapter 3, "Use and Occupancy Classification", is hereby amended as follows:

(1) *308.2 Group I-1.* Shall be deleted in its entirety and replaced with the following:

This occupancy shall include buildings, structures, or parts thereof, housing more than 10 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides supervisory care services. The occupants are capable of responding to an emergency without physical assistance from staff. The group shall include, but not be limited to, the following:

Alcohol and drug abuse centers

Assisted living centers

Congregate care facilities

Convalescent facilities

Group homes

Halfway houses

Residential board and care facilities

Social rehabilitation facilities

A facility such as the above with 10 or fewer persons shall be classified as a Group R-4 Condition 1, or shall comply with *The International Residential Code* in accordance with 101.2 where the building is in compliance with Section 424 of this code.

(2) *308.3 Group I-2.* Shall be deleted in its entirety and replaced with the following:

This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing, custodial, personal, or directed care on a 24-hour basis of more than 5 persons who are not capable of self-preservation by responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Child care facilities

Detoxification facilities

Hospitals

Mental hospitals

Nursing homes (both intermediate care and skilled nursing facilities)

This occupancy shall also include assisted living facilities providing personal or directed care on a 24-hour basis of more than 10 persons who are not capable of responding to an emergency situation without physical assistance from staff. Assisted living facilities providing personal or directed care on a 24-hour basis of 10 or fewer persons who are not capable of responding to an emergency situation without physical assistance from staff shall be classified as R-4 Condition 2.

(3) *310.1 Group R-4.* Shall be deleted in its entirety and replaced with the following:

Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living homes including not more than 10 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code and Section 424, or shall comply with *The International Residential Code*, provided the building is protected by an automatic sprinkler system in accordance with Section 424.

(4) *310.1.1 Condition 1.* Shall be deleted in its entirety and replaced with the following:

This occupancy condition shall include facilities licensed to provide supervisory care services, in which occupants are capable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition 1 facilities housing more than 10 persons shall be classified as Group I-1.

(5) *310.1.2 Condition 2.* Shall be deleted in its entirety and replaced with the following:

This occupancy condition shall include facilities licensed to provide personal or directed care services, in which occupants are incapable of self-preservation by responding to an emergency situation without physical assistance from staff. Condition 2 facilities housing more than 10 persons shall be classified as Group I-2.

(6) *310.2 Definitions.* Shall be amended as follows:

(a) Delete the definition for PERSONAL CARE SERVICE in its entirety and replace with the following:

Assistance with activities of daily living that can be performed by persons without professional skills or professional training, and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments.

(b) Delete the definition of RESIDENTIAL CARE/ASSISTED LIVING FACILITY in its entirety and replace with the following:

A building or part thereof housing a maximum of 10 persons, excluding staff, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides supervisory, personal, or directed care services. This classification shall include, but not be limited to, the following: residential board and care facilities, group homes, congregate care

facilities, assisted living homes.

(c) Add the following definitions:

SUPERVISORY CARE SERVICE. General supervision, including daily awareness of resident functioning and continuing needs.

DIRECTED CARE SERVICE. Care of residents, including personal care services, who are incapable of recognizing danger, summoning assistance, expressing need, or making basic care decisions.

(C) Chapter 4, "Special Detailed Requirements Based on Use and Occupancy", is hereby amended by adding a new Section 424, "Assisted Living", to read as follows

SECTION 424 ASSISTED LIVING.

424.1 Applicability. The provisions of this section shall apply to a building or part thereof housing not more than 10 persons, excluding staff, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment, which provides licensed care services. Except as specifically required by this division, R-4 occupancies shall meet all the applicable provisions of Group R-3.

424.2 General. Buildings or portions of buildings classified as R-4 may be constructed of any materials allowed by this code, shall not exceed two stories in height, nor be located above the second story in any building, and shall not exceed two thousand square feet above the first story, except as provided in Section 506.

424.3 Special Provisions. R-4 occupancies having more than 2,000 square feet above the first story shall be of not less than one-hour fire-resistive construction throughout.

424.3.1 Mixed Uses. R-4 occupancies shall be separated from other occupancies as provided in Table 508.4.

424.4 Access and Means of Egress Facilities.

424.4.1 Accessibility. R-4 occupancies shall be provided with at least one accessible route as provided in Section 1104.1.

424.4.2 Exits.

424.4.2.1 Number of Exits. Every story, basement, or portion thereof, shall have not less than two exits.

Exception: Basements and stories above the first floor containing no sleeping rooms used by residents may have only one means of egress as provided in Chapter 10.

424.4.2.2 Distance to Exits. The maximum travel distance shall comply with Section 1016, except that the maximum travel distance from the center point of any sleeping room to an exit shall not exceed 75 feet.

424.4.2.3 Emergency Exit Illumination. In event of a power failure, exit illumination shall be automatically provided from an emergency system powered by storage batteries or an onsite generator set installed in accordance with *The International Electric Code*.

424.4.2.4 Emergency Escape and Rescue. R-4 Occupancies shall comply with the requirements of Section 1029, except that Exception #1 to 1029 does not apply to R-4 occupancies.

424.4.2.5 Delayed Egress Locks. In R-4 Condition 2 occupancies, delayed egress locks shall be permitted in accordance with 1008.1.4.4, items 1, 2, 4, 5, and 6 or 1008.1.9.8.

424.5 Smoke Alarms and Sprinkler Systems.

424.5.1 Smoke Alarms. All habitable rooms and hallways in R-4 occupancies shall be provided with smoke alarms installed in accordance with Section 907.2.11.

424.5.2 Sprinkler Systems. R-4 occupancies shall be provided with a sprinkler system installed in accordance with 903.2.8. Sprinkler systems installed under this section shall be installed throughout, including attached garages, and in Condition 2 facilities, shall include concealed spaces of or containing combustible materials. Such systems may not contain unsupervised valves between the domestic water riser control valve and the sprinklers. In Condition 2 occupancies, such systems shall contain water flow switches electrically supervised by an approved supervising station, and shall sound an audible signal at a constantly attended location.

(D) Chapter 10, "Means of Egress", is amended as follows:

1008.1.2 Door swing. Amend item 4 to read as follows:

4. Doors within or serving a single dwelling unit in Groups R-2 and R-3, as applicable in 101.2, and R-4.

(E) Chapter 12, "Interior Environment", is amended as follows:

1210.2 Walls. Amend to read as follows:

1210.2 Walls. Walls within 2 feet (610 mm) of service sinks, urinals and water closets shall have a smooth, hard, nonabsorbent surface, to a height of 4 feet (1219 mm) above the floor and, except for structural elements, the materials used in such walls shall be of a type that is not adversely affected by moisture.

(F) Chapter 16, "Structural Design", is amended as follows:

Revise item 27 in Table 1607.1 in the following manner:

Table 1607.1

Occupancy or Use	Uniform (psf)	Concentrated (lbs)
27. Residential One- and two-family dwelling Uninhabitable attics with limited storage l, j, k Habitable attics and sleeping areas	20 <u>40</u> 30 <u>40</u>	

(G) Chapter 31, "Special Construction", is amended as follows:

3109. Swimming pool enclosures and safety devices. Delete in its entirety and replace with the following:

General. Every swimming pool shall be completely enclosed by a permanent fence, wall or barrier to restrict access to the swimming pool from public property, from adjacent private property, and directly from all dwelling units or guest rooms located on the same premises as the swimming pool.

These swimming pool enclosure and barrier detail requirements apply to all new swimming pools installed on or after the effective date of this ordinance, and to all additions, alterations, repairs or replacements made to existing swimming pool enclosures. All swimming pools installed before the effective date of this ordinance shall be completely enclosed by January 1, 1995.

Exceptions. Swimming pools built on single-family residential property on or before the effective date of this ordinance need not be retroactively fitted with a barrier between the dwelling and the pool, provided all occupants of the dwelling are at least six years of age or older. All other portions of the swimming pool enclosure shall be installed and maintained as required herein.

This exception does not eliminate an owner's responsibility for providing a temporary barrier or otherwise physically restricting visiting children's direct access from the dwelling to the swimming pool. This exception shall expire and the required permanent barrier shall be retroactively installed between the dwelling and the swimming pool whenever one or more children under six years of age become residents of the property.

Above ground swimming pools which have nonclimbable sides not less than 48 inches (1219 mm) high above the adjacent ground level may be located on single-family residential property without a fence or barrier between the pool and the dwelling, provided any steps or ladder are either removable without the use of tools, or are designed to be secured in an inaccessible position with a lock or latch located not less than 54 inches (1372 mm) above the adjacent ground level.

The property owner and any other person in charge of a swimming pool shall ensure that the required swimming pool enclosure, including all gates, doors, locks, latches and other portions of the barrier, are maintained safe and in good working order. No person shall alter or remove any portion of a swimming pool enclosure except to repair, reconstruct or replace the enclosure in compliance with this section.

Barrier details. Swimming pool barriers shall be installed as a permanent fence, a wall, a building wall, or a combination thereof, which surround the swimming pool. The pool side of the barrier shall not be less than 20 inches (508 mm) from the water's edge. The top of the barrier, including all gates and doors, shall not be less than 60 inches (1524 mm) above the floor or underlying ground, measured on the exterior side of the enclosure.

Exception: Barrier fences or walls not less than 54 inches (1372 mm) in height which existed on or before the effective date of this ordinance may be used for that portion of the required swimming pool enclosure which separates a swimming pool from dwellings located on the same premises as the pool, provided such barrier is kept in repair and is otherwise maintained in compliance with all other provisions of this section.

There shall be no openings, holes or gaps in a swimming pool barrier large enough for a sphere 4 inches (102 mm) in diameter to pass through. Barrier fences or walls may not have handholds, footholds or horizontal members accessible from the exterior side of the enclosure. Horizontal members of fences shall be spaced not less than 45 inches (1143 mm) apart measured vertically, or shall be placed on the pool side of a fence which has no opening greater than 1.75 inches (44 mm) measured horizontally. Wire mesh or chain link fences may have a maximum mesh size of 1.75 inches (44 mm) measured horizontally.

Gates. All gates in a swimming pool barrier shall be equipped to accommodate a locking device. All pedestrian access gates shall be self-closing and self-latching. All pedestrian access gates installed after the effective date of this ordinance shall open outward away from the pool. Gates other than pedestrian access gates need not be self-closing or self-latching when they are kept secured by a padlock or similar locking device. Gate latches shall be located not less than 54 inches (1372 mm) above the underlying ground or shall otherwise be made inaccessible from the outside to small children.

Doors. All doors leading from a dwelling or guest room directly into a swimming pool enclosure shall be self-closing and self-latching, and shall be equipped with a locking device. When a simple latch is used, the release mechanism for the latch, or a secondary locking device, shall be located not less than 54 inches (1372 mm) above the floor. A locking latch that uses a key, electronic opener, or integral combination lock may be located at any height on the door. Sliding doors shall not form part of a required barrier unless their self-closing and self-latching mechanism is specifically approved by the building official for this purpose.

Windows. Emergency escape or rescue windows from sleeping rooms which face within a swimming pool enclosure shall be equipped with a latching device located not less than 54 inches (1372 mm) above the floor. All other dwelling unit or guest room windows facing within a swimming pool enclosure shall be equipped with a screwed-in-place wire mesh screen, a keyed lock that prevents opening the window more than four inches, or a latching device located not less than 54 inches (1372 mm) above the floor.

Safety covers. A key-operated, motorized safety cover which complies with ASTM ES 13-89 may be used to meet the requirements of this section for a barrier between a single-family dwelling and a swimming pool accessory to that dwelling, provided all other portions of the swimming pool enclosure are installed and maintained as required herein. The keyed pool cover switch shall be located not less than 54 inches (1372 mm) above the floor or adjacent ground level and where the entire pool can be visually inspected during cover operation.

Alarms. All doors with direct access to the pool may be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened, and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touch pad or switch, to temporarily deactivate the alarm or a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door. This alarm may be used in lieu of the door requirements listed above.

(Ord. O2011-13, passed 11-21-11; Am. Ord. O2014-04, passed 5-5-14)

Cross-reference:

Nuisances; adoption of Uniform Code for the Abatement of Dangerous Buildings, see § 91.01

§ 151.02 RESIDENTIAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Residential Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *R101.1 Title.* Shall be amended to read as follows:

These provisions shall be known as the Residential Code for One- and Two-family Dwellings of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *R105.3.2 Time limitation of application.* Shall be deleted in its entirety and revised to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one extension of time for an additional period not exceeding 180 day. The extension shall be requested in writing and justifiable cause demonstrated.

(3) *R105.5 Expiration.* Shall be deleted in its entirety and revised to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one extension of time, for a period of not more than 180 days. The extension shall be requested in writing and justifiable cause demonstrated.

(4) *R108.3 Building permit valuation.* Shall be amended to read as follows:

Building permit valuations shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and other permanent systems, including materials and labor. Building valuation shall be determined by the most recent publication of the International Code Council Building Valuation Data.

