CITY OF EL MIRAGE, ARIZONA
CODE OF ORDINANCES
VOLUME 1

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CITY OFFICIALS OF EL MIRAGE, ARIZONA

CITY COUNCIL

MAYOR	Lana Mook
VICE-MAYOR	Vacant
COUNCILOR	Roy Delgado
COUNCILOR	Bob Jones
COUNCILOR	Jack Palladino
COUNCILOR	Lynn Selby
COUNCILOR	David Shapera

CITY OFFICIALS

CITY MANAGER	Dr. Spencer A. Isom
CITY ATTORNEY	Robert M. Hall
CITY CLERK	Sharon Antes

ADOPTING ORDINANCE

Ordinance O09-04-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, ARIZONA, CODIFYING, RESTATING, COMPILING AND AMENDING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the City of El Mirage 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 Arizona Revised Statutes of the State of Arizona empowers and authorizes the political subdivision of the State 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 Common Council of the City of El Mirage has authorized a general compilation, revision and codification of the ordinances of the City of El Mirage 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 COMMON COUNCIL OF THE CITY OF EL MIRAGE, ARIZONA:

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

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

VOLUME 1

TITLE I: GENERAL PROVISIONS

TITLE III: ADMINISTRATION

TITLE V: PUBLIC WORKS

TITLE VII: TRAFFIC CODE

TITLE IX: GENERAL REGULATIONS

TITLE XI: BUSINESS REGULATIONS

TITLE XIII: GENERAL OFFENSES

TABLE OF SPECIAL ORDINANCES - [*Reserved*]

PARALLEL REFERENCES

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VOLUME 2

TITLE XV: LAND USAGE

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.

Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Common Council of the City of El Mirage, and the Clerk of the City of El Mirage is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the City Clerk.

Sections 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.

Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of the City of El Mirage, and shall take effect immediately upon adopting and approval of the Common Council of the City of El Mirage.

PASSED AND ADOPTED by the Common Council of the City of El Mirage, Arizona on this 14th day of May, 2009.

Fred Waterman /s/

Fred Waterman, Mayor

ATTEST: APPROVED AS TO FORM:

Richard Saathoff /s/ Richard Flaaen /s/

Richard Saathoff, City Clerk Richard Flaaen, City Attorney

Ordinance O10-02-05

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, ARIZONA AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City; and

WHEREAS, it is necessary to provide for the usual daily operation of the City and for the immediate preservation of the public peace, health, safety and general welfare of the City that this ordinance take effect immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF CITY OF EL MIRAGE:

Section 1. That the first supplement to the Code of Ordinances of the City of El Mirage as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Mayor and Council of the City of El Mirage, and the City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect immediately upon approval.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage this 11th day of February, 2010.

/s/

Michele Kern, Mayor

ATTEST:

/s/

Richard Saathoff, City Clerk

APPROVED AS TO FORM:

/s/

Richard Flaaen, City Attorney

Ordinance O11-01-01

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, ARIZONA AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the second supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City; and

WHEREAS, it is necessary to provide for the usual daily operation of the City and for the immediate preservation of the public peace, health, safety and general welfare of the City that this ordinance take effect immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF CITY OF EL MIRAGE:

Section 1. That the second supplement to the Code of Ordinances of the City of El Mirage as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Mayor and Council of the City of El Mirage, and the City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect immediately upon approval.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage this 13th day of January, 2011.

Lana Mook /s/

Lana Mook, Mayor

ATTEST:

Richard Saathoff /s/

Richard Saathoff, City Clerk

APPROVED AS TO FORM:

Robert M. Hall /s/

Robert M. Hall, City Attorney Interm

Ordinance O12-07-08

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, ARIZONA AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the third supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City; and

WHEREAS, it is necessary to provide for the usual daily operation of the City and for the immediate preservation of the public peace, health, safety and general welfare of the City that this ordinance take effect immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF CITY OF EL MIRAGE:

Section 1. That the third supplement to the Code of Ordinances of the City of El Mirage as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Mayor and Council of the City of El Mirage, and the City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of

Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect immediately upon approval.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage this 17th day of July, 2012.

Lana Mook /s/

Lana Mook, Mayor

ATTEST:

Richard Saathoff /s/

Richard Saathoff, City Clerk

APPROVED AS TO FORM:

Robert M. Hall /s/

Robert M. Hall, Interim City Attorney

Ordinance O15-08-07

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, ARIZONA AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the sixth supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City; and

WHEREAS, the A.R.S. § 9-240 empowers and authorizes the political subdivision of the State to revise, amend, restate, codify and compile any existing ordinances or enact new ordinances, and

WHEREAS, it is necessary to provide for the usual daily operation of the City and for the immediate preservation of the public peace, health, safety and general welfare of the City that this ordinance take effect immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF CITY OF EL MIRAGE:

Section 1. That the sixth supplement to the Code of Ordinances of the City of El Mirage as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Mayor and Council of the City of El Mirage, and the City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect immediately upon approval.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage this 10th day of August, 2015.

Lana Mook /s/

Lana Mook, Mayor

ATTEST:

Sharon Antes /s/

Sharon Antes, City Clerk

APPROVED AS TO FORM:

Robert M. Hall /s/

Robert M. Hall, City Attorney

Ordinance O16-12-12

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, ARIZONA, ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, ARIZONA AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the S7 supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City; and

WHEREAS, it is necessary to provide for the usual daily operation of the City 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 MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE:

Section 1. That the S7 supplement to the Code of Ordinances of the City of El Mirage as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of this adoption and approval by the Mayor and Council of the City of El Mirage, and the City Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the City Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage this 6th day of December, 2016.

Lana Mook /s/

Lana Mook, Mayor

ATTEST:

Sharon Antes /s/

Sharon Antes, City Clerk

APPROVED AS TO FORM:

Robert M. Hall /s/

Robert M. Hall, City Attorney

ORDINANCE 017-10-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, ARIZONA, ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF EL MIRAGE, STATE OF ARIZONA, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing corporation of Cincinnati. Ohio, has completed the S-8 supplement to the Code of Ordinances of the City of El Mirage, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE THAT:

Section 1. The S-8 supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of this adoption and approval by the Legislative Authority and the Clerk of the City of El Mirage is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of El Mirage on this 3rd day of October, 2017.

\s\ Lana Mook

Lana Mook, Mayor

ATTEST: APPROVED AS TO FORM:

\s\ Sharon Antes \s\ Robert M. Hall

Sharon Antes, City Clerk Robert M. Hall, City Attorney

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

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§ 10.01 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the City of El Mirage, Arizona," and may be so cited. The code may also be cited as the "El Mirage City Code."

(Prior Code, Art. 1-1)

§ 10.02 CONSTRUCTION OF ORDINANCES AND CODE.

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

(Prior Code, Art. 1-2)

(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, the requirement shall be construed to include all such acts when done by an authorized agent.

(Prior Code, § 1-3-2)

(C) *Gender; singular and plural*. 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.

(Prior Code, § 1-3-9)

(D) *Joint authority*. All words purporting to give "joint authority" to three or more city officers or other persons shall be construed as giving the authority to a majority of the officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

(Prior Code, § 1-3-11)

(E) *Or, and*. "Or" may be read "and", and "and" may be read "or", if the sense requires it.

(Prior Code, § 1-3-14)

(F) *Shall, may*. "Shall" is mandatory and "may" is permissive.

(Prior Code, § 1-3-20)

(G) *Shall have been*. The words "shall have been" include past and future cases.

(Prior Code, § 1-3-21)

(H) *Tenses*. The present tense includes the past and future tenses, and the future includes the present.

(Prior Code, § 1-3-25)

(I) *Time computation*. 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 the time is expressed in hours, the whole of Saturday, Sunday, or a holiday, from midnight to midnight, shall be excluded.

(Prior Code, § 1-3-26)

(J) *Time; reasonable.* In all cases where any section of this code shall require any act to be done in a reasonable time or reasonable notice to be given, the reasonable time or notice shall be deemed to mean the time only as may be necessary for the prompt performance of the duty or compliance with the notice.

(Prior Code, § 1-3-27)

§ 10.03 DEFINITIONS.

(A) *General rules regarding definitions*. 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 others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to the peculiar and appropriate meaning.

(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.

BOARD. A board of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

CITY. The City of El Mirage, Arizona.

(Prior Code, § 1-3-3)

CODE. The words "the code" or "this code" shall mean the Code of the City of El Mirage, Arizona, unless the context indicates otherwise.

(Prior Code, § 1-3-4)

COMMISSION. A commission of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

COUNCIL. The Common Council of the City of El Mirage, Arizona.

(Prior Code, § 1-3-5)

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

(Prior Code, § 1-3-6)

DAYTIME. The period of time between sunrise and sunset.

(Prior Code, § 1-3-7)

DEPARTMENT. A department of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

EMPLOYEE. An employee of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

FOLLOWING. Next after.

(Prior Code, § 1-3-17)

IN THE CITY or ***WITHIN THE CITY.*** All territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

(Prior Code, § 1-3-10)

MONTH. A calendar month.

(Prior Code, § 1-3-12)

NIGHTTIME. The period of time between sunset and sunrise.

(Prior Code, § 1-3-7)

OATH. An affirmation or declaration.

(Prior Code, § 1-3-13)

OFFICE. An office of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

OFFICER. An officer of the city unless the context clearly indicates otherwise.

(Prior Code, § 1-3-8)

PERSON. Firms, corporations, or voluntary associations, as well as to individuals, unless plainly inapplicable.

(Prior Code, § 1-3-15)

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

(Prior Code, § 1-3-16)

PRECEDING. Next before.

(Prior Code, § 1-3-17)

PROPERTY. Real and personal property.

(Prior Code, § 1-3-18)

REAL PROPERTY. L ands, tenements, and hereditaments.

(Prior Code, § 1-3-19)

SIGNATURE or ***SUBSCRIPTION BY MARK.*** "Signature" or "subscription" includes a mark when the signer cannot write, the 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.

(Prior Code, § 1-3-22)

STATE. The State of Arizona.

(Prior Code, § 1-3-23)

TENANT or ***OCCUPANT.*** As 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 the building or land, either alone or with others.

(Prior Code, § 1-3-24)

WEEK. Seven consecutive days.

(Prior Code, § 1-3-28)

WRITING. Any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

(Prior Code, § 1-3-29)

YEAR. A calendar year, except where otherwise provided.

(Prior Code, § 1-3-30)

§ 10.04 ADDITIONAL RULES OF CONSTRUCTION.

In addition to the rules of construction specified in §§ 10.02 and 10.03, the rules set forth in §§ 10.04 through 10.07 shall be observed in the construction of this code.

(Prior Code, § 1-4-1)

§ 10.05 REFERENCES TO THIS CODE.

All references to chapters, articles, subchapters, or sections are to the chapters, articles, subchapters, and sections of this code unless otherwise specified.

(Prior Code, § 1-4-2)

§ 10.06 CONFLICTING PROVISIONS; DIFFERENT CHAPTERS.

If the provisions of different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of the chapter.

(Prior Code, § 1-4-3)

§ 10.07 CONFLICTING PROVISIONS; SAME CHAPTER.

If conflicting provisions are found in different sections of the same chapter, the provisions of the section that is last in numerical order shall prevail unless the construction is inconsistent with the meaning of the chapter.

(Prior Code, § 1-4-4)

§ 10.08 SECTION HEADINGS.

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law.

(Prior Code, Art. 1-5)

§ 10.09 EFFECT OF REPEAL.

When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the 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.

(Prior Code, Art. 1-6)

§ 10.10 SEVERABILITY OF PARTS OF CODE.

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, the

unconstitutionality shall not affect any of the remaining provisions of the code.

(Prior Code, Art. 1-7)

§ 10.11 PROVISIONS AS CONTINUATION OF EXISTING ORDINANCES.

The provisions of this code, insofar as they are substantially the same as ordinance provisions previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

§ 10.12 ORDINANCES NOT AFFECTED BY CODE.

(A) The adoption of this code shall not be construed to repeal or in any way to affect or modify:

(1) Any special ordinance or ordinances regarding franchises, annexations, dedications, or zoning;

(2) Any ordinance making an appropriation;

(3) Any ordinance affecting any bond issue or by which any bond issue may have been authorized;

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

(5) The continued existence and operation of any department, agency, commission, or officer heretofore legally established or held;

(6) Any bond of any public officer;

(7) Any taxes, fees, assessments, or other charges incurred or imposed;

(8) Any ordinances authorizing, ratifying, confirming, approving, or accepting any compact or contract with any other municipality, the state or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof;

(Prior Code, § 1-9-2)

(9) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;

(10) Any ordinance providing for local improvements and assessing taxes thereof;

(11) Any ordinance dedicating or accepting any plat or subdivision in the city.

(12) Prescribing the number, classification, duties, benefits or compensation of any city officers or employees, not inconsistent herewith;

(13) Any ordinance relating to zoning;

(14) Any ordinance which is temporary although general in effect;

(15) Any ordinance which is special although permanent in effect; and

(16) Any ordinance the purpose of which has been accomplished.

(B) All ordinances referenced to in division (A) are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code. The ordinances are on file in the City Clerk's office.

Statutory reference:

Savings clauses for state code, see A.R.S. § 1-104

§ 10.13 REPEAL OF ORDINANCES.

All ordinances of a general and permanent nature of the city adopted on final passage on or before July 1, 2008, and not included in

such this code or recognized and continued in force by reference herein, are hereby repealed from and after the effective date of such code. This repeal shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this section.

§ 10.14 CIVIL HEARINGS; CITATION; ISSUANCE.

(A) The City Manager or his or her designee is authorized to investigate any complaints of violation of those chapters of the code providing for enforcement by civil sanctions.

(B) The City Manager or his or her designee, upon a reasonable belief that a violation exists, may issue a citation stating generally the nature of the violation to the respondent. The citation shall be in a format similar to that of the Arizona uniform traffic ticket and complaint and shall be issued in the manner provided in A.R.S. § 13-3903. The citation shall reasonably describe the nature of the violation to the respondent. The citation shall notify the respondent that, in the event of a failure to appear, a judgment by default will be entered against him or her, and the Court will impose a civil sanction not to exceed $1,000, plus any charge for service of process.