(5) *R108.4 Related fees.* Shall be amended to read as follows:

The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

(6) *R108.5 Refunds.* Shall be deleted in its entirety and revised to read as follows:

1. The building official shall be permitted to authorize refunding of a fee paid hereunder which was erroneously paid or collected.
2. The building official shall be permitted to authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. The building official shall be permitted to authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

(7) *R108.6 Work commencing before permit issuance.* Shall be deleted in its entirety and revised to read as follows:

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee that shall be in addition to the required permit fees. This fee shall be equal to the amount of the permit and plan review fee required by the approved fees. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or other requirements, nor from the penalty prescribed by law.

(B) Chapter 3, "Building Planning", is hereby amended in the following manner:

Revise Table 301.5 in the following manner:

Table 301.5

<i>Use</i>	<i>Live Load</i>
Attics with limited storage ^{b, g}	20 40
Habitable attics and attics served with	

fixed stairs	3040
Sleeping rooms	3040

(C) Chapter 15, "Exhaust Systems", is hereby amended in the following manner:

M1503.1 General. Shall be amended to read as follows:

Range hoods shall discharge to the outdoors through a single wall duct. The duct serving the hood shall have a smooth interior surface, shall be airtight, and shall be equipped with a backdraft damper. Changes in size or direction shall be accomplished with a pre-manufactured transition fitting. Ducts serving range hoods shall not terminate in an attic or crawl space or areas inside the building.

(D) Chapter 24, "Fuel Gas", is hereby amended in the following manner:

(1) *G2415.10 (404.10) Minimum burial depth.* Shall be amended to read as follows:

Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade for metal piping and 18 inches (457 mm) for plastic piping.

(2) *G2415.10.1 (404.10.1) Individual outside appliances.* Delete in its entirety.

(E) Chapter 28, "Water Heaters", is hereby amended in the following manner:

P2803.6.1 Requirements for discharge piping. Shall be amended to read as follows:

The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

2. Discharge through an air gap located in the same room as the water heater, except where the discharge is to the outdoors, not subject to freezing, and the piping terminates not less than 6 inches (152 mm) and not more than 12 inches (305 mm) above grade.
13. Be constructed of those materials listed in Section 605.4 or materials tested, rated and approved for such use in accordance with ASME A112.4.1.
14. Direct the discharge in a downward direction.

('87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.03 MECHANICAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Mechanical Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Scope and Administration", is hereby amended as follows:

(A) *101.1 Title.* Shall be amended to read as follows:

These regulations shall be known as the Mechanical Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) *106.5.2 Fee schedule.* Shall be deleted in its entirety and revised to read as follows:

Reference the current fee schedule.

(C) *106.5.3 Fee refunds.* Shall be amended to read as follows:

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this

code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

(D) *108.4 Violation penalties.* Shall be deleted in its entirety and revised to read as follows:

Reference Section 151.99, Penalty, of the town code.

(E) *108.5 Stop work orders.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine and/or penalties as established by the Town of Cave Creek.

(Ord. O2011-13, passed 11-21-11)

§ 151.04 PLUMBING CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Plumbing Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title.* Shall be amended to read as follows:

These regulations shall be known as the Plumbing Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *101.5 Appendices.* Provisions in the appendices shall not apply unless specifically adopted.

(3) *106.6.2 Fee schedule.* Shall be deleted in its entirety and replaced with the following:

Reference the current fee schedule.

(4) *106.6.3 Fee refunds.* Shall be amended to read as follows:

2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

(5) *108.4 Violation penalties.* Shall be deleted in its entirety and revised to read as follows:

Reference Section 151.99, Penalty, of the town code.

(6) *108.5 Stop work orders.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine and/or penalties as established by the Town of Cave Creek.

(B) Chapter 3, "General Regulations", is hereby amended as follows:

305.6.1 Sewer depth. Shall be amended to read as follows:

Building sewers that connect to private sewage disposal systems shall be minimum of 12 inches (305 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade.

(C) Chapter 5, "Water Heaters", is hereby amended as follows:

504.6 Requirements for discharge piping. Shall be amended to read as follows:

The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

2. Discharge through an air gap located in the same room as the water heater, except where the discharge is to the outdoors, not subject to freezing, and the piping terminates not less than 6 inches (152 mm) and not more than 12 inches (305 mm) above grade.

14. Direct the discharge in a downward direction.

(D) Chapter 9, "Vents", shall be amended to read as follows:

904.1 Roof extension. Shall be amended to read as follows:

All open vent pipes that extend through a roof shall be terminated at least 8 inches (203 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

(Ord. O2011-13, passed 11-21-11)

Statutory reference:

State Plumbing Code to be adopted, see A.R.S. § 9-802

Variance from the State Plumbing Code, see A.R.S. §§ 9-805 and 41-619

§ 151.05 ELECTRICAL CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The National Electrical Code, 2008 Edition*, as published by the National Fire Protection Association, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Electrical Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(Ord. O2011-13, passed 11-21-11)

§ 151.06 FIRE CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Fire Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

(1) *101.1 Title.* Shall be amended to read as follows:

These regulations shall be known as the Fire Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(2) *109.3 Violation penalties.* Shall be amended to read as follows:

Persons who shall violate a provision of this code, or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or a permit or certificate used under provisions of this code, shall be guilty of Section 151.99, Penalty, of the town code.

(3) *111.4 Failure to comply.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable of Section 151.99 Penalty, of the town code.

(B) Chapter 34, "Flammable and Combustible Liquids", is hereby amended as follows:

(1) *3404.2.9.6.1 Location where above-ground tanks are prohibited.* Shall be amended to read as follows:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

(2) *3406.2.4.4 Location where above-ground tanks are prohibited.* Shall be amended to read as follows:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

('87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.07 SPRINKLER CODE.

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Sprinkler Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Delete the following sections in their entirety: Section 108, Section 202, Section 503, Section 506, Section 508, and Section 603.

(C) Section 903, subsections 903.2, 903.2.1, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.6, 903.2.7, 903.2.8, 903.2.8.1, 903.2.9, 903.2.9.1, 903.10, 903.3, 903.3.6, 903.3.7 and 903.4 are amended as follows; and subsections 903.1.2, 903.1.3, 903.1.4, 903.1.5, 903.2.7.1, 903.2.7.1.1, 903.2.7.1.2, 903.2.7.2, 903.2.7.2.1, 903.2.7.2.2, 903.2.7.2.3, 903.2.7.3, 903.2.7.4 903.3.7.1, 903.3.7.2, 903.3.7.3 are added:

903.1.2 Plan certification for fire alarms and occupant notification. All fire alarm and occupant notification system plans submitted to the fire department for review and approval shall bear a review certification of a minimum level II NICET (National Institute for the Certification of Engineering Technologies) in accordance with Fire Department Interpretation and Applications Manual.

903.1.3 Plan certification for fire sprinklers. All fire sprinkler plans submitted to the fire department for review and approval shall bear a review certification of a minimum level III NICET technician (National Institute for the Certification of Engineering Technologies) in accordance with Fire Department Interpretation and Applications Manual.

903.1.4 Plan certification for all other fire protection systems. Plan certification for all other fire protection systems will be accompanied by a certification of competence when required.

903.1.5 Site plans. Plans and specifications shall be submitted to the fire department for review and approval prior to construction. One set of fire department approved plans shall be on the job site for each inspection.

903.2 Where required. An automatic sprinkler system shall be installed throughout all levels of all new Group A, B, E, F, H, I, M, R, S and U occupancies of more than zero (0) square feet in accordance with Section 903, and the Fire Department Interpretation and Applications Manual, and as set in this section.

1. In every story or basement of all buildings. Fire-resistive substitutions in accordance with the provisions of Section 508 are

allowed for this subsection for Group R occupancies and for other occupancies, provided that the automatic sprinkler is not otherwise required throughout the building by any other provision or section of the unamended building code.

2. At the top of rubbish and linen chutes and in their terminal rooms. Chutes extending through three or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Sprinkler heads shall be accessible for servicing.

3. In rooms where nitrate film is stored or handled. See also Section 306.

4. In protected combustible fiber storage vaults.

Exception: The following accessory structures shall be exempt from fire sprinkler requirements:

1. Gazebos and ramadas for residential and public use.

2. Independent rest room buildings that are associated with golf courses, parks and similar uses.

3. Guardhouses for residential and commercial developments.

4. Detached carports for residential developments.

5. Barns and agricultural buildings for private, residential, non-commercial use, not exceeding 1,500 square feet (139.35 m²).

6. Detached storage sheds for private, residential, non-commercial use, not exceeding 2,000 square feet (185.81 m²).

7. Detached 1, 2 and 3 car garages (without habitable spaces) in existing R3 developed parcels which contain existing non-sprinklered subdivision requirements (i.e., 700 foot (213.36 mm) hydrant spacing).

8. For fuel-dispensing canopies not exceeding 1,500 square feet (139.35 m²).

9. Open shade horse stalls of non-combustible construction for private, residential, non-commercial use, not exceeding 5,000 square feet (464.52 m²), and no storage of combustible products, vehicles or agricultural equipment.

10. Detached one-story accessory building used as tool and storage shed of non-hazardous materials, and not exceeding 120 square feet (11.15 m²).

11. Additions to R-3 Occupancies.

12. Any accessory buildings to an existing residential property built prior to the implementation of this ordinance.

903.2.1 Group A. An automatic sprinkler system shall be installed throughout all Group A occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.2 Group E. An automatic sprinkler system shall be installed throughout all Group E occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.3 Group F. An automatic sprinkler system shall be installed throughout all Group F occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.4 Group H. An automatic sprinkler system shall be installed throughout all Group H occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.5 Group I. An automatic sprinkler system shall be installed throughout all Group I occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

Exception: In jails, prisons and reformatories, the piping system may be dry, provided a manually operated valve is installed at a continuously monitored location. Opening of the valve will cause the piping system to be charged. Sprinkler heads in such systems shall be equipped with fusible elements, or the system shall be designed as required for deluge systems in the Building Code.

903.2.6 Group M. An automatic sprinkler system shall be installed throughout all Group M occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.7 Group R. An automatic sprinkler system shall be installed throughout all Group R occupancies in accordance with this section.

903.2.7.1 Group R-1. An automatic sprinkler system shall be installed throughout all Group R-1 occupancies in accordance with NFPA 13 or 13-R sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.7.1.1 Group R-1 with attic protection. In Group R-1 occupancies, an automatic sprinkler system in accordance with NFPA 13 or 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house three or more stories in height or containing more than 15 dwelling units, and every hotel three or more stories in height or containing 20 or more guest rooms. Residential or quick-response sprinkler heads shall be used in the dwelling unit and guest room portions of the building. Sprinkler heads shall be used to protect the attic with a minimum 4 head or 500 square foot (46.5 m²) calculated area. Occupant notification shall be in accordance with the Code and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings or attics.

903.2.7.1.2 Group R-1 when attic protection is not required. In Group R-1 occupancies, an automatic sprinkler system in accordance with NFPA 13 or 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house 2 or less stories in height and containing 15 or less dwelling units, and every hotel 2 or less stories in height and containing 19 or less guest rooms. Residential or quick-response sprinkler heads shall be used in the dwelling units, guest rooms, convening corridors, and all occupied areas. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings.

903.2.7.2 Group R -2. An automatic sprinkler system shall be installed throughout all Group R-2 occupancies, in accordance with NFPA 13 or 13-R sprinkler systems as modified by Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.7.2.1 Group R-2 with attic protection. When attic protection is required. In Group R-2 occupancies, an automatic sprinkler system in accordance with NFPA Standard 13-R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house three or more stories in height or containing more than 15 dwelling units, and every hotel three or more stories in height or containing 20 or more guest rooms. Residential, or quick response sprinkler heads shall be used in the dwelling unit and guest room portions of the building. Sprinkler heads shall be used to protect the attic with a minimum 4 head or 500 square foot (46.5 m²) calculated area. Occupant notification shall be in accordance with the Code and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets, containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings or attics.

903.2.7.2.2 Group R-2 when attic protection is not required. In Group R-2 occupancies an automatic sprinkler system in accordance with NFPA Standard 13R, as modified by Fire Department Interpretation and Applications Manual, shall be installed throughout every apartment house 2 or less stories in height and containing 15 or less dwelling units and every hotel 2 or less stories in height and containing 19 or less guest rooms. Residential, or quick-response sprinkler heads shall be used in the dwelling units, guest rooms, convening corridors, and all occupied areas. There shall be no sprinkler deletions in bathrooms, closets containing any electrical or mechanical equipment, foyers, garages, accessible areas under interior stairs or landings, or exterior balconies, covered patios or landings.

903.2.7.2.3 Domestic water supplies. R-2 occupancies may have up to six (6) units supplied by domestic water.

903.2.7.3 All Group R-3 and U occupancies. An automatic sprinkler system shall be installed throughout all Group R-3 and U occupancies in accordance with NFPA 13 or 13-D sprinkler systems and Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.7.4 Group R-4. An automatic sprinkler system shall be installed throughout all Group R-4 occupancies, in accordance with NFPA 13-D sprinkler systems as modified by Fire Department Interpretation and Applications Manual. There shall be no sprinkler deletions in bathrooms, closets containing mechanical or electrical equipment, foyers, garages, or accessible areas under interior stairs or landings.