(C) As an alternative to the issuance of a citation pursuant to division (B) above, the City Prosecutor may commence an action by filing a complaint in Municipal Court.

(D) (1) Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods:

(a) By having the respondent sign the citation with the promise to appear in Court or schedule a hearing within 30 days of the issuance of the citation;

(b) By hand delivering a copy of the citation to the respondent, and the filing of an affidavit of service;

(c) By receiving an acknowledgment of the receipt of the citation by first-class mail executed by the respondent within 30 calendar days of the date of mailing the citation; or

(d) In the event that service can not be accomplished as set forth in division (D)(1) or (2) of this section, the city may serve the respondent by any means allowed by the Arizona Rules of Civil Procedure for the Superior Court. In the event that the city is required to use a process server to serve the respondent after providing the respondent the opportunity to acknowledge receipt of the citation previously mailed to respondent, the Hearing Officer shall include an amount in any judgment to reimburse the city for the cost of process service of the citation.

(2) Each and every day during which the violation occurs is a separate violation.

(Prior Code, § 1-11-1)

§ 10.15 CIVIL CODE INFRACTION; JURISDICTION; PURPOSE.

(A) The City Court shall have exclusive jurisdiction to adjudicate and assess and collect penalties for civil violations of the city code and other ordinances as declared in §§ 33.01 through 33.43. The City Magistrate shall serve as the Hearing Officer as provided in A.R.S. § 9-500.12 and this chapter.

(B) The jurisdiction of the City Court over Civil Code violations shall not be interpreted or applied in any manner to limit the jurisdiction of the Superior Court over civil actions for declaratory relief, injunctive relief, abatement of public or private nuisances, or damages, the basis of which may be an act, omission, or condition in violation of the city code or other ordinances.

(C) The purpose of §§ 10.14 through 10.20 is to provide, as an additional alternative to other enforcement means, for an informal, speedy, and inexpensive process for adjudication of Civil Code violations, based upon an administrative hearing model.

(Prior Code, § 1-11-2)

§ 10.16 CIVIL SANCTIONS.

If a person pleads responsible or is found to be responsible for a civil violation of any provision of this code or any ordinance incorporated herein, the Court shall, unless some other sanction is specifically set forth elsewhere in the code, impose a civil sanction in an amount not less than $50 nor more than $1,000. In imposing any sanction, the Court shall take into account the city's cost of

enforcement against the offender.

(Prior Code, § 1-11-3)

§ 10.17 CIVIL HEARINGS; DUTY TO RESPOND.

(A) The respondent shall, within 30 days after service of the citation, appear in person or through the respondent's attorney before the Hearing Officer.

(B) If the respondent admits the allegations contained in the citation, the Hearing Officer shall impose a civil sanction pursuant to section § 10.16. The Hearing Officer may also order abatement of the violation pursuant to A.R.S. § 9-499 and the city code.

(C) If the respondent denies the allegations contained in the citation, the Hearing Officer shall set a hearing date within 30 days.

(D) Failure to respond timely to a citation or to appear for a hearing shall result in a default being entered against the respondent. Upon entering a default, the Hearing Officer shall enter an order as if a determination that a violation has occurred had been made.

(Prior Code, § 1-11-4)

§ 10.18 CIVIL HEARINGS AND JUDGMENT.

(A) At the hearing, the city employee or the City Prosecutor, on behalf of the city employee responsible for enforcement of code violations, shall present evidence of the violation and the respondent or his or her designated representative shall have the opportunity to present evidence. The city shall have the burden to prove by a preponderance of the evidence that the respondent was responsible for the violation for which the citation was issued. Affirmative defenses must be pleaded and proved by the person asserting the defense.

(B) Formal rules of evidence shall not apply and the Hearing Officer may admit any evidence deemed relevant or probative by the Hearing Officer.

(C) The Hearing Officer, upon decision, shall enter a written judgment that includes the finding of responsible or not responsible. The judgment shall include the imposition of a civil penalty and/or the entry of an abatement agreement or order. The abatement agreement or order may include an order by the Hearing Officer that the respondent post a financial guarantee with the city to pay for the cost of cleaning up the property and/or to comply with the applicable provisions of the city code. The Hearing Officer may impose other requirements as appropriate.

(D) A civil penalty may be assessed pursuant to § 10.16 for each violation. The Hearing Officer shall assess additional penalties provided by this code for failure to pay a civil penalty. The penalties shall be subject to collection and enforcement in the same manner as the judgement.

(E) In addition to any penalty provided for in this code, a person found to be in violation shall be liable for all costs that may be associated with the city's bringing the premises into compliance with this code. The Hearing Officer shall impose restitution for costs as part of the sentence.

(F) Any judgment for civil penalties taken pursuant to this chapter may be collected as any other civil judgment. The City Attorney may record the judgment with the County Recorder on behalf of the city. The cost of recording the judgment shall be assessed against the respondent and collected in the same manner as the judgment.

(Prior Code, § 1-11-5)

§ 10.19 FILING OF CRIMINAL CHARGES.

Notwithstanding any provision of this chapter, the city may, at any time, file criminal charge(s) pursuant to §§ 90.01 through 90.15.

(Prior Code, § 1-11-6)

§ 10.20 JUDICIAL REVIEW.

Final decisions of the Hearing Officer are subject to judicial review pursuant to the provisions of A.R.S. § 12-124.

(Prior Code, § 1-11-7)

§ 10.99 GENERAL PENALTY.

(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a Class 1 misdemeanor, and upon conviction thereof shall be punished as provided by state law. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

(B) Any violation of or failure or refusal to do or perform any act required by Chapters 70 through 73 of this code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of A.R.S. Title 28, Chapter 6, Article 20 and 21, and amendments thereto.

Statutory reference:

The statutes cited in this division have been repealed. Civil traffic violations are subject to the provisions of A.R.S. §§ 28-1591 et seq.

(C) Violations of Volumes 1 or 2 of the El Mirage City Code can be declared to be Civil Code infractions which may be adjudicated and enforced by the City Court, as an additional enforcement alternative to other remedies provided in this section or remedies and procedures provided for specifically in the El Mirage City Code and Zoning Ordinance. Use of the Civil Code and zoning infraction alternative is not mandatory and shall be at the discretion of the city official undertaking enforcement action.

(Prior Code, Art. 1-8)

TITLE III: ADMINISTRATION

Chapter

30. ADMINISTRATION GENERALLY

31. OFFICERS

32. MAYOR AND COUNCIL

33. CITY COURT

34. CITY ORGANIZATIONS

35. TAX CODE

CHAPTER 30: ADMINISTRATION GENERALLY

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PERSONNEL SYSTEM

§ 30.01 CREATION AND SCOPE.

There is hereby adopted a merit system for the employees of the city, the provisions of which shall apply to all employees of the city, except elected officials, officers of the city appointed by the Council, persons engaged under contract to supply expert, professional or technical services, temporary employees, and volunteer personnel who receive no regular compensation from the city.

(Prior Code, § 3-3-1)

§ 30.02 CONDITIONS OF EMPLOYMENT.

The appointment, promotion, and tenure of every employee shall be conditioned solely on merit and fitness and the satisfactory performance of the duties and responsibilities assigned. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, sex, political affiliation, or handicapped status.

(Prior Code, § 3-3-2)

§ 30.03 RULES AND REGULATIONS.

The Council may adopt, by resolution, rules and regulations to give effect to this subchapter, which may be modified or changed from time to time, but the rules and regulations shall follow the generally accepted principles of good personnel administration.

(Prior Code, § 3-3-3)

§ 30.04 POLITICAL CONTRIBUTIONS.

No officer, official, or employee of the city shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

(Prior Code, § 3-3-4) Penalty, see § 10.99

§ 30.05 DESIGNATION OF PERSONNEL OFFICER.

(A) The Personnel Director is hereby designated the Personnel Officer of the city and shall be responsible for the overall administration of the merit system and the recruitment, hiring, promotion, and selection of all city employees.

(B) Until such time as the city employs a Personnel Director, and during any period in which the position of Personnel Director is vacant, the City Manager will assume the duties and responsibilities of the Personnel Director. In the event that both the Personnel Director and the City Manager positions are vacant, the City Council shall appoint an individual to serve as acting Personnel Director on an interim basis, until such time as one of those two positions is occupied.

(Prior Code, § 3-3-5)

§ 30.06 PERSONNEL POLICIES AND PROCEDURES.

(A) The Council shall, by resolution, adopt a personnel policy and procedures manual.

(B) The city is an equal opportunity employer and shall abide by all applicable state and federal discrimination regulations.

(Prior Code, § 3-3-6)

§ 30.07 MEET AND CONFER.

(A) *Findings and purpose.*

(1) The citizens of El Mirage have a fundamental interest in the development of harmonious and cooperative relations between city management, elected officials, administrators, and the employees of El Mirage;

(2) Recognition by the city of the fundamental rights of public employees to organize and full acceptance of the principle and procedure of full communication between public employers and public employees, can alleviate various forms of strife and unrest;

(3) The city, its employees and employee organization, have a basic obligation to the public to assure the orderly and continuous operation and functions of government;

(4) Strikes, work stoppages, slowdowns, and other concerted efforts designed to disrupt city services, are contrary to the public

good and are strictly prohibited. Participation in these efforts may be grounds for termination;

(5) It is the purpose of this section to obligate the city management, city employees and their representatives, acting within the framework of law, to enter into discussions with affirmative willingness to resolve issues, grievances, and disputes relating to working conditions, wages, benefits, and hours of work. It is also the purpose of this section to promote harmonious employer-employee relations by providing a uniform basis for recognizing the right of public employees to join, or refrain from joining, an organization of their own choice. Also, it is their right to be represented by the organization in their dealings with the city in accordance with the provisions of this section. Representation shall only be provided on matters subject to meeting and conferring, in accordance with division (C)(1)(a). Additionally, this section provides that the results of agreements between the employer and its employees shall be drafted into written memorandums of understanding.

(6) It is not the intent of this section to conflict with the Arizona Revised Statutes with regard to wages and benefits as it relates to public safety employee organizational rights. In the event such a conflict exists, the statutes are intended to prevail.

(B) *Employee groups.*

(1) There shall be two groups within the city. It shall include:

(a) All police officers in classifications up to and including Sergeants;

(b) Firefighters up to and including the rank of Captain.

(2) Authorized representation of an employee group shall be determined by the presentation of a petition (or membership applications) to the City Manager containing the signatures of at least 51% of the employees in the above designated groups. The petition shall designate the employee group and the employee organization designated to represent those employees. Upon verification of the signatures, the City Manager shall designate the named employee organization, as the official and exclusive employee organization for representation purposes provided for by this section. The designated employee organization shall have the right to bi-weekly or monthly dues deductions, if approved by the employees of the organization.

(C) *Meeting and conferring.*

(1) (a) An employee organization that has been verified by the City Manager, shall submit a proposal to the City Manager relating to hours, safety regulations and other working conditions, by December 1, of each year.

(b) In the first year of this section, the employee organization shall submit its initial proposal by April 1.

(2) Upon receiving a proposal from a verified employee organization, the City Manager, shall submit a written response to the proposal to the employee organization within 30 days from receipt of the proposal.

(3) Within ten days from receipt of the City Manager's response, representatives of the employee organization and the City Manager, as determined by the employee organization, shall begin "meeting and conferring" at mutually agreed upon locations and times, for the purpose of entering into a written memorandum of understanding relating to the proposal regarding working conditions, wages, benefits, and hours. Meetings shall be at least three hours in duration, unless mutually agreed otherwise. Meetings shall take place weekly until an agreement is reached, or impasse is declared.

(4) The City Manager, or his or her designated representative, and the representative of the employee organization, shall initial all areas of agreement. Those areas which were not agreed to shall be outlined as areas in dispute. If agreement has not been reached by March 10, a federal mediator will be requested by the moving party. The City Manager, the employee representatives, and the federal mediator, will meet as often as necessary to reach an agreement.

(5) If an agreement still has not been reached by April 1, an arbitrator will be requested by the moving party from the American Arbitration Association. Standard rules of the American Arbitration Association will be utilized in the section and use of the arbitration. However, selection of the arbitrator shall be limited to residents of Yavapai, Coconino, or Maricopa County.

(6) All issues not previously agreed to will be submitted to the arbitrator for resolution. On or before May 1, or as soon thereafter as is practicable, all areas of agreement, as well as those areas in dispute and still under consideration, and the recommendations of the arbitrator, shall be submitted to Mayor and Council for their consideration. The Mayor and Council may also take whatever actions they feel appropriate with regard to those areas in dispute. Final action by the Mayor and Council shall constitute the memorandum of understanding.

(Ord. O00-01-04, passed 1-27-2000; Ord. O16-09-08, passed 9-6-2016; Res. R16-09-20, passed 9-6- 2016; Ord. O17-06-07, passed 6-20-2017)

PURCHASING

§ 30.20 PURPOSE.

The purchasing code is designed to direct city personnel in making purchases efficiently and effectively by providing systematic guidance for municipal expenditures. The purchasing code separates purchasing authority into two categories: "Formal" and "Informal," and mandates the procurement of "formal" purchases, and disposition of surplus property.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.21 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply.

CITY MANAGER. The City Manager or designee.

CONTRACTS. All executed agreements for the procurement of commodities, services, construction or materials. The essential elements of a contract are an offer and an acceptance of that offer. Contracts are considered legally binding written agreements and an obligation between the city and competent parties.

COOPERATIVE PURCHASING. A procurement conducted by, or on behalf of, more than one public procurement agency in accordance with A.R.S. § 41-2632.

INVITATION FOR BID (IFB). A formal solicitation document inviting contractors and/or suppliers to participate in a sealed bid process for specific materials and/or services.

PROFESSIONAL SERVICES. Services where the primary effort involved is intellectual or conceptual rather than physical; where the services are to be rendered by providers with extensive formal education or appropriate state licensure and expertise in a specific field; and where the application of one or more of the following would be involved: creativity, innovation, interpretation, judgment unusual talent, and/or treatment.

REQUEST FOR PROPOSAL (RFP). A formal solicitation document requesting potential providers of goods and services submit a proposal. The solicitation document specifies a city goal and requests the submission of proposals on the methods of attaining that goal. An evaluation committee will award proposals based on measurable weighted criterion.