903.2.8 Group S-1 occupancies. An automatic sprinkler system shall be installed throughout all Group S-1 occupancies in accordance with NFPA 13 sprinkler systems and Fire Department Interpretation and Applications Manual.

903.2.8.1 Repair garages. An automatic sprinkler system shall be installed throughout all repair garages in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.9 Group S-2 occupancies. An automatic sprinkler system shall be installed throughout all Group S-2 occupancies in

accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.9.1 Commercial parking garages. An automatic sprinkler system shall be installed throughout all commercial parking garages in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.2.10 Group B occupancies. An automatic sprinkler system shall be installed throughout all Group B occupancies in accordance with NFPA 13 sprinkler systems as modified by Fire Department Interpretation and Applications Manual.

903.3 Installation requirements. Automatic sprinkler systems shall be installed in accordance with NFPA 13, 13-R, 13-D as modified by Fire Department Interpretation and Applications Manual.

903.3.6 Hose Threads. Fire hose threads used in connection with automatic sprinkler system shall be National Standard Treads.

903.3.7 Fire Department Connections. Fire department connections shall be located within 4 feet (1219.2 mm) to 8 feet (2438.4 mm) of the curb line of an access road or public street, or as otherwise specified, or as approved by the chief. The fire department connection line shall be a wet line with the check valve at the hose connection above grade. The access to the fire department connection shall be at curb grade. See Fire Department Interpretation and Applications Manual.

903.3.7.1 Wall-mounted. Systems may have wall-mounted fire department connections only on light and ordinary hazard Group 1 systems, when there are no structural openings or combustibles hangings within 15 feet (4572 mm) horizontally or vertically from inlet connection. See Fire Department Interpretation and Applications Manual.

903.3.7.2 Additions, alterations and repairs. When additions, alterations or repairs within a twelve-month period exceed fifty percent (50%) of the square footage of an existing building or structure, such building or structure, except a single-family home, shall be made to conform to the requirements for new buildings or structures.

903.3.7.3 Partial systems prohibited. In all new additions to existing buildings and structures, except single-family homes, an automatic sprinkler system shall be installed in accordance with this section. There shall be no partially sprinklered compartments. Sprinklered and unsprinklered parts of a structure shall be separated in accordance with all applicable codes and standards.

903.4 Sprinkler system monitoring and alarms. All valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically supervised.

Exceptions:

1. Automatic sprinkler systems protecting one- and two-family dwellings.
2. Limited area systems serving fewer than 100 sprinklers.
3. Automatic sprinkler systems installed in accordance with NFPA 13-R, where a common supply main is used to supply both domestic and automatic sprinkler systems and a separate shutoff valve for the automatic sprinkler system is not provided.
4. Jockey pump control valves that are sealed or locked in the open position.
5. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.
6. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.
7. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position."

(D) Section 905, subsections 905.2, 905.3.4, 905.3.4.1 are amended as follows:

905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14 as modified by Fire Department Interpretation and Applications Manual.

905.3.4 Stages. Stages greater than 1,000 square feet in area (93 m²) shall be equipped with a Class III wet standpipe system, with 2.5-inch (64 mm) hose connections on each side of the stage.

Exception: Where the building or area is equipped throughout with an automatic sprinkler system, the hose connections are allowed to be supplied from the automatic sprinkler system and shall have a flow rate of not less than that required by NFPA 14 for Class III standpipes.

905.3.4.1 Hose and cabinet. The 2.5 inch (64 mm) hose connections shall be equipped with sufficient lengths of 1.5 inch (38 mm) hose to provide fire protection for the stage area. Hose connections shall be equipped with an approved adjustable fog nozzle, and mounted in a cabinet or on a rack.

(E) Section 907, subsections 907.2 and 907.7 are amended as follows, and subsections 907.3.1.9, 907.3.1.10, 907.3.1.11 and 907.3.1.12 are added:

907.2 Where required-new buildings and structures. An approved manual, automatic, or manual and automatic fire alarm system shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 and Fire Department Interpretation and Applications Manual. Where automatic sprinkler protection installed in accordance with Section 903.3.1.1 or 903.3.1.2 and Fire Department Interpretation and Applications Manual is provided and connected to the building fire alarm system, automatic heat detection required by this section shall not be required.

An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances and equipment shall comply with Section 907.1.2. The automatic fire detectors shall be smoke detectors, except that an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

907.3.1.9 Owner landlord and occupant responsibilities. Devices provided and maintained. In a dwelling unit occupied under the terms of a rental agreement or under a month-to-month tenancy:

1. At the time of each occupancy, the landlord shall provide smoke detection devices in working condition and, after written notification by the tenant, shall be responsible for replacement; and
2. The tenant shall keep the devices in working condition by keeping charged batteries in battery-operated devices, by testing the devices periodically, and by refraining from permanently disabling the devices.

907.3.1.10 Written notification. If a landlord or owner did not know and had not been notified in writing of the need to repair or replace a smoke detection device, the landlord's or owner's failure to repair or replace the device may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss, or personal injury.

907.3.1.11 Definitions. In this section, "dwelling unit," "landlord," "rental agreement," and "tenant" have the meanings given in Arizona Revised Statutes.

907.3.1.12 Records and maintenance. The landlord or owner of any rental property shall annually inspect all smoke detection devices as required under NFPA 72, and a record of all inspections and maintenance activities shall be kept by the landlord or owner and available for inspection upon request by the chief. See Fire Department Interpretation and Applications Manual.

907.7 Activation. Where an alarm notification system is required by another section of this code, it shall be activated by:

1. Required automatic fire alarm system.
2. Sprinkler water-flow devices.

Multilevel structures. All multilevel structures are required to have a flow switch and tampered control valve per floor. See Fire Department Interpretation and Applications Manual.

Exception: Group R, Division 1, occupancies with a domestic water supply serving 6 units or less and Group R-3. See Fire Department Interpretation and Applications Manual.

3. Required manual fire alarm boxes.

(F) Section 2201, subsection 2201.4 is amended and subsection 2201.7 is added as follows:

2201.4 Indoor service stations. Motor vehicle fuel-dispensing stations located inside buildings are prohibited within the entire town.

2201.7 Fire protection. Fire sprinkler protection shall be designed in accordance with the building code as required for Ordinary Hazard Group 2.

Exception: Automatic sprinklers may be deleted from detached canopies at motor vehicle fuel-dispensing sites when:

1. The canopy does not exceed 1500 square feet (139.5 m^2), and
2. The canopy is covering a structure such as a pay booth when the interior is not accessible to the public, and
3. The structure, under the canopy, does not exceed 100 square feet (9.29 m^2).

(G) Section 2204, subsection 2204.3.1 is amended as follows:

2204.3.1 General. Unattended self-serve stations are prohibited within the entire town.

Exception: Unattended self-serve stations may be allowed by special permit by the chief for private commercial use only. Written request and documentation shall be submitted, showing compliance with 2204.3.1 through 2204.3.7 and all other applicable codes and ordinances.

(H) Section 3301, subsection 3301.2.3 is amended and subsection 3301.2.5 is added as follows:

3301.2.3 Permit restrictions. The storage of explosives and blasting agents is prohibited within the entire town, except for temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (226.8 kg) of explosive material.

3301.2.5 Threatening to damage by use of fire or explosives. Any person who willfully makes any threat, or conspires to threaten or conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made or to be made, to kill, injure or intimidate any individual, or unlawfully damage or destroy any building, vehicles or other real or personal property by means of any explosive, blasting agent, or fire, shall be guilty of a misdemeanor.

(I) Section 3404, subsections 3404.2.9.5.1 and 3404.2.13.1.4 are amended to read:

3404.2.9.5.1 Locations where aboveground tanks are prohibited. Storage of Class I and II liquids in aboveground tanks outside of buildings is prohibited within the entire town.

Exception: Installations of 2,000 gallons (7,570.8L) or less aggregate quantity may be approved by special permit by the chief.

3404.2.13.1.4 Tanks abandoned in place. The abandonment of tanks in place shall be prohibited within the entire town.

(J) Section 3406, subsection 3406.2.5.2 is amended

3406.2.5.2 Tanks for gravity discharge. Tanks with a connection in the bottom or the end for gravity dispensing of flammable or combustible liquids shall not be permitted within the entire town.

(K) Section 3801, subsection 3801.2 exception is added as follows:

3801.2 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

Exception: A permit is not required to install or maintain portable containers of less than 10 gallons (37.9 L) aggregate water capacity.

Distributors shall not fill an LP gas container for which a permit is required, unless a permit for installation has been issued for that location by the chief.

(L) Section 3804, table 3804.3, footnote e/5 is added:

Table 3804.3, Footnote e/5.

5. Containers of less than 125 gallons (473.2 L) may be located next to a block fence, when the tank is not within 5 feet (1524 mm) of a structure on adjoining property.

(M) Section 3812 is added:

3812 Consumer exchange of pre-filled containers. The storage of portable containers at exchange sites shall be limited to a maximum of 381.6 pounds (173.1 kg) or less, whether filled, partly filled or empty, at consumer exchange sites or distribution points. See Fire Department Interpretation and Applications Manual for installations.

('87 Code, § 7-5) (Am. Ord. 88-16, passed 8-1-88; Am. Ord. 95-01, passed 1-3-95; Am. Ord. 95-13, passed 9-5-95; Am. Ord. 2000-05, passed 5-15-00; Am. Ord. O-2004-15, passed 5-17-04; Am. Ord. O-2004-24, passed 8-2-04; Am. Ord. O2011-13, passed 11-21-11)

§ 151.08 FUEL GAS CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Fuel Gas Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of

Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. Shall be amended to read as follows:

These regulations shall be known as the Fuel Gas Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Chapter 4, "Gas Piping Installations", is hereby amended as follows:

(1) *404.9 Protection against corrosion.* Delete this section in its entirety.

(2) *404.9.1 Prohibited use.* Delete this section in its entirety.

(3) *404.10 Minimum burial depth.* Shall be amended to read as follows:

Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade for metal piping and 18 inches (457 mm) for plastic piping.

(Ord. O2011-13, passed 11-21-11)

§ 151.09 EXISTING BUILDING CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Existing Building Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-13 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

(A) Chapter 1, "Scope and Administration", is hereby amended as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the Town of Cave Creek, hereinafter referred to as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) Chapter 13, "Performance Compliance Methods", is amended as follows:

[B] 1301.2 Applicability. Shall be amended to read as follows:

Structures existing prior to January 1, 2012, shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12.

(Ord. O2011-13, passed 11-21-11)

§ 151.10 ENERGY CONSERVATION CODE.

Effective January 1, 2012, there is herewith adopted, by reference, *The International Energy Conservation Code, 2009 Edition*, as published by the International Code Council, adopted as a public record by Resolution No. R2011-14 of the Mayor and Council of the Town of Cave Creek by reference thereto, as fully and completely as if the terms thereof were fully set forth herein, in total, except as modified or changed as follows:

Chapter 1, "Administration", is hereby amended as follows:

(A) *101.1 Title.* Shall be amended to read as follows:

This code shall be known as the Energy Conservation Code of the Town of Cave Creek, and shall be cited as such. It is referred to herein as "this code". When there is a conflict between these provisions and those of another technical code, these provisions shall

apply. Where there is an administrative provision contained in another technical code and not in this code, then the administrative provision of the technical code shall apply.

(B) *108.4 Failure to comply.* Shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable of Section 151.99, Penalty, of the town code.

(Ord. O2011-14, passed 11-21-11)

§ 151.11 [RESERVED]

§ 151.12 [RESERVED]

§ 151.13 [RESERVED]

§ 151.14 FEE SCHEDULE.

(A) *Permit valuations.* Permit valuations shall be based on the latest version of the International Code Council Building Valuation Data (BVD), or by the use of the actual contract value as determined by the Building Official. Additional valuations shall be listed in division (D).

(B) *Permit fee for a temporary certificate of occupancy.* The permit fee for a temporary certificate of occupancy is 3% of the building permit fee for the first 30 days, 6% of the building permit fee for the second 30 days, and 9% of the building permit fee for the third 30 days.

(C) *Fees based on valuations.* Fees based on valuations shall be computed thru the use of Table 1-A.

TABLE 1-A BUILDING PERMIT FEES (PROPOSED TABLE)

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$33
\$501 to \$2,000	\$33 for the first \$500 plus \$5 for each additional \$100 or fraction thereof, to and including \$2,000.
\$2,001 to \$25,000	\$97 for the first \$2,000 plus \$14 for each additional \$1,000 or fraction thereof, to and including \$25,000.
\$25,001 to \$50,000	\$545 for the first \$25,000 plus \$14 for each additional \$1,000 or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$897 for the first \$50,000 plus \$9 for each additional \$1,000 or fraction thereof, to and including \$100,000.
	\$1,384 for the first \$100,000 plus \$8 for each

\$100,001 to \$500,000	additional \$1,000 or fraction thereof, to and including \$500,000.
\$500,001 to \$1,000,000	\$4,503 for the first \$500,000 plus \$7 for each additional \$1,000 or fraction thereof, to and including \$1,000,000.
\$1,000,001 and up	\$7,809 for the first \$1,000,000 plus \$5 for each \$1,000 or fraction thereof.

(D) *Additional valuations.*

- (1) Residential garages \$55.50 per square foot
- (2) Covered decks/patios/carports \$21.60 per square foot
- (3) Uncovered decks \$16.60 per square foot
- (4) Mare motel \$5.00 per square foot
- (5) Barns; wood/metal \$23.00/9.00 per square foot
- (6) Sun room/Arizona room \$100.00 per square foot

(E) *Other permit fees.*

- (1) Fences/walls
 - a. Arena/corral/split rail/metal rail \$20.00
plus each linear foot \$0.05
 - b. Wood/chain link/wrought iron \$20.00
plus each linear foot \$0.10
 - c. Masonry/concrete \$20.00
plus each linear foot \$0.15
 - d. Retaining wall \$20.00
plus each linear foot \$0.25
- (2) Signs
 - a. Up to a \$500 value \$50.00
 - b. \$501 to \$1,000 of value \$100.00
 - c. Each \$100 above \$1,000 of value \$10.00
- (3) Demolition
 - a. Accessory structure \$25.00 flat fee
 - b. Single-family dwelling \$100.00 flat fee
 - c. Commercial \$200.00 flat fee
- (4) Temporary trailers (sales/construction) \$500.00 flat fee

- (5) Pools/spas/above ground \$50.00 flat fee
- (6) Fountains/ponds \$50.00 flat fee
- (7) Pools with standards on file \$500.00 flat fee
- (8) Pools with no standards on file \$600.00 flat fee
- (9) PV solar
 - a. Each module \$4.25 each
 - b. Other components \$16.25 each
- (10) Water heater (change out like for like) \$50.00 flat fee

(F) *Plan reviews.*

- (1) Plan review shall be 65% of the permit fee unless permit fee is a flat fee. In such cases the plan review fee shall be \$0.
- (2) The minimum plan review fee shall be \$50 unless stated otherwise in division(B)(6)(a).
- (3) Additional plan reviews caused by changes, lost plans or plan review comment sheets shall be \$100 per hour (one-hour minimum).
- (4) Standard plan annual renewal fee shall be \$100.

(G) *Inspections and re-inspections.*

- (1) Inspections outside normal building hours shall be \$150 per hour with a minimum of two hours.
- (2) Re-inspections after the first and one subsequent inspection shall be \$100 each. Requires a 24-hour waiting period after each failed subsequent inspection.
- (3) Inspections or services for which no fee is specifically indicated are \$150 per hour.

(H) *Additional fees.*

- (1) Request for certificate of occupancy for change of use group without construction shall be \$50.
- (2) The use of outside consultants for plan checking shall be the actual costs of the consultant plus the towns permit and plan review fees.
- (3) Fees for permits after work requiring permits has already begun shall be two times the permit and plan review fees.

(Ord. O2011-13, passed 11-21-11)

§ 151.15 PUBLIC WORKS CODE.

That certain code entitled the *Uniform Standard Specifications for Public Works Construction*, 1979 Edition, and that certain code entitled the *Uniform Standard Details for Public Works Construction*, 1979 Edition, both sponsored and distributed by the Maricopa Association of Governments, are hereby adopted as the "Public Works Code of the Town of Cave Creek" and made a part of this chapter the same as though said codes were specifically set forth in full herein; and at least three copies of said codes shall be filed in the office of the Clerk and kept available for public use and inspection.

(`87 Code, § 7-10-3) (Am. Ord. O2011-13, passed 11-21-11)

REGULATIONS

§ 151.20 CONFORMANCE WITH ZONING ORDINANCE.

Whenever a building permit is issued and a building inspection performed, such building must conform to the provisions of the Zoning

Ordinance of Cave Creek in addition to the provisions of this chapter.

(‘87 Code, § 7-1-2) Penalty, see § 10.99

Cross-reference:

Zoning, see Chapter 154

§ 151.21 FIREPLACES, WOOD STOVES, AND OTHER SOLID-FUEL BURNING DEVICES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIREPLACE. A built in place masonry hearth and fire chamber or a factory-built appliance designed to burn solid-fuel or to accommodate a gas or electric log insert or similar device, which is intended for occasional recreational or aesthetic use and not for cooking, heating, or industrial processes.

SOLID FUEL. Includes, but is not limited to, wood, coal, or other nongaseous or non-liquid fuels, including those fuels defined by the Maricopa County Air Pollution Control Officer as "inappropriate fuel" to burn in residential wood burning devices.

WOOD STOVE. A solid-fuel burning heating appliance, including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.

(B) *Restrictions.* On or after the effective date, no person, firm, or corporation shall construct or install a fireplace or a wood stove, and the Building Official shall not approve or issue a permit to construct or install a fireplace or a wood stove, unless the fireplace or wood stove is one of the following:

(1) A fireplace which has a permanently installed gas or electric log insert.

(2) A fireplace, wood stove, or other solid-fuel burning appliance which has been certified by the United States Environmental Protection Agency as conforming to 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(3) A fireplace, wood stove, or other solid-fuel burning appliance which has been tested and listed by a nationally recognized testing agency to meet performance standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(4) A fireplace, wood stove, or other solid-fuel burning appliance which has been determined by the Maricopa County Air Pollution Control Officer to meet standards equivalent to those adopted by 40 CFR Part 60, Subpart AAA, as in effect on July 1, 1990.

(5) A fireplace which has a permanently installed wood stove insert which complies with (2), (3) or (4) above.

(C) *Unregulated and nonprohibited installations.* The following installations are not regulated or prohibited by this section:

(1) Furnaces, boilers, incinerators, kilns, and other similar space heating or industrial process equipment.

(2) Cook stoves, barbecue grills, and similar appliances designed primarily for cooking.

(3) Fire pits, barbecue grills, and other outdoor fireplaces.

(D) *Alterations prohibited.* The following alterations are prohibited:

(1) On or after the effective date, no person, firm, or corporation shall alter or remove a gas or electric log insert or a wood stove insert from a fireplace for purposes of converting the fireplace to directly burn wood or other solid-fuel.

(2) On or after the effective date, no person, firm, or corporation shall construct or install a fireplace, wood stove, or other solid-fuel burning appliance in any manner that would void its certification or operational compliance with the provisions of this section.

(E) *Penalties.* Among other penalties which may apply, any person, firm, or corporation that violates any provision of this section shall be guilty of a Class 1 misdemeanor in accordance with the provisions of § 10.99.

(F) *Effective date.* The regulations and prohibitions set forth in this section shall be effective on December 31, 1998.

(G) *Other requirements.* In addition to the provisions and restrictions of this section, construction, installation, or alteration of all fireplaces, wood stoves, and other gas, electric, or solid-fuel burning appliances and equipment shall be done in compliance with

provisions of the town code and shall be subject to the permits and inspections required by the town.

(`87 Code, § 7-1-3) (Am. Ord. 92-08, passed 8-31-92; Am. Ord. 98-17, passed 10-19-98) Penalty, see § 10.99

§ 151.22 UTILITY INSTALLATION IN NEW SUBDIVISIONS.

(A) All electric lines in new subdivisions, except those graded in 3,000 KVA capacity and above, and except switching cabinets and pad-mounted transformers, and all telephone lines and television cable in new subdivisions shall be installed underground for those subdivisions which do not have utility service to the building site, unless, upon recommendation of the Planning Commission, the Town Council determines that, due to surface soil conditions, it is impractical to do so.

(B) The property owner shall be responsible for the requirements of this section and shall make the necessary arrangements with each of the public utility companies involved in the installation of underground facilities. Letters from each of the public utility companies indicating that the arrangements have been made shall be submitted to the Town Clerk at the time the application for a building permit is submitted to the town.

(`87 Code, Art. 7-9) Penalty, see § 10.99

§ 151.23 IMPROVEMENTS TO BECOME PUBLIC PROPERTY OR IN PUBLIC RIGHTS-OF-WAY.

(A) *Work intended to become public property.* All improvements which are intended to become public property of the town shall be constructed in accordance with the standards and specifications set forth in the Public Works Code adopted in § 151.15 and shall be constructed according to the plans approved by the Town Engineer.

(`87 Code, § 7-10-1)

(B) *Work not intended to become public property.* All improvements within public rights-of-way not intended to become public property must be constructed or maintained under the terms of a franchise agreement or other authorization. The location of such facilities, their installation, and the restoration of the area after installation shall be done in accordance with the standards and specifications set forth in the Public Works Code adopted in § 151.15.

(`87 Code, § 7-10-2) Penalty, see § 10.99

ADMINISTRATION AND PERMITS

§ 151.35 BUILDING OFFICIAL.

The Building Official and administrative authority, as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical, or any other inspections, shall be vested in the Building Inspector of the town, provided that the Town Council may authorize such deputies as needed to perform any inspection work or other functions that may be required by this chapter.

(`87 Code, Art. 7-7)

§ 151.36 PERMITS.

(A) *Building permit access requirement.* Upon receipt of an application for a building permit, the Town Engineer shall determine whether the building site is accessible to vehicles which would provide services such as fire protection, police protection, garbage collection, and other services. Available access shall mean such access that will not cause damage or unusual wear and tear to vehicles providing such services. If such access is not available, the Building Inspector shall not issue a building permit.

(`87 Code, § 7-8-1)

(B) *Access permit.* Private property shall not be accessed from a public right-of-way, except upon obtaining a permit from the town. In granting a permit, the town shall give due consideration to pedestrian and vehicle safety, the resulting interference with the

movement of vehicular traffic, and the interference with public improvements. In no event shall any access be of greater width than necessary for reasonable access to the private property to be served thereby or as provided for in the Town Zoning Ordinance.

(‘87 Code, § 7-8-2)

(C) *Applicable provisions.* In applying for either a building permit or a public right-of-way access permit, the provisions of Chapter 93 of this code shall be applicable.

(‘87 Code, § 7-8-3)

Cross-reference:

Streets, sidewalks, and waterways, see Chapter 93

DEVELOPMENT FEES

§ 151.40 DEVELOPMENT FEES.

<i>Land Use</i>	<i>General Government</i>	<i>Parks</i>	<i>Total</i>
<i>Residential (per housing unit)</i>			
Single unit	\$322	\$192	\$514
2+ units	\$158	\$94	\$252
<i>Nonresidential (per 1,000 square ft. of floor area)</i>			
Commercial	\$201	\$99	\$300
Office/industrial	\$335	\$165	\$500
Industrial/flex	\$232	\$115	\$347

(Ord. O2006-18, passed 6-6-06; Am. Ord. O2014-08, passed 6-16-14)

§ 151.41 PURPOSE; INTENT.

The purposes and intent of these development fee procedures are:

- (A) To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of development fees imposed on new development;
- (B) To implement the goals, objectives and policies of the Cave Creek General Plan relating to assuring that new development contributes its fair share towards the costs of public facilities reasonably necessitated by such new development;
- (C) To ensure that new development is reasonably benefitted by the provision of the public facilities provided with the proceeds of development fees;
- (D) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures; and
- (E) To ensure that all applicable procedures and requirements of A.R.S. § 9-463.05 have been met.

(Ord. O-2004-01, passed 1-20-04)

§ 151.42 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person who files an application with the town for a building permit.

APPROPRIATION or TO APPROPRIATE. An action by the town to identify specific public facilities for which development fee funds may be utilized. **APPROPRIATION** shall include, but shall not necessarily be limited to: inclusion of a public facility in the adopted town budget or capital improvements program; execution of a contract or other legal encumbrance for construction of a public facility using development fee funds in whole or in part; and/or actual expenditure of development fee funds through payments made from a development fee account.

COMMERCIAL OR INDUSTRIAL USE. Any use or establishment not defined as a dwelling unit.

CONNECTION. The physical tie-in of a developer's water, effluent or sewer service to the town's water, effluent or sewer main.

DIRECTOR. The Director of Planning or his or her designee.

DEVELOPER. The individual, firm, corporation, partnership, association, syndication, trust or other legal entity that is responsible for creating a demand for town facilities and services.

DEVELOPMENT FEE. A fee adopted pursuant to A.R.S. § 9-463.05 which is imposed on new development on a pro rata basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at town-designated level of service (LOS) standards and which reasonably benefits the new development.

DEVELOPMENT FEE ADOPTION AND IMPOSITION. This subchapter establishes procedures and requirements for all development fees which may be adopted by the town; provided, however, that in order to impose a development fee for a particular public facility, the town shall prepare a written report, notice, schedule and hold a public hearing, and otherwise comply with all applicable requirements of A.R.S. § 9-463.05 and this subchapter.

DEVELOPMENT FEE DISTRICT MAPS. The map(s) defining the geographical extent of the development fee districts, if any, for each adopted development fee, as may be necessary.