RESPONSIVE. A submission by a contractor, supplier, and/or firm that fully conforms in all material respects to the solicitation requirements, including form and substance.

SOLE SOURCE. A supplier who is the only one that possesses the unique ability or capability to meet the particular source requirements; therefore, no competition for the required materials, goods, and/or services is obtainable.

SOLICITATION. The formal process of the city seeking information, bids, qualifications, or proposals from prospective contractors and/or suppliers.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.22 GENERAL AUTHORITY TO EXPEND FUNDS.

Council approval of the annual municipal budget shall be construed to include authority for municipal expenditures as set forth in the budget, except as may be otherwise provided by the Council by resolution. Although purchases have been approved through the annual municipal budget, all purchases will follow the purchasing code as set forth in §§ 30.23 through 30.35.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.23 PURCHASING AUTHORITY.

(A) The City Manager shall authorize purchases up to and including $30,000; these purchases are deemed "informal" purchases.

(1) The City Manager may establish procedures for "informal" purchases as deemed necessary.

(2) Purchases up to $5,000 do not require quotations; purchases in excess of $5,000 and up to $30,000 require a minimum of three telephone quotations.

(3) Violation of division (A) will be administered according to the City of El Mirage Personnel Policy Manual.

(B) The City Council shall approve all purchases greater than $30,000. These purchases shall constitute "formal" purchases.

(1) "Formal" purchases shall be sought through one of the following:

(a) Invitation for Bid (IFB); or

(b) Request for Proposal (RFP).

(2) All formal purchases shall be published in accordance with the A.R.S. § 41-2533; § 41-2579; and §§ 39-202 through 39-205.

(3) The Council may waive "formal" purchase requirements when it determines it is in the best interest of the city.

(4) Purchases may not be artificially separated, fragmented, or split to bypass "formal" purchase requirements.

(5) The City Manager may authorize increases up to $30,000 for "formal" purchases previously approve by Council before seeking additional approval.

(6) Sealed bid procedures.

(a) A request for sealed bids may include the requirement that each bidder furnishes a performance bond, in cash or otherwise, sufficient to secure the performance sought.

(b) Sealed bids shall be received on behalf of the Council by the City Clerk. Each bid shall be identified, on its envelope, as a bid. Bids shall be opened in public at the time and location designated in the "advertisement for bids." A tabulation of all bids received shall be submitted for action to the Council at a regular or special meeting. The City Manager shall report to the Council his or her findings as to whether each bid meets the city's requirements and shall further advise the Council on issues relative to awarding the contract. A tabulation of all bids received shall be retained on file for public inspection during regular business hours following the bid opening. A public records request may be required for viewing bid documents.

(c) Awarding of contracts based upon sealed bids shall be by Council action and the Council shall retain the right to reject any or all bids. Notice of the provisions of this section shall be included in the call for bids. In the event of the rejection of all bids received by the Council, or of partial rejection of any bid, the Council may have the City Manager negotiate the terms of a contract on behalf of the Council.

(d) Contracts shall be awarded by Council to the lowest responsive and best bidder, except as otherwise provided herein.

(e) If two or more bids received are determined to be the lowest responsive and best, and if the public interest will not permit the delay of re-advertising for bids, Council shall determine the successful bidder by lot.

(f) The city may provide additional notice to foster and promote competition such as direct mailing, telephoning, or emailing notice to prospective bidders.

(g) Unless the right of rejection is exercised as provided by § 30.23(B)(5)(c) or § 30.32(C), the purchase or contract shall be made from and with the lowest responsive and best bidder for the entire purchase, contract or for any part thereof. In determining the lowest responsive and best bidder, the Council shall consider:

1. The best overall value for the city provided by the bidder;

2. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

3. The ability of the bidder to perform the contract or provide the services promptly or within the specified time, without delay or interference;

4. The quality of performance of previous contracts;

5. The compliance with previous and existing compliance by the bidder with laws and regulations of the federal, state, and/or city by the bidder;

6. The financial resources and/or ability of the bidder to perform the contract; and/or

7. The quality, availability, and adaptability of the supplies or services.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.24 SOLE SOURCE PROCUREMENT.

(A) *City Manager Authority.* The City Manager is exempt from requirements in this chapter for procurement and payment of utilities, Council approved debt service, bond and financing costs, employee costs, employer benefit costs, insurance payments, banking fees and charges, pass through payments, reimbursements, taxes and assessments, and payments to other governments and political subdivisions of the state of Arizona.

(B) *Council authority.* A sole source procurement request which exceeds the bid threshold identified in § 30.23(B) shall be subject to the approval of Council when there has been a written determination that competition is not available and there is only one known source for the supply of materials, goods, and/or services.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.25 PROFESSIONAL SERVICES.

(A) The procurement of professional services, including but not limited to accounting, auditing, engineering, or legal services, are hereby exempt from the requirements of § 30.23(B) when it is determined by the City Manager that it is in the city's best interest to procure these professional services by direct selection. The exemption applies to both the "formal" purchase process and Council action except as provided in division (B) below.

(B) Contracts for construction and for the services of architects and engineers to be used in connection with construction contracts are governed by the provisions of A.R.S., Title 34.

(1) The following professional services shall be procured in accordance with A.R.S. § 34-603:

(a) Architect services;

(b) Assayer services;

(c) Construction-manager-at-risk construction services;

(d) Design-build construction;

(e) Engineer services;

(f) Geologist services;

(g) Job-order-contracting construction services;

(h) Landscape architect services; or

(i) Land surveying services.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.26 EMERGENCY PURCHASES.

(A) The City Manager may make emergency procurements if there exists a threat to public health, welfare, or safety, or if a situation exists which makes compliance with the procurement process specified in § 30.23 contrary to the public interest. Emergency procurements shall be made with such competition as is practicable under the circumstances.

(B) A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(C) Whenever an emergency expenditure in excess of the amount stated in § 30.23(B) is made, a report specifying the nature of the emergency and the amount of the expenditure shall be made to the Council at a regularly scheduled Council meeting.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.27 COOPERATIVE PURCHASING.

The city may participate in, sponsor, conduct, or administer cooperative, joint, group and interstate cooperative procurement to establish contracts or price negotiations for goods, services, or construction services that use source selection methods substantially equivalent to those set forth in § 30.23.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.28 MUNICIPAL CONSTRUCTION PROJECTS.

The City of El Mirage shall complete construction projects in compliance with A.R.S. § 34-201.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.29 ENFORCEMENT.

(A) It shall be the duty of the City Manager to enforce the provisions of this subchapter.

(B) The City Manager shall prepare such reports as may be necessary for the Council to act in keeping with the provisions of this subchapter, and the City Clerk shall maintain the records to demonstrate that the provisions of this subchapter have been met.

(C) The records of payments for goods or services shall include written documentation that the provisions of this subchapter have been met.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.30 AUDIT OF RECORDS.

The annual audit of municipal records shall include an examination of records under this subchapter.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.31 EXPENDITURES; SIGNATURES ON CHECKS AND RATIFICATION.