DISTRICT or DEVELOPMENT FEE DISTRICT. A defined geographic area or subarea of the town and/or its planning area within which particular public facilities are provided and in which development fees will be collected, appropriated, and expended for public facilities serving new development within such area or subarea.

DWELLING UNIT. A room or group of rooms within a building containing cooking accommodations and designed to be used for living purposes. Each apartment unit, mobile home or mobile home space, travel trailer or travel trailer space shall be considered a **DWELLING UNIT**. **DWELLING UNIT** shall not include those units designed primarily for transient occupant purposes, nor shall they include rooms in hospitals or nursing homes.

(1) **SINGLE-FAMILY DETACHED DWELLING UNIT.** A dwelling unit designed and used only by one family and which unit is physically separated from any other dwelling unit.

(2) **SINGLE-FAMILY ATTACHED DWELLING UNIT.** A single-family dwelling unit attached to another such dwelling, such as a townhouse or a condominium.

(3) **MOBILE HOMES DWELLING UNIT.** A dwelling unit typically designed and used only by one family which may be pre-manufactured and delivered to a building site for connection to utilities. This dwelling unit may include travel trailer units as well.

(4) **MULTI-FAMILY DWELLING UNIT.** A dwelling unit typically attached to another dwelling unit, such as an apartment or duplex dwelling unit, for rental purposes.

(5) **ALL OTHER DWELLING UNITS.** A dwelling unit not described above in this definition.

GOVERNING BODY. The Mayor and Common Council of the Town of Cave Creek, Arizona.

MULTIPLE USES. A new development consisting of both residential and nonresidential uses, or one or more different types of non-residential use, on the same site or part of the same new development.

MUNICIPAL PLANNING AREA. An area outside of the present Cave Creek town limits, but in which the town may provide public facilities and services.

NEW DEVELOPMENT. Any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use which requires a building permit, or a connection fee permit for hook-up to the town wastewater system; any change in use of an existing non-residential building, structure or lot requiring any form of town building permit or approval, and which increases the demand for one or more public facilities or services as herein defined; or, any change in use of an existing residential or non-residential building or structure or change in the use of land, which requires an increase in water meter size or installation of a larger water meter, except as otherwise provided in § 151.43(E).

OPEN SPACE AND TRAILS AND RECREATION FACILITIES DEVELOPMENT FEE. A fee imposed only on new residential development to fund the proportionate share of the costs of: community parks; open space, including, but not necessarily limited to, open space lands, agricultural land preservation, purchase of land, development rights and/or construction easements, desert mountain preserves and trails; and recreation facilities and improvements (but, expressly excluding neighborhood parks).

PUBLIC BUILDINGS AND EQUIPMENT. Public improvements, facilities or services necessitated by new development, including, but not limited to, water resources, transportation, police facilities, public works, fire and emergency medical services, community facilities, municipal facilities, water facilities, sewer facilities, flood control and drainage, solid waste disposal, open space, parks, utilities and educational facilities include amounts appropriated in connection with the planning, design, engineering and construction of public facilities; planning, legal, appraisal and other costs related to the acquisition of land, financing and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessarily incident to provision of the public facility.

TRANSPORTATION DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of the costs of transportation improvements and new roads designed to solve congestion-related problems that are anticipated from increased traffic demands resulting from new development, and including improvements to minor arterials and/or collectors needed for access and traffic mobility, but excluding project-specific traffic and transportation improvements such as turn lanes, individual traffic signals for the benefit of a specific development project and the like.

WATER DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of costs of water treatment, storage and distribution system and necessary capital improvements and capital equipment and appurtenances thereto.

WASTEWATER DEVELOPMENT FEE. A fee imposed on all new residential and nonresidential development to fund the proportionate share of the costs of: the wastewater collection and wastewater treatment system and necessary improvements, capital equipment and appurtenances thereto.

(Ord. O-2004-01, passed 1-20-04)

§ 151.43 GENERAL PROVISIONS; APPLICABILITY.

(A) *Term.* This subchapter and the procedures established herein shall remain in effect unless and until repealed, amended or modified by the Mayor and Common Council in accordance with applicable state law and the town code, ordinances and resolutions.

(B) *Annual review.*

(1) At least once every year not later than the first Council meeting in July of each year, beginning July 19, 2004, the Town Manager or his or her designee shall coordinate the preparation and submission of an annual report to the Mayor and Common Council on the subject of development fees.

(2) The annual report may include any or all of the following:

(a) Recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting development fees for particular public facilities;

(b) Proposed changes to the Cave Creek General Plan or plan elements and/or an applicable capital improvements program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development fees;

(c) Proposed changes to the boundaries of development fee districts, if applicable;

(d) Proposed changes to development fee schedules as set forth in the ordinances imposing and setting development fees for

particular public facilities;

(e) Proposed changes to level of service standards for particular public facilities;

(f) Proposed changes to any development fee calculation methodology;

(g) Proposed changes to the population, housing, land use, persons per household or non- residential development projections included in the development fee report and upon which the development fee amounts have been determined; and

(h) Other data, analysis or recommendations as the Town Manager or appropriate designee may deem appropriate, or as may be requested by the Mayor and Common Council.

(3) The annual report may additionally include any or all of the following on an annual basis:

(a) Number of building permits issued by type of residential or nonresidential development;

(b) Square footage (gross floor area) of non-residential development, by type;

(c) Total amount of development fees collected, by public facility and by land use type;

(d) The amount of expenditures made from the development fee account or sub accounts and the purpose for which the expenditure was made, i.e., the description, type and location of the public facility project;

(e) When the public facility project was initiated and when it was (or will be) completed;

(f) Whether additional development fee funds will be appropriated for the same project in the future;

(g) Whether supplemental non-development fee funds have been used for the project and, if so, how much;

(h) The service area of the public facility project;

(i) The total estimated cost of the project and the portion funded with development fees;

(j) Whether the public facility project is in the town's current annual budget or capital improvements program;

(k) The estimated useful life of the project;

(l) The extent to which the public facility project is needed to serve new/projected growth;

(m) The extent to which the public facility project is needed to maintain the existing level of service (LOS) standard; and

(n) Such other facts as may be deemed relevant by the Common Council.

(4) Submission of development fee annual report and Common Council action. The Town Manager or appropriate designee shall submit the development fee annual report to the Mayor and Common Council, which shall receive the annual report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and/or public hearings.

(C) *Affected area.*

(1) *Development fee district.* Development fees shall be imposed on new development in Cave Creek which, for purposes hereof, may be divided into development fee districts by the town.

(2) *Municipal planning areas.* Development fees imposed by the town may, if necessary and appropriate, be collected by other municipalities or by the county on new development within the town's municipal planning area, but outside of the Cave Creek town limits, only pursuant to an intergovernmental agreement which provides that the development fees collected be transferred to the appropriate town fund for expenditure in accordance with the terms of this subchapter.

(3) *Identification.* The affected area, including development fee districts, if applicable, shall be described and/or mapped in the particular public facility development fee ordinance.

(4) *Change in boundaries of development fee districts.* The town may amend the boundaries of the development fee districts at such times as may be deemed necessary to carry out the purposes and intent of this subchapter and applicable legal requirements for use of development fees. In the event of annexation of unincorporated county land by the town, the Mayor and Common Council shall consider whether such annexed area should be included in a particular development fee district.

(D) *Type of development affected.* This subchapter shall apply to all new development as herein defined and as defined in the development fee ordinances for particular public facilities.

(E) *Type of development not affected.* This subchapter shall not apply to:

(1) *Previously-issued building permits.* No development fee, unless previously imposed, shall be imposed on new development for which a building permit has been issued prior to the effective date of this subchapter.

(2) *Previous payment of development fees.* Subject to the requirements of § 151.44, no development fees shall be due at a later stage of the development permit or approval process if development fees have been paid for such category of public facilities at an earlier stage in the development permit or approval process.

(3) *No net increase in dwelling units.* No development fee shall be imposed on any new residential development which does not add a new dwelling unit.

(4) *No net increase in non-residential square footage.* No development fee shall be imposed on any new non-residential development which does not add square footage, unless the new non-residential development increases the demand for public facilities for which development fees are being imposed.

(5) Development projects which are the subject of a development agreement containing provisions in conflict with this subchapter, but only to the extent of the conflict or inconsistency.

(6) *Development by other governmental entities.* Pursuant to A.R.S. § 9-500.18, no development fee shall be imposed on new development by the State of Arizona, school districts organized pursuant to Arizona state laws, or the federal government, or agencies thereof; provided, however, that the town may seek to negotiate the construction of public facilities or the provision of services, or to negotiate the payment of development fees, pursuant to a development agreement or intergovernmental agreement with such public governmental entities.

(F) *Effect of payment of development fees on other applicable town land use, zoning, platting, subdivision or development regulations.*

(1) The payment of development fees shall not entitle the applicant to a building permit unless all other applicable land use, zoning, planning, platting, subdivision or other related requirements, standards and conditions have been met. Such other requirements, standards and conditions are independent of the requirement for payment of a development fee.

(2) Neither this subchapter nor the specific development fee ordinances for particular public facilities shall affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the town land development regulations, which shall be operative and remain in full force and effect without limitation.

(G) *Amendments.* This subchapter, and any ordinance adopting development fees for any particular public facility pursuant to this subchapter, may be amended from time to time by the Mayor and Common Council; provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the development fee revision nor without proper notice and public hearing as set forth herein and in A.R.S. § 9-463.05C.

(H) *Effect of imposition of development fees in a community facilities district.* In calculating and imposing a development fee applicable to land in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the town shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and facilities and shall not assess a portion of the development fee otherwise calculated to be due that would duplicate the infrastructure provided by the district or the costs imposed by the district on new development.

(Ord. O-2004-01, passed 1-20-04)

§ 151.44 PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION.

(A) *In general.* An applicant shall be notified by the town of the applicable development fee requirements at the time of application for a building permit via the issuance of a development fee calculation form to the applicant. Development fees shall be calculated by the town at the time of application for a building permit and shall be paid by the applicant prior to the issuance of a building permit.

(B) *Calculation.*

(1) Upon receipt of an application for a building permit, the town shall determine (a) whether it is a residential or non-residential

use, (b) the specific category (type) of residential or non-residential development, if applicable, (c) if residential, the number of new dwelling units, (d) if nonresidential, the number of new or additional square feet of gross floor area (rounded up to the nearest square foot) and the proposed use, and (e) the development fee district in which the new development is located (if applicable).

(2) Upon receipt of an application for a building permit, the town shall determine whether it is for a change in use. In such cases, the development fee due shall be based only on the incremental increase in the fee for the additional public facilities needed for the change in use.

(3) After making these determinations, the town shall calculate the demand for the public facility added by the new development for each public facility category for which a development fee is being imposed and calculate the applicable development fee by multiplying the demand added by the new development by the amount of the applicable development fee per unit of development, incorporating any applicable offset if set forth in the particular development fee calculation methodology.

(4) If the type of land use proposed for new development is not expressly listed in the particular development fee ordinance and schedule, the town shall:

(a) Identify the most similar land use type listed and calculate the development fee based on the development fee for that land use; or

(b) Identify the broader land use category within which the specified land use would apply and calculate the development fee based on the development fee for that land use category; or

(c) At the option of the applicant, or the Director of Planning, determine the basis used to calculate the fee pursuant to an independent impact analysis for development fee calculation. This option shall be available only for transportation development fees and shall be requested by the applicant on a form provided by the town for such purpose. If this option is chosen, the following shall apply:

1. The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Director of Planning, and, if appropriate, the Town Engineer or other town staff or officials, prior to payment of the fee.

2. The independent impact analysis shall measure the impact that the proposed development will have on the particular public facility at issue, and shall be based on the same methodologies used in the development fee calculation methodology report, and shall be supported by professionally acceptable data and assumptions.

3. After review of the independent impact analysis submitted by the applicant, the Director of Planning shall accept or reject the analysis and provide written notice to the applicant of its decision on a form provided for such purpose within 30 days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.

4. The final decision of the Director of Planning may be appealed pursuant to § 151.46 herein.

(5) An applicant may request a non-binding estimate of development fees due for a particular new development at any time by filing a request on a form provided for such purpose by the Planning Department; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such nonbinding estimate is solely for the benefit of the prospective applicant and shall in no way bind the town nor preclude it from making amendments or revisions to any provisions of this subchapter, the specific development fee implementing ordinances or the development fee schedules.

(6) The calculation of development fees due from a multiple-use new development shall be based upon the aggregated demand for each public facility generated by each land use type in the new development.

(7) The calculation of development fees due from a phased new development shall be based upon the demand generated by each specific land use within the phase of development for which a separate building permit is requested.

(8) Development fees shall be calculated based on the development fee amount in effect at the time of application for a building permit.

(C) Offsets.

(1) Offsets against the amount of a development fee due from a new development shall be provided for, among other things, contributions made or to be made in the future in cash, or by dedication of land or by actual construction of all or part of a public facility by the affected property owner for public facilities meeting or exceeding the demand generated by the new development and the contribution is determined by the town to be a reasonable substitute for the cost of public facilities which are included in the particular development fee calculation methodology.