All checks and back up materials for expenditures shall bear two signatures of the following four positions: the City Manager, the City Clerk, the City Finance Director, or the Assistant Finance Director. Checks written by the Court shall bear two signatures of the following three positions: Director of Court Services, Judicial Supervisor, or Judicial Lead.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.32 PROTESTS, SUSPENSION AND/OR DEBARMENT.

(A) Protests can only be made for "formal" purchases. Any person or firm who has submitted a bid or proposal may protest a "formal" purchase solicitation issued by the city prior to award. Protests cannot be made by a third party. The bidder may file a protest for:

(1) The rejection of a request for changes in the formal solicitation;

(2) Scope of work;

(3) Suspension and/or debarment from the procurement process; or

(4) The apparent lowest and best bid.

(B) The protest shall include, at a minimum:

(1) The protestor's name, street address, phone number, fax number (if any) or e-mail address (if any), signature of the protestor or its representative, and a copy of the formal solicitation document or contract; and

(2) A detailed statement of legal and factual grounds of the protest including relevant documents.

(C) The written protest must be filed with the City Clerk and include items in division (A)(2). The Finance Director shall have 15 business days to respond.

(D) The protestor may file an appeal within 15 business days of the date of the Finance Director's response. The City Manager shall have the final authority to resolve protests. The City Manager shall issue written decision within 15 business days after an appeal has been filed. The decision shall contain an explanation regarding the basis of the decision.

(E) The City Manager has the sole authority to debar or suspend a vendor, contractor, and/or professional service provider from participating in city procurement for a period up to three years, based upon the following factors:

(1) Insufficient financial ability, equipment, or personnel to perform the contract;

(2) Breach of contractual obligations to city, public and/or private agencies;

(3) Failure to comply with the requests of an investigation;

(4) Conviction for committing a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;

(5) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as an Arizona contractor;

(6) Conviction under state and federal antitrust statutes arising out of the submission of bids or proposals;

(7) Violation of contract provisions determined by the City Manager to be so serious as to justify debarment action, including but not limited to the following:

(a) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(b) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall be considered to be a basis for debarment.

(8) Any other cause the City Manager determines to be so serious and compelling as to affect responsibility as an Arizona contractor, by another governmental entity for any cause listed in regulations, or outstanding contract disputes or claims or current litigation with the city.

(F) The City Manager shall issue written statement which shall state the reason for debarment or suspension and rights to appeal.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.33 NON-DISCRIMINATION AND EQUAL ACCESS, AND CIVIL RIGHTS STATEMENT.

The City of El Mirage prohibits discrimination on the basis of age, race, color, religion, sex, disability, familial status, or national origin in its admission or access to, or treatment or employment in its federally assisted program and activities. Any contractor, subcontractor, and/or vendor receiving benefit from the City of El Mirage is subject to Title VI of the Civil Rights Act of 1964, § 504 of Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendment of 1972, and offers all persons the opportunity to participate in programs or activities regardless of age, race, color, religion, sex, disability, familial status, or national origin.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.34 MINORITY-OWNED BUSINESS ENTERPRISES (MBE), WOMEN-OWNED BUSINESS ENTERPRISES (WBE) AND DISADVANTAGE BUSINESS ENTITIES (DBE).

(A) The City of El Mirage will endeavor to ensure in every way possible that disadvantaged, minority, and women-owned businesses shall have every opportunity to participate in providing professional services, goods, and construction contracts to the city without being discriminated against on the basis of age, race, color, religion, sex, disability, familial status, or national origin.

(B) The City of El Mirage is responsible for ensuring compliance with § 3, part 135, of the Housing and Urban Development Act of 1968, involving all contracts and subcontracts.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

§ 30.35 DISPOSITION OF SURPLUS PROPERTY.

(A) The sale and disposition of property by a city or town is governed by A.R.S. § 9-402.

(B) The sale and disposition of property must be advertised for bid in accordance with A.R.S. § 39-204.

(C) The City Manager may act on behalf of the city in all matters pertaining to the disposition of excess or surplus equipment material, and property.

(D) Unless otherwise authorized by law, city code, ordinances, or regulations no department shall transfer, sell trade, donate, or otherwise dispose of supplies, equipment, materials, or property owned by the city without authorization from the City Manager.

(Ord. O16-06-06, passed 6-21-2016; Res. R16-06-17, passed 6-21-2016)

TRAVEL EXPENSES

§ 30.50 TRAVEL EXPENSES.

(A) Not all specific information is listed in this subchapter; one shall consult administrative policies and procedures for more or detailed information.

(B) The provisions of this subchapter shall apply to the Mayor, members of the Common Council and City staff, or any other person authorized by the Common Council, and shall pertain to expenses incident to attendance at conferences approved by the Common Council and attended for the benefit and in the interest of the city.

(C) Wherever prior arrangements can be made for travel incident to conferences attended for the benefit and in the interest of the city, the individual will arrange in advance, when possible, for the following items to be billed directly to the city:

(1) Transportation, including air travel and car rental;

(2) Lodging;

(3) Registration fees and other costs incidental to the program or conference; and

(4) Any other usual or ordinary costs for which advance billing arrangements can be made.

(D) Wherever billing arrangements cannot be made for any of the items listed in division (C) above, city checks can be obtained to pay for the items in advance or to reimburse the individual authorized to attend the conference only upon presentation of a valid voucher or receipt evidencing the actual cost.

(E) For out-of-pocket expenses which cannot be paid in advance or billed directly to the city, a per diem allowance shall be advanced for each day of anticipated attendance at the conference or program. Expenses to be covered by this allowance include but are not limited to the following:

(1) Meals;

(2) Tips;

(3) Entertainment reasonably related to the city's benefit;

(4) Intricacy transportation, including buses and taxis; and/or

(5) Telephone calls incidental to the educational program.

(F) The procedure for per diem advances and reimbursements shall be as follows.

(1) *Advances*. Advances will be made by the Finance Department in an amount to be determined by city policy.

(2) *Requests*. Requests for advances must be submitted to the Finance Department no later than five days prior to the date of travel.

(3) *Verification*. An individual must actually demonstrate attendance at the conference for the number of days for which an advance has been made.

(4) *Excess*. In the event that an individual has received an allowance for days in excess of those actually in attendance at a conference, that amount must be returned to the Finance Department within five days of the date of return.

(G) Individuals using their personal automobiles for travel to or from seminars and conferences for the benefit and in the interest of the city may be reimbursed in an amount to be determined by city policy.

(Prior Code, Art. 3-6)

CIVIL PREPAREDNESS AND DISASTER

§30.65 PURPOSES.

The purposes of this subchapter are to:

(A) Reduce vulnerability of people and the community to damage, injury, and loss of life and property resulting from natural or human-made catastrophes, riots, or hostile military or paramilitary action;

(B) Prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;

(C) Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(D) Clarify and strengthen the roles of the Mayor, Council, Manager, and city agencies in prevention of, preparation for, response to, and recovery from disasters;

(E) Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(F) Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of the city, agencies of the private sector, and similar activities in which the federal government, the state, and its political subdivisions may participate; and

(G) Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response.

(Prior Code, § 3-5-1)

§ 30.66 DEFINITIONS.

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

CIVIL PREPAREDNESS. The organization, administration, trained manpower, facilities, equipment, material, supplies, programs, emergency plans, ability to execute emergency plans, and all other measures necessary and incidental thereto relating to disaster prevention preparedness response and recovery by all governmental and private sector agencies to protect or save health, life, or property.

DIRECTOR. The Director of Civil Preparedness.

DISASTER. The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property, or extreme peril to the safety of persons or property, resulting from any natural or manmade causes, including but not limited to fire, flood, earthquake, wind, storm, blight, drought, famine, infestation, air contamination, epidemic, explosion, riot, or other acts of civil disobedience which endanger life or property, or hostile military or paramilitary action.

EMERGENCY. The existence of a disaster within the city limits requiring immediate action by the emergency forces of the city.

EMERGENCY FORCES. All city governmental and private sector agencies, volunteers, facilities, equipment, trained manpower, and other resources required to perform civil preparedness functions.

LOCAL EMERGENCY. The existence of a disaster within the city limits, when the situation is or is likely to be beyond the capability and resources of the city as determined by the Mayor and which requires the combined efforts of other political subdivisions.

REGULATIONS. The orders, rules, and emergency procedures deemed essential for civil preparedness.

STATE OF EMERGENCY. The duly proclaimed existence of a disaster within the state, except a disaster resulting in a state of war emergency which is or is likely to be beyond the capabilities and resources of any single county, city, or town and requires the combined efforts of the state and the political subdivision.

STATE OF WAR EMERGENCY. The situation which exists immediately whenever the nation is attacked or upon receipt by the state of a warning from the federal government indicating that such an attack is imminent.

(Prior Code, § 3-5-2)

§ 30.67 CIVIL PREPAREDNESS ORGANIZATION.

By action of the Council, an emergency operations plan is adopted annually, in part to identify the organization for civil preparedness for natural or human-made disasters. This plan is published in joint with the city and Maricopa County Emergency Management, and is in support of the Maricopa County Emergency Operations Plan. It is in accordance with A.R.S. §§ 26-301 *et seq.* and the Maricopa County Civil Defense Resolution dated July 12, 1971. Three copies of the adopted plan shall be kept at the City Clerk's office.

(Prior Code, § 3-5-3)

§ 30.68 POWERS AND DUTIES.

(A) The Council:

(1) Shall have the power to make, amend, and rescind regulations, not inconsistent with regulations promulgated by the Governor, necessary for civil preparedness, which regulations shall have the full effect of this subchapter when a copy is filed in the office of the Clerk. Existing ordinances and regulations, or ordinances and regulations issued under authority of A.R.S. Title 26, Chapter 2, in conflict therewith, are suspended during the time and to the extent that they are in conflict;

(2) May appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil preparedness purposes; and

(3) In the absence of specific authority in state emergency plans and procedures, the Council shall take emergency measures as deemed necessary to carry out the provisions of A.R.S. Title 26, Chapter 2.

(B) In a state of war emergency, the Council may waive procedures and formalities required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials, and facilities, and appropriating and expending public funds when the Council determines and declares that strict compliance with those procedures and formalities may prevent, hinder, or delay mitigation of the effects of the state of war emergency. The city shall be exempt during the emergency from budget limitations prescribed by A.R.S. § 42-303.

Statutory reference:

The statute cited in this division has been repealed and replaced by A.R.S. §§ 42-17104 through 42-17106

(C) The Mayor, in addition to the powers granted by other provisions of the law or city ordinance (see § 32.043), may, by proclamation, declare an emergency or a local emergency to exist. The proclamation may be rescinded by a majority of the Council after 24 hours.

(D) (1) The Director is responsible in non-emergency periods to act on behalf of the Mayor and Council to develop a readiness for the city's civil preparedness and for coordinated operations in disaster situations.

(2) During emergencies, the Director shall act as the principal advisor or aide to the Mayor on emergency operations. His or her major responsibility is to assure coordination among emergency forces and with higher and adjacent governments, by assuring that the emergency operations coordination functions effectively. He or she shall assist the Mayor in the execution of operations, plans, and procedures required by the emergency.

(3) The Director shall prepare a comprehensive disaster basic plan which shall be adopted and maintained by resolution of the Council upon the recommendations of the Director. In the preparation of this plan as it pertains to city organization, it is the intent that the services, equipment, facilities, and personnel of all existing departments and agencies be used to the fullest extent.

(E) The disaster plan shall be considered supplementary to this subchapter and shall have the effect of law whenever emergencies, as defined in this subchapter, have been proclaimed.

(Prior Code, § 3-5-4)

§ 30.69 MUTUAL AID.

In periods of local emergency, as declared pursuant to this subchapter, the city is hereby granted full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements therefore. The city may request from state agencies mutual aid including personnel, equipment, and other available resources to assist the city during the local emergency in accordance with emergency plans or at the direction of the Governor.

(Prior Code, § 3-5-5)

§ 30.70 IMMUNITY OF CITY AND REPRESENTATIVES THEREOF.

(A) The city shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of the city or any employee of the city, except willful misconduct, gross negligence, or bad faith of any such employee, in carrying out the provisions of A.R.S. Title 26, Chapter 2.

(B) The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability worker's compensation, and other benefits which apply to the activity of officers, agents, or employees of the city when performing their respective functions within the limits of the city shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this subchapter, excepting willful misconduct, gross negligence, or bad faith.

(C) Volunteers duly enrolled or registered for services in a local emergency, a state of emergency, or a state of war emergency in carrying out, complying with, or attempting to comply with, any regulations issued pursuant to A.R.S. Title 26, Chapter 2, or any local ordinance, or performing any of their authorized functions, duties, or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy immunities as officers and employees of the state and its political subdivisions performing similar work.

(Prior Code, § 3-5-6)

CHAPTER 31: OFFICERS

Section

Generally

31.01 Officers

31.02 Additional officers

31.03 Bond

31.04 Vacancies; holding more than one office

31.05 Additional powers and duties

31.06 Appointment of Council member as officer

Specific Officers

31.20 City Manager

31.21 City Clerk

31.22 Police Chief

31.23 City Engineer

31.24 City Attorney

31.25 City Judge

31.26 Fire Chief

GENERALLY

§ 31.01 OFFICERS.

There are hereby created the offices of City Manager, City Clerk, Police Chief, City Engineer, City Attorney, Fire Chief, and City Judge. The Manager and Judge shall be appointed by the Council and shall serve at the pleasure of the Council except as provided in § 33.19.

(Prior Code, § 3-1-1) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 31.02 ADDITIONAL OFFICERS.

The Council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute.

(Prior Code, § 3-1-2)

§ 31.03 BOND.

The Council may require each officer of the city 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 city shall pay the costs of the bond. Nothing in this section shall preclude the city from obtaining a blanket bond pursuant to the provisions of A.R.S. § 9-302.

(Prior Code, § 3-1-3)

Statutory reference:

Similar provisions, see A.R.S. § 9-274

§ 31.04 VACANCIES; HOLDING MORE THAN ONE OFFICE.

Any vacancy that shall occur in any city office shall be filled by appointment by the Council, provided that one person may hold more

than one office and that, at the discretion of the Council, the functions of a city official may be validly performed and discharged by a deputy or another city official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

(Prior Code, § 3-1-4)

Statutory reference:

Similar provisions, see A.R.S. § 9-274

§ 31.05 ADDITIONAL 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 office as may be provided by the Council through ordinance, resolution, or order.