(2) The amount of the excess contribution shall be determined by the town upon receipt of an application form requesting an offset; provided, however, that:

(a) The town will make no reimbursement for excess contributions unless and until the particular public facility fund has sufficient revenue to make the reimbursement without jeopardizing the continuity of the town's capital improvements program, and

(b) The excess contribution may not be transferred or credited to any other type of development fees calculated to be due from that development for other type of public facilities. The determination of the eligibility for and the amount of the credit shall be made by the town on a form provided for such purposes. If the applicant contends that any aspect of the town's decision constitutes an abuse of discretion, the applicant shall be entitled to appeal pursuant to § 151.46.

(3) No offset shall be allowed unless the town has approved the contribution or expenditure before it is made.

(4) Offsets for dedication of land or provision of public facilities shall be applicable only as to development fees imposed for the same types of public facilities, which are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a public facility exceeds the development fee due for the type of public facility, the excess value may not be transferred to development fees calculated to be due from the applicant for other types of public facilities for which development fees may be imposed. Offsets may, however, be transferred to the same applicant or to other applicants for new development, which are proposed within the final approved platted area of the same development and for the same type of public facility.

(D) *Collection.*

(1) The town shall collect all applicable development fees at the time of issuance of a building permit and shall issue a receipt to the applicant for such payment unless:

(a) The applicant is determined to be entitled to a full offset; or

(b) The applicant has been determined to be not subject to the payment of a development fee; or

(c) The applicant has filed an appeal and a bond or other surety in the amount of the development fee, as calculated by the town and approved by the Town Attorney and Town Engineer, has been posted with the town.

(2) The town shall collect a development fee at the time of issuance of a building permit even if development fees were paid by the applicant at an earlier time in the development permit or approval process if the amount of the development fees have increased since such prior approval. Except as provided for in § 151.43(F), the applicant shall only be liable for the difference between the development fees paid earlier and those in effect at the time of issuance of the subsequent building permit.

(Ord. O-2004-01, passed 1-20-04)

§ 151.45 ESTABLISHMENT OF DEVELOPMENT FEE ACCOUNTS; APPROPRIATION OF DEVELOPMENT FEE FUNDS; REFUNDS.

(A) *Development fee accounts.* A development fee account shall be established by the town for each category of public facilities for which development fees are imposed. Such account shall clearly identify the category, account, or fund for which the development fee has been imposed. Sub accounts may be established for individual development fee districts. All development fees collected by the town shall be deposited into the appropriate development fee account or sub account, which shall be interest bearing. All interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other town funds, over time. The town shall establish and implement necessary accounting controls to ensure that the development fee funds are properly deposited, accounted for and appropriated in accordance with this subchapter, A.R.S. § 9-463.05 and any other applicable legal requirements.

(B) *Appropriation of development fee funds.*

(1) *In general.* Development fee funds may be appropriated for public facilities, for public facility expenditures as defined in § 151.42, hereof and for the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the town or other applicable local governmental entities to finance such public facilities and public facility expenditures. All appropriations from development fee accounts shall be detailed on a form provided for such purposes and filed within the Finance Department.

(2) *Restrictions on appropriations.* Development fees shall be appropriated only:

(a) For the particular public facility for which they were imposed, calculated and collected;

(b) Within the development fee district where collected unless the development fee funds will be appropriated for a public facility necessitated by or serving the new development as provided herein; and

(c) Within ten years of the beginning of the fiscal year immediately succeeding the date of collection, unless such time period is extended as provided herein. Development fees shall not be appropriated for funding maintenance or repair of public facilities nor for operational or personnel expenses associated with the provision of the public facility.

(3) *Appropriation of development fee funds outside of district where collected.* Development fee funds may be appropriated for a public facility located outside of the district where collected only if the demand for the public facility is generated in whole or in part by the new development or if the public facility will actually serve the new development.

(4) *Appropriation of development fee funds beyond ten years of collection.* Notwithstanding division (B)(2) of this section, development fee funds may be appropriated beyond ten years from the beginning of the fiscal year immediately succeeding the date of collection if the appropriation is for a public facility which requires more than ten years to plan, design and construct, and the demand for the public facility is generated in whole or in part by the new development, or if the public facility will actually serve the new development. Such appropriations shall be documented by the town.

(C) *Procedure for appropriation of development fee funds.*

(1) The town shall each year identify public facility projects anticipated to be funded in whole or in part with development fees. The public facility recommendations shall be based upon the development fee annual review set forth in division (B)(3) of this section and such other information as may be relevant, and may be part of the town's annual budget and capital improvements programming process.

(2) The recommendations shall be consistent with the provisions of this subchapter, the particular public facility development fee ordinances, A.R.S. § 9-463.05, or other applicable legal requirements and any guidelines adopted by the Mayor and Common Council.

(3) The Mayor and Common Council may include development fee-funded public facilities in the town's annual budget and capital improvements program. If included, the description of the public facility shall specify the nature of the facility, the location of the public facility, the capacity to be added by the public facility the service area of the public facility, the need/demand for the public facility and the anticipated timing of completion of the public facility.

(4) The Mayor and Common Council may authorize development fee-funded public facilities at such other times as may be deemed necessary and appropriate by a majority vote of the Common Council.

(5) The Mayor and Common Council shall verify that adequate development fee funds are or will be available from the appropriate development fee account for the particular public facility.

(D) *Refunds.*

(1) *Eligibility for refund.*

(a) *Expiration or revocation of building permit.* An applicant who has paid a development fee for a new development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction shall be eligible to apply for a refund of development fees paid on a form provided by the town for such purposes.

(b) *Failure of town to appropriate development fee funds within time limit.* The current property owner may apply for a refund of development fees paid by an applicant if the town has failed to appropriate the development fees collected from the applicant within the time limit established in divisions (B)(2) and (4) of this section. The refund application shall be made on a form provided by the town for such purposes.

(c) *Abandonment of development after initiation of construction.* An applicant who has paid a development fee for a new development for which a building permit has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.

(d) A 5% administrative fee, but not to exceed \$200, shall be deducted from the amount of any refund granted and shall be retained by the town in the appropriate development fee account to defray the administrative expenses associated with the processing of a refund application.

(2) Except as provided in divisions (D)(1)(a) and (c) and (D)(6) of this section, refunds shall be made only to the current owner

of property on which the new development was proposed or occurred.

(3) *Processing of applications for a refund.* Applications for a refund shall be made on a form provided by the town for such purposes and shall include all information required in divisions (D)(5) or (6) of this section, as appropriate. Upon receipt of a complete application for a refund, the town shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the town.

(4) Applications for refunds due to abandonment of a new development prior to completion shall be made on forms provided by the town and shall be made within 60 days following expiration or revocation of the building permit. The applicant shall submit (a) evidence that the applicant is the property owner or the duly designated agent of the property owner, (b) the amount of the development fees paid by public facilities category and receipts evidencing such payments, and (c) documentation evidencing the expiration or revocation of the building permit or proof of demolition of the structure pursuant to a valid town-issued demolition permit. Failure to apply for a refund within 60 days following expiration or revocation of the building permit or demolition of the structure shall constitute a waiver of entitlement to a refund. No interest shall be paid by the town in calculating the amount of the refunds.

(5) Applications for refunds due to the failure of the town to appropriate development fees collected from the applicant within the time limits established in division (B)(2) of this section shall be made on forms provided by the town and shall be made within one year following the expiration of such time limit. The applicant shall submit (a) evidence that the applicant is the property owner or the duly designated agent of the property owner, (b) the amount of the development fees paid by public facility category and receipts evidencing such payments, and (c) description and documentation of the town's failure to appropriate development fee funds for relevant public facilities.

(6) The town may, at its option, make refunds of development fees by direct payment, by offsetting such refunds against other development fees due for the same category of public facilities for new development on the same property, or by other means subject to agreement with the property owner.

(Ord. O-2004-01, passed 1-20-04)

§ 151.46 APPEALS.

(A) An appeal from any decision of a town official pursuant to this subchapter shall be made to the Mayor and Common Council by filing a written appeal pursuant to the appropriate town form with the Town Clerk within 30 days following the decision which is being appealed; provided, however, that if the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the Town Attorney and the Town Engineer in an amount equal to the development fee calculated to be due, a building permit may be issued to the new development. The filing of an appeal shall not stay the imposition or the collection of the development fee as calculated by the town unless a cash bond or other sufficient surety has been provided.

(B) The burden of proof shall be on the appellant to demonstrate that the decision of the town is erroneous.

(C) All appeals shall detail the specific grounds therefor and all other relevant information and shall be filed on a form provided by the town for such purposes.

(Ord. O-2004-01, passed 1-20-04)

§ 151.47 EXEMPTIONS; WAIVERS.

(A) *Filing of application.* Petitions for exemptions to the application of the provisions of this subchapter or waivers from specific development fees shall be filed with the Mayor and Common Council on forms provided by the town.

(B) *Effect of grant of exemption/waiver.* If the Mayor and Common Council grants an exemption or waiver in whole or in part of development fees otherwise due, the amount of the development fees exempted or waived shall be provided by the town from non-development fee funds, as may be provided in the particular development fee ordinances establishing development fees for particular public facilities, and such funds shall be deposited to the appropriate development fee account within a reasonable period of time consistent with the applicable town capital improvements program.

(C) *Development agreements.* Nothing herein shall be deemed to limit the town's authority or ability to enter into development agreements pursuant to A.R.S. 9-500.05 with applicants for new development who may provide for dedication of land, payments in lieu of development fees, or actual infrastructure improvements. Such development agreements may allow offsets against development

fees for contributions made or to be made in the future in cash, or by taxes or assessments or dedication of land or by actual construction of all or part of a public facility by the affected property owner.

(Ord. O-2004-01, passed 1-20-04)

§ 151.99 PENALTY

Any person found guilty of violating this chapter, except as otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof, may be punished by a fine not to exceed \$2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.

(Ord. 2000-03, passed 5-15-00)

BUILDING REGULATIONS APPENDIX: FEES

Schedule

1. Fees

SCHEDULE 1. FEES.

(A) Demolition issue fee	\$100
Sales trailer issue fee	\$250
Inspections outside of normal business hours	\$35 per hour
Reinspection fee assessed under the provisions of Section 305(g)	\$35 each
Inspections for which no fee is specifically indicated (minimum charge - one hour)	\$35 per hour
Additional plan review required by changes, additions, or revisions to approved plans (minimum charge - one hour)	\$35 per hour
The permit fee for fences shall be:	
Wood/chain link/wrought iron	\$20 plus \$.10 per lin. ft.
Masonry/concrete	\$20 plus \$.15 per lin. ft.
Arena/corral/split rail/metal rail	\$20 plus \$.05 per lin. ft.
Retaining walls	\$20 plus \$.25 per lin. ft.

The permit fees for signs shall be based on valuation:

\$1 to \$500	\$25
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\$501 to \$1,000 \$50

For each \$100 or fraction thereof over \$1,000,

add an additional \$5

The permit fee for swimming pools and spas shall be based

on total valuation:

\$1 to \$3,000 \$60

\$3,001 to \$6,000 \$120

For each \$1,000 or fraction thereof over \$6,000,

add an additional \$20

(B) The determination of the value or valuation under the provision of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment, provided that the minimum valuation for the type of construction for which the permit is issued shall be the cost for such construction as listed in that issue of the publication entitled Building Standards (or equivalent publication of the International Conference of Building Officials) published immediately preceding the date of issuance of the permit, without adjustments for regional variations.

(`87 Code, Art. 7-6; Am. Ord. 2000-03, passed 5-15-00)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

152.01 Enforcement authority designated

152.02 Floodplain Management Regulations and plan

§ 152.01 ENFORCEMENT AUTHORITY DESIGNATED.

The town designates the Maricopa County Flood Control District as the enforcement authority for all floodplain management activities within the corporate limits of the town. The district is hereby authorized to exercise the powers and perform the duties set forth in A.R.S. §§ 48-3601 et seq., within the town.

(`87 Code, Art. 12-1)

§ 152.02 FLOODPLAIN MANAGEMENT REGULATIONS AND PLAN.

(A) The Town Manager is designated as the Floodplain Manager for the town and will serve as the community point of contact on National Flood Insurance Program issues for county, state and federal officials.

(B) Those public records entitled "Flood Insurance Study for Maricopa County, Arizona, and Incorporated Areas Dated July 19, 2001" and "Flood Insurance Rate Maps Dated July 19, 2001" and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the Town Clerk, are hereby adopted by reference, as the basis for establishing the special flood hazard areas for floodplain management in the town. The special flood hazard areas documented in the flood insurance study and flood insurance rate maps are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

(C) Public record in the floodplain management regulations for Maricopa County (2000 Revision), three copies of which shall be kept on file in the office of the Town Clerk, is hereby adopted as the legal basis for implementing floodplain management in this

community.

(Ord. O-2005-14, passed 8-15-05)

CHAPTER 153: SUBDIVISION OF LAND

Section

Part I: General Provisions

153.01 Land splits

Part II: Subdivisions

153.10 Adoption of subdivision code

Statutory reference:

Municipal subdivision regulations, see A.R.S. §§ 9-463 et seq.

PART I: GENERAL PROVISIONS

§ 153.01 LAND SPLITS.

(A) *Split and division of land; approval.* It is unlawful for any person to sell a parcel of land located within the town which has been split or divided from another parcel of land consisting of two and one-half acres or less until first having applied for and been granted the approval of the split or division by the Town Council. The Town Council shall determine before granting such approval that:

(1) The split or division will not interfere with the orderly growth and harmonious development of the town as defined in the subdivision code and the Comprehensive Plan, including but not limited to provision for the public dedication of rights-of-way for streets and alleys.

(2) There is provision for connection to the necessary utilities.

(3) The new and residually created parcel or parcels meet the minimum frontage and area requirements of the zoning code.

(B) *Application for approval.* Any application hereunder shall be filed with the town for consideration by the Town Council after staff review. The application shall depict the original parcel, the proposed division thereof, the nearest dedicated streets in all directions, the abutting alley, if any, and the distance from the nearest sewage trunk line. Approval or disapproval of the split or division of the property shall be conveyed to the owner, in writing, within ten days after the meeting of the Town Council. In the case of disapproval, the owner shall be notified of the reason for such and what requirements shall be necessary to meet the approval of the Town Council.

(C) *Issuance of building permit.* The Building Inspector shall not issue any building permit for any split or divided parcel as described herein until the owner of said parcel has shown that divisions (A) and (B) have been previously complied with and approval of the split or division has been granted by the Town Council. In the event said sections have not been complied with prior to the split or division, the new owner shall comply with them (as if he or she were the one who divided or split the original parcel which has resulted in the creation of his or her parcel) before issuance of any building permit by the Building Inspector.

(‘87 Code, Art. 14-2) (Ord. 88-3, passed 5-2-88; Am. Ord. 88-10, passed 6-6-88) Penalty, see § 10.99

Statutory reference:

Land splits, local authority over, see A.R.S. § 9-463.01(L)

PART II: SUBDIVISIONS

§ 153.10 ADOPTION OF SUBDIVISION CODE.

That certain code entitled the "Subdivision Code," enacted by Ord. 99-10, August 9, 1999, is hereby adopted as the subdivision code of the town and made a part of this chapter the same as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the Clerk and kept available for public use and inspection.

(`87 Code, Art. 14-1) (Ord. 99-10, passed 8-2-99; Am. Ord. O-2003-04, passed 8-4-03; Am. Ord. O-2003-08, passed 10-6-03)

CHAPTER 154: ZONING

Section

154.01 Adoption of zoning ordinance

Statutory reference:

Municipal zoning, see A.R.S. §§ 9-452 et seq.

Cross-reference:

Zoning Administrator, see § 31.26

Planning Commission, see §§ 33.01 et seq.

Board of Adjustment, see §§ 33.20 et seq.

Dedication and exaction appeals, see § 150.02

§ 154.01 ADOPTION OF ZONING ORDINANCE.

That certain document entitled the "Zoning Ordinance," dated January 6, 2003, is declared to be the official zoning ordinance of the town and made a part of this chapter the same as though said ordinance was specifically set forth in full herein; and at least three copies of said ordinance shall be filed in the office of the Town Clerk and kept available for public use and inspection.

(Ord. O-2003-07, passed 10-6-03; Am. Ord. O-2004-12, passed 6-7-04; Am. Ord. O2013-09, passed 11-4-13)

CHAPTER 155: MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION FACILITIES

Section

155.01 Legislative findings and purpose

155.02 Definitions

155.03 Location

155.99 Penalty

§ 155.01 LEGISLATIVE FINDINGS AND PURPOSE.

(A) In many communities in which medical marijuana "dispensaries" have been established, law enforcement agencies have documented the serious and adverse impacts associated with such dispensaries. These communities and the media have reported increased crime, including burglaries, robberies, violence, illegal sales of marijuana to and use of marijuana by minors and others without medical need in the areas immediately surrounding such medical marijuana dispensaries. Other negative secondary effects

include the smoking of marijuana in public areas and adverse impacts on neighboring businesses (including odor complaints). The town could reasonably anticipate experiencing similar adverse impacts and effects from any marijuana dispensaries and cultivation and other marijuana operations established in the town.

(B) Additionally, a number of sources, including the United States Department of Justice's California Medical Marijuana website [which contains various documents and reports related to issues surrounding marijuana use] and the "White Paper on Marijuana Dispensaries" published by the California Police Chiefs Association's Task Force on Marijuana Dispensaries (April 22, 2009), have concluded that the establishment of marijuana dispensaries can lead to an increase in crime. Among the crimes cited as typical examples are burglaries, robberies, sales of illegal drugs in areas immediately surrounding such dispensaries, as well as other public nuisances such as loitering, smoking marijuana in public places, sales to minors and driving while under the influence of marijuana. The Town Council finds that these data and conclusions, experiences in other cities, towns and counties justify the implementation of the regulatory zoning and safety measures included in this chapter.

(C) The provisions of this chapter are intended to acknowledge and protect the rights of qualifying patients and their designated caregivers under the provisions of Title 36, A.R.S. §§ 36-2801 et seq., while also protecting the health, safety, and welfare of the public; through implementation of the Zoning Code; and curtailing to the extent reasonably possible, the possession, use, distribution, or cultivation of marijuana for unlawful purposes by:

(1) Requiring that medical marijuana businesses, operations and facilities be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana dispensary or cultivation operation might have on surrounding properties and persons;

(2) Regulating the conduct of persons owning, operating and using medical marijuana dispensaries and cultivation facilities in order to protect the public health, safety and welfare; and

(3) Regulating the location and operation of medical marijuana dispensaries, cultivation facilities and medical marijuana operations.

(D) By adoption of this chapter, the Town Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. O2011-05, passed 4-18-11) Penalty, see § 155.99

§ 155.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CULTIVATION. The process by which a person grows a marijuana plant(s) as allowed by Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and the Department rules and regulations.

MEDICAL MARIJUANA CULTIVATION FACILITY. The building, structure or premises used to cultivate a marijuana plant(s).

DEPARTMENT. The Arizona Department of Health Services or its successor agency.

DEPARTMENT RULES AND REGULATIONS. The adopted regulations of the Department relating to the provisions of Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. currently in existence and as adopted in the future.

DESIGNATED CAREGIVER. A person, other than qualifying patient and the patient's physician, who, pursuant to Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and the Department rules and regulations, assists no more than five registered qualifying patients with the medical use of marijuana.

MEDICAL MARIJUANA. Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, the seeds of such plant, and any infusion into consumable/edible goods, approved under state law for treatment of persons suffering from debilitating medical conditions as designated in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq., the Department rules and regulations, and other laws and regulations of the State of Arizona.

MEDICAL MARIJUANA CULTIVATION LOCATION FOR A CAREGIVER shall only be permitted in a locked accessory building that does not exceed 250 square feet of cultivation space and meets the 60' setback requirement from all property lines and is where a designated caregiver, as designated by Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 and the Department rules and regulations, cultivates medical marijuana.

MEDICAL MARIJUANA DISPENSARY or **DISPENSARY**. A building, structure or premises used to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, distribute, transmit, give, dispense or otherwise provide medical marijuana in any manner to patients or designated caregivers pursuant to the authority contained in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq., Department rules and regulations, or other implementing state statutes and administrative regulations.

PERSON. A natural person or business entity such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

PREMISES. The entire parcel of property upon which a medical marijuana dispensary, medical marijuana cultivation facility or any other medical marijuana operation is located.

QUALIFYING PATIENT. A person who has a debilitating medical condition as defined in Arizona Revised Statutes, Title 36, A.R.S. §§ 36-2801 et seq. and is a registered qualifying patient as defined by state law and the Department rules and regulations.

SCHOOL. Any building, portion of building, or group of buildings which is designed, constructed, or used for education or instruction in any branch of knowledge, including tutoring centers, day care centers, and the following types of schools:

(1) **CHARTER SCHOOL**. A school operating under sponsorship of a public school district governing board, the State Board of Education or the State Board for Charter Schools and has been created pursuant to A.R.S. § 15-181.

(2) **PRIVATE SCHOOL**. Any building, portion of building, or group of buildings used for elementary, secondary or higher education that does not secure the major part of its funding from a governmental agency.

(3) **PUBLIC SCHOOL**. Any building, portion of building, or group of buildings used for elementary, secondary or higher education that secures the major part of its funding from a governmental agency.

(Ord. O2011-05, passed 4-18-11)

§ 155.03 LOCATION.

(A) A medical marijuana dispensary or medical marijuana cultivation facility may be located in the general commercial and commercial core zoning districts with an approved site plan. The locations are limited to the following:

(1) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 500 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an existing private or public school.

(2) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 100 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing an existing:

- (a) Child care facility;
- (b) Church, synagogue, temple or similar religious worship building; or
- (c) Public park, library, museum or publicly owned community building.

(3) A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 100 feet from a residential structure measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.

(B) Medical marijuana cultivation location for a designated caregiver in a residential district is not permitted, unless sufficient evidence exists that the location is greater than 25 miles from a medical marijuana dispensary within the State of Arizona.

(C) *Operating requirements.*

(1) Any medical marijuana dispensary or medical marijuana cultivation facility shall comply with the following requirements, as well as those contained within A.R.S. Title 36, Ch. 28 and any Department rules and regulations.

(a) The business shall be located in a permanent building with a foundation and roof that meets all Cave Creek building and fire codes, and not located in a mobile home, trailer, cargo, container, motor vehicle, or similar personal property.

(b) The building must have received a certificate of occupancy for the use intended.

(c) No drive-through facilities will be permitted.

(d) No emission of dust, fumes, vapors, or odors may be released into the environment, and all waste, including any infused edible/consumable goods shall be disposed of in a manner that complies with all federal, state and local regulations.

(e) A local business license must be obtained.

(f) Zoning administrative application shall be processed certifying that all regulations are in compliance with this Code and zoning requirements.

(2) Any medical marijuana cultivation location for a designated caregiver in a residential area shall comply with the following requirements, as well as those contained within A.R.S. Title 36, Ch. 28 and any Department rules and regulations.

(a) All cultivation must be in a locked accessory building that meets the 60 feet setback requirement from all property lines and with a foundation and roof that meets all Cave Creek building and fire codes, and not located in a mobile home, trailer, cargo, container, motor vehicle, or similar personal property.

(b) Cultivation space must not exceed 250 square feet.

(c) The building must have received a certificate of occupancy for the use intended.

(d) The designated caregiver must obtain an annual business license from the Town of Cave Creek.

(e) All designated caregivers must obtain a Home Occupation Permit.

(Ord. O2011-05, passed 4-18-11) Penalty, see § 155.99

§ 155.99 PENALTY.

Any person found guilty of violating any provisions of this chapter shall be guilty of a Class 1 misdemeanor, and upon conviction thereof, may be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three years, or by any combination of such fine, imprisonment, and probation. Each day a violation continues shall constitute a separate offense punishable as hereinabove provided.

(Ord. O2011-05, passed 4-18-11)

CHAPTER 156: TRANSFER OF DEVELOPMENT RIGHTS

Section

156.01 Purpose

156.02 Definitions

156.03 Procedure

§ 156.01 PURPOSE.

This chapter allows the owner of one parcel of land to transfer potential development rights for that parcel of land to another parcel in order to allow for the consolidation of open space, thereby providing larger contiguous areas where the public may enjoy outdoor recreation, and to allow for greater flexibility for the development of property in selected areas of the town.

(Ord. O2016-06, passed 7-18-16)

§ 156.02 DEFINITIONS.

The following definitions shall apply to this chapter as written unless context indicates or requires a different meaning.

DEPARTMENT. The Town of Cave Creek Planning Department.

DEVELOPMENT RIGHTS. The maximum development that would be allowed for a parcel in the sending property under the Zoning Ordinance.

GENERAL PLAN. The most recently adopted general plan for the town.

RECEIVING AREA. Those lands commercially zoned and located within town limits.

RECEIVING PROPERTY. Any parcel or portion of any parcel contained in a receiving area within which development rights are increased under the zoning ordinance in effect prior to the transfer of development rights under this chapter of the Town Code and an any amendment to the general plan, specific plan, zoning ordinance or rezoning if required to implement the increase in development rights for the receiving property.

SENDING AREA. Those lands located in the town core.

SENDING PROPERTY. Any parcel or portion of any parcel contained in a sending area.

SPECIFIC PLAN. The most recently adopted specific plan, if any, regarding a receiving property.

(Ord. O2016-06, passed 7-18-16)

§ 156.03 PROCEDURE.

(A) Any proposed transfer of development rights from a sending property to a receiving property shall be subject to the notice, hearing and Planning Commission and Town Council approval requirements of A.R.S. § 9-462.04 and the zoning ordinance and shall be subject to the approval and consent of the property owners of both the sending property and the receiving property.

(B) *Agreement.* The sending property owner and the receiving property owner shall execute an agreement ("TDR Agreement") approved by the Department whereby the development rights of the sending property are severed and affixed to the receiving property. The agreement shall include a site plan for both the sending property and the receiving property. For the sending property, the site plan shall illustrate the area of the transferred development rights and the land use calculations for the undisturbed area percentages. For the receiving property, the site plan shall satisfy the requirements of the Town of Cave Creek Zoning Ordinance. The sending property owner and the receiving property owner shall obtain the approval of any person or entity holding a lien on the sending property and the receiving property

(C) *Restrictive covenant running with the land.* The Department may direct the owner of the sending property to record either a conservation easement or a development agreement containing the terms of the transferred development rights and limitations thereto as permitted by this chapter binding the owner of the sending property and every successor in interest to the owner of the sending property to the terms of the conservation easement or development agreement.

(D) *Delayed effectiveness.* The effective date of the severance of transferable development rights from the sending property shall be the date of the recording of the conservation easement or development agreement required by § 156.03(C) of this code. The effective date of the development rights transferred to the receiving property shall be ten days following the recording of the conservation easement or development agreement.

(E) *Transferred rights.* The purchase, sale, exchange or other conveyance of the transferable development rights shall become effective ten days following the recording of the TDR Agreement, provided consideration has been made by the receiving property owner to the sending property owner.

(F) *Monitoring.* The system for monitoring the severance, ownership, assignment and transfer of development rights shall be administered by the Department. As part of the review and approval process of each development rights transfer application, the Department shall review each application relative to the following criteria:

- (1) *Site plan.* Application requirements in the case of the receiving property;
- (2) Transferable development rights shall be used for undisturbed land use requirements only;
- (3) Transferable development rights shall comply with the general plan and any applicable specific plan; and

(4) The total area of the transferable development rights must be equal to or less than the total square footage of the receiving property's undisturbed area excluding any landscaped area requirements which shall not be subject of a transferable development right, as required by the Town of Cave Creek Zoning Ordinance. The Department shall monitor and maintain records for each receiving property transfer of development rights on a square foot basis and deduct each transfer from the total square footage of the sending property, until such time the total square footage of the sending property is exhausted in terms of available square footage.

(G) *Right to purchase.* The town shall have a right of first refusal to purchase or exchange transferable development rights from the sending property to hold them for resale, provided the purchase price or exchange rate offered by the town shall be fair market value.

(H) *Interjurisdictional transfers.* The town shall have the right at its discretion to enter into an intergovernmental agreement with another municipality or a county for the transfer of development rights between jurisdictions when the sending property a receiving property are in different jurisdictions.

(I) *Process.* The property owners desiring to transfer development rights under this chapter of the town code shall complete an application and submit the application to the Department together with a registration fee in accordance with the town's adopted fee schedule.

(Ord. O2016-06, passed 7-18-16)

TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS
- II. CONTRACTS AND AGREEMENTS
- III. REAL ESTATE TRANSACTIONS
- IV. ZONING MAP AMENDMENTS

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
88-19	9-6-88	Annexation of portions of Section 5 and Section 8 all within Township 5 North, Range 4 East of the Gila and Salt River Meridian, Maricopa County.
89-10	5-17-89	Annexation of portions of Sections 5, 6, 7, 17, 18, and 20 of Township 5 North, Range 4 East, G&SRB&M, Maricopa County.
89-12	6-12-89	Annexation of portions of Sections 5 and 8 of Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County.

89-18	10-2-89	Annexation of a portion of Section 8, Township 5 North, G&SRB&M, Maricopa County, including the subdivisions of Saguaro West IV A, Book 205, Page 33, Saguaro West II, Book 180, Page 6, and Saguaro West IV, Book 200, Page 4, as recorded at the office of the Maricopa County Recorder.
92-05	4-6-92	Annexation of the North Half of Section 23, Township 6 North, Range 3 East, Gila and Salt River Base and Meridian
95-06	4-10-95	Annexation of the Southwest Quarter of Section 23, and the North Half of the Northwest Quarter of Section 26, Township 6 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County.
97-03	2-13-97	Setting forth the general policy under which annexation of Annexation Area 96-1 to the Town of Cave Creek will proceed.
97-08	4-24-97	Annexation of Sections 4, 5, and 6, and of a part of Sections 3, 8, 9, 16, 17, and 18 of Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County.
2001-01	3-5-01	Annexation of a portion of Sections 10, 11, 12, 14 and 15 of Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County.

TABLE II: CONTRACTS AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>

96-09	7-15-96	Authorizing the signing of an intergovernmental agreement between Maricopa County, the City of Phoenix, and the Town of Cave Creek for improvements to Cave Creek Road between Lone Mountain Road (South) and Carefree Highway.
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TABLE III: REAL ESTATE TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
92-14	12-7-92	Exchanging a portion of the existing dedicated public roadway right-of-way for Spur Cross Road with the abutting landowner for a new public roadway dedication for the same portion of Spur Cross Road; and declaring an emergency.
92-14 [sic]	5-24-93	Exchanging a portion of the existing dedicated public roadway right-of-way for Spur Cross Road with the abutting landowner for a new public roadway dedication for the same portion of Spur Cross Road; and declaring an emergency.
95-05	4-17-95	Approving the land exchange agreement with Rancho Manana Golf Club, an Arizona limited partnership, for the site of the town wastewater treatment plant and authorizing and directing the Mayor to execute the exchange agreement and escrow instructions prepared in accordance therewith.

TABLE IV: ZONING MAP AMENDMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
88-02	4-18-88	Amending the zoning map by changing the zoning classification in Rezoning Case No. CCZ-87-01 from Multiple-Family Residential zoning (R-5) and Rural Zoning District (Rural 70) to Planned Center Zoning District (C-S), and providing development conditions and penalties.
88-14	8-1-88	Amending the zoning map by changing the zoning classification in Rezoning Case No. Z88-002 from R1-18, Single-Family Residential to C-2, Intermediate Commercial, and providing penalties.
89-01	1-3-89	Amending the zoning map by changing the zoning classification of portions of Sections 5 and 8 all within Township 5 North, Range 4 East of the Gila and Salt River Meridian, Maricopa County, from County Rural-43 to Cave Creek Rural-43.
89-6	5-1-89	Amending the zoning map by changing the zoning classification of Lot 57, Hidden Valley, Unit 2 MCR 66/29 from R-5 to C-2 P.D. and Lot 58, Hidden Valley, Unit 2, MCR 66/29 from C-2 to C-2 P.D.
89-15	8-7-89	Amending the zoning map by changing the zoning classification of parcels of the Southwest Quarter of the Southeast Quarter of Section 1, Township 5 North, Range 3 East, G&SRB&M, Maricopa County to C-3 P.D. (precise); C-3 P.D. (concept); and I-1 P.D. (concept).
		Amending the zoning map by establishing the zoning

89-17	10-2-89	classification of portions of Sections 5, 6, 7, 17, 18, and 20 of Township 5 North, Range 4 East, G&SRB&M, Maricopa County, as Rural-43, R1-35 R.U.P.D., C-2, and Manufactured House Residential Overlay (M.H.R.)
90-01	1-2-90	Amending the zoning map by establishing the zoning classification of a portion of Section 8, Township 5 North, Range 4 East, G&SRB&M, Maricopa County, to R1-35 and R1-35 S.U.P. (Mobile Home Subdivision).
90-02	1-2-90	Amending the zoning map by removing the Manufactured Housing Overlay Zoning (MHR) from a certain one-acre parcel of real property to reflect the base zoning of Rural-43.
90-07	6-4-90	Amending the land use map in the South Half of Section 23, Township 6 North, Range 4 East to reflect land use designations of Desert Residential, Conservation Mountain Residential/Special Scenic Quality, and Open Space.
91-24	11-4-91	Amending the zoning map by changing the zoning classification in Rezoning Case No. Z-91-1 from Planned Shopping Center Zoning District (C-S) to Intermediate Commercial Zoning District (C-2), and providing development conditions and penalties.
91-25	11-18-91	Amending the zoning map by changing the zoning classification in Rezoning Case No. Z-91-2 of 12.3 acres from R1-35 and 6.7 acres from Rural-70 to C-2 P.D., and providing development conditions and penalties.
		Amending the zoning map by

92-06	8-31-92	establishing the zoning classification of certain real property as Rural-43 and C-2 P.D.
92-13	1-4-93	Amending the zoning map by establishing the zoning classification of the North Half of Section 23, Township 6 North, Range 3 East, G&SRB&M as Rural-70.
92-18	12-7-92	Amending the zoning map by changing the zoning classification of a portion of Township 6 North, Range 4 East, G&SRB&M (Assessors' Parcel No. 216-06-042) from R-5 Multiple-Family Residential Zoning to R1-35 Single-Family Residential.
93-09	4-5-93	Amending the zoning map by changing the zoning classification of a portion of the Southwest Quarter of the Southeast Quarter of Section 1, Township 5 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, from C-3 and I-1 to Rural-43.
94-18	8-8-94	Amending the zoning map by changing the zoning classification for certain properties from D-2.5A to D-5A and from R-70 to D-2.5A.
95-03	1-3-95	Amending the zoning map by changing the zoning classification for Parcel 216-07-037B from D-2.5A to CC.
95-16	11-6-95	Amending the zoning map by changing the zoning classification of the Southwest Quarter of Section 23, and the North Half of the Northwest Quarter of Section 26, Township 5 North, Range 3 East, of the Gila and Salt River Base and Meridian, Maricopa County, from R-43 to D-2.5A.

95-20	12-4-95	Amending the zoning map by changing Parcel 211-05-007A from Single-Family Residential, one dwelling unit per 35,000 square feet (R-35), to Desert Rural Single-Family Residential, one dwelling unit per 190,000 square feet (D-5A).
96-01	1-16-96	Amending the zoning map by changing Parcel 211-07-007E, a part of the Southwest Quarter of the Northeast Quarter of Section 28, Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, from Single-Family Residential, Desert Rural Single-Family Residential District, one dwelling unit per 89,000 square feet (D-2.5A), to one dwelling unit per 35,000 square feet (R-35).
96-07	6-3-96	Amending the zoning map by changing the zoning classification of a part of the Southwest Quarter of the Northeast Quarter of Section 28, Township 5 North, Range 4 East of the Gila and Salt River Base and Meridian from D-2.5A to Rural-35.
96-15	10-7-96	Amending the zoning map by changing the zoning classification of certain real property located on Mark Way and Linda Drive.
97-13	8-18-97	Amending the zoning map by changing the zoning classification of Lot #49 East Bella Vista Drive from Desert Rural (D2.5A) to Commercial Core (CC).
97-17	10-20-97	Amending the zoning map by establishing the zoning classification of portions of Sections 4, 5, and 6, and of a part of Sections 3, 8, 9, 16, 17, and 18 of Township 6 North, Range 4

		East, Maricopa County, as D-5A, D-1.75A, and RUPD D-1A.
97-21	1-5-98	Amending the zoning map by changing the zoning classification of a portion of the Southwest Quarter of Section 27, Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, from MR-43 Multiple-Family and R-35 Single-Family to Commercial Core (CC).
97-22	6-16-97	Amending the zoning map by changing the zoning classification of the West Half of the North 500 feet of Lot 13, Friers Addition No. 1, as recorded in Book 24 of Maps, at Page 1, M.C.R. Town of Cave Creek, and that part of the West 200 feet of the Northwest Quarter of the Southwest Quarter of Section 27, Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, from Desert Rural (D-2.5A) to Commercial Core (CC).
99-05	5-3-99	Amending the zoning map to reflect that three parcels generally located south of Cave Creek Road and east of Schoolhouse Road, having originating Maricopa County Assessor's parcel numbers of 216-06-035A (.28 ac.), 037A(1.03 ac.) and 038(1.72 ac.) are zoned as Commercial Core (CC).
2001-02	4-2-01	Amending the zoning map to reflect that a parcel generally located north of Cave Creek Road and west of Vermeersch Road, having originating Maricopa County Assessor's parcel number of 216-07-008 is zoned as Commercial Core (CC).

2002-01	4-15-02	Amending the zoning map by changing the zoning classification of the Canyon Ridge Estates subdivision from Single-Family Residential (R-18) and Desert Rural Residential (D-1A, D-2.5A and D-5A) to Planned Unit Development (PUD).
2002-04	4-15-02	Amending the zoning map by changing the zoning classification of Red Dog Ranch subdivision from Desert Rural Residential (D-5A) to Planned United Development (PUD).
2002-05	4-15-02	Amending the zoning map by changing the zoning classification of the Spur Cross Estates subdivision from Desert Rural Residential (D-5A and D-2.5A) to Planned Unit Development (PUD).

PARALLEL REFERENCES

References to Arizona Revised Statutes

References to 1987 Code of Ordinances

References to Ordinances

REFERENCES TO ARIZONA REVISED STATUTES

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9-240(B)(12)	32.01
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9-240(B)(21)	Ch. 91
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49-541(1)	92.21
49-791	92.15

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<i>1987 Code Section</i>	<i>2000 Code Section</i>
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