(Prior Code, § 3-1-5)

§ 31.06 APPOINTMENT OF COUNCIL MEMBER AS OFFICER.

No member of the Council shall be appointed as an officer of the city for two years following resignation from the Council or upon completion of the Council member's term of office.

(Prior Code, § 3-1-6)

SPECIFIC OFFICERS

§ 31.20 CITY MANAGER.

(A) *Office created.* The Office of the City Manager is hereby created and established. The City Manager shall be appointed by the Council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office at the pleasure of the Council.

(B) *Bond.* The City Manager shall furnish a corporate surety bond to be approved by the Council in such sum as may be determined by the Council, and the bond shall be conditioned upon the faithful performance of the duties imposed upon the Manager as herein prescribed. Any premium for the bond shall be a proper charge against the city. Nothing in this division shall preclude the city from obtaining a blanket bond pursuant to the provisions of A.R.S. § 9-302.

(C) *Compensation*. The Manager shall receive such compensation as per contract.

(D) *Removal procedure.* The Manager may be removed as per contract.

(E) *Powers and duties.* The City Manager shall be the administrative head of the city government under the direction and control of the Council, except as otherwise provided in this subchapter. He or she shall be responsible to the Council for the proper administration of all affairs of the city. In addition to his or her general powers as administrative head and not as a limitation thereof, he or she shall have the following additional powers and duties:

(1) *General administrative supervision*. Execute, on behalf of the Council, general administrative supervision and control of the affairs of the city;

(2) *Appointment and removal authority.* Appoint, remove, suspend, promote, and demote all employees of the city. The power of appointment and removal of officers and employees is subject to all applicable personnel ordinances, rules, and regulations. The City Manager shall exercise the authority delegated to him or her by the City Council to prescribe the duties and compensation of and to appoint, remove, suspend, and demote the City Engineer, Fire Chief, Chief of Police, and City Clerk, subject to all applicable personnel ordinances, rules, and regulations;

(3) *Attendance at Council meetings*. Attend meetings of the Council with the duty of reporting on or discussing any matter concerning the affairs of the departments, boards, services, or activities under his or her supervision upon which the Council shall be informed;

(4) *Coordination of administrative functions.* Coordinate the administrative functions and operations of the various boards, divisions, and services of the city government and, on its behalf, carry out policies, rules, regulations, and ordinances adopted by it, relating to the administration of the affairs of the departments, boards, divisions, or services;

(5) *Budget*. Cause to be prepared and submitted to him or her by each department, board, division, or service of the city government itemized annual estimates of expenditures required by them for capital outlay, salaries, wages, and miscellaneous operating costs, to tabulate the same into a preliminary consolidated municipal budget and submit the same to the Council annually on the date specified by them, with his or her recommendations as to any increases, decreases, cancellations, transfers, or changes in any of the items included in the preliminary budget;

(6) *Recommendations to Council.* Analyze and supervise the functions, duties, and activities of the various departments, boards, and services of the city government and of all employees thereof, and to make such recommendations to the Council with reference thereto, as, in his or her judgment, will result, if made effective, in the highest degree of efficiency in the overall operation of the city government;

(7) *Development of improvement projects and programs.* Develop and organize necessary improvement projects and programs and aid and assist the Council and the various departments and boards in carrying the same through to successful conclusion;

(8) *Public relations*. Serve as a public relations officer of the city government and endeavor to adjust all complaints filed against any employee, department, or service thereof to the end that every effort may be made to satisfy all citizens that their city government is being operated in their behalf with the highest degree of efficiency;

(9) *Property manager*. Authorized to negotiate and commit the city to act in any act required of a property manager. This includes, but is not limited to:

(a) Any and all lease negotiations not to exceed $10,000 in value; and

(b) Any and all proceedings to evict and/or bring legal proceedings against tenants not complying with their lease.

(10) *Additional duties*. Perform such other duties as may be required of him or her by the Council, not inconsistent with the laws of the state or the ordinances of the city.

(F) *Limitations upon responsibility*. The City Manager shall not exercise any policy making or legislative functions whatsoever, nor attempt to commit or bind the Council or any member thereof to any action, plan, or program requiring official action of the Council. It is not intended by this section to grant any authority to, or impose any duty upon, the City Manager which is vested in or imposed by general law or city ordinances in any city commission, board, officer, or employee except as herein specifically set forth.

(Prior Code, § 3-2-1) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005; Ord. O10-10-16, passed 10-14-2010; Ord. O11-04-09, passed 4-28-2011)

Statutory reference:

Authority to establish, see A.R.S. § 9-303

§ 31.21 CITY CLERK.

(A) *Records*. The Clerk shall keep a true and correct record of all business transacted by the Council and any other records that either pertain to the business of the city or that the Council 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) *Minutes*. The Clerk shall prepare or cause to be prepared all minutes of Council proceedings and ensure their correctness and accuracy.

(D) *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 Council.

(E) *Duties as Treasurer*. The Clerk shall hold the Office of City Treasurer.

(F) *Election Official*. The Clerk shall be the City Election Official and perform those duties required by state statute.

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

(Prior Code, § 3-2-2) (Ord. O10-10-16, passed 10-14-2010; Ord. O11-04-09, passed 4-28-2011)

Statutory reference:

Authority, see A.R.S. § 9-274

§ 31.22 POLICE CHIEF.

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

(Prior Code, § 3-2-3)

Statutory reference:

Similar provisions, see A.R.S. § 9-271

§ 31.23 CITY ENGINEER.

The Engineer shall have charge of the city streets, sewers, and waterworks and shall perform such duties as may be required of him or her by law and such other duties as the City Manager may deem necessary.

(Prior Code, § 3-2-4)

Statutory reference:

Similar provisions, see A.R.S. § 9-271

§ 31.24 CITY ATTORNEY.

(A) *Appointment.* The City Attorney shall be appointed by the City Council and shall report directly to the City Council. The Mayor shall act as the direct supervisor of the City Attorney for purposes of day-to-day supervision.

(B) *Bond*. The City Attorney shall be covered under a bond pursuant to § 31.03 of this code.

(C) *Compensation*. The City Attorney shall receive such compensation as per contract.

(D) *Removal procedure.* The City Attorney may be removed, with or without cause in accordance with the contract terms, upon a majority vote of the full City Council.

(E) *Powers and duties.* The City Attorney shall act as the legal counselor and advisor of the Council and other city 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 Council or the City 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 Council. He or she shall return, within ten work days, all ordinances and resolutions submitted to him or her for consideration by the Council, with his or her approval or disapproval as to form noted thereon, together with his or her reasons therefor. He or she shall oversee and direct the prosecution and defense of all suits, actions, or causes where the city is a party, criminal or civil, and shall report to the Council, when required, the condition of any suit or action to which the city is a party.

(Prior Code, § 3-2-5) (Ord. O10-10-16, passed 10-14-2010)

Statutory reference:

Similar provisions, see A.R.S. § 9-271

§ 31.25 CITY JUDGE.

The City Judge shall be the presiding officer of the City Court and shall be appointed by the Council and shall perform those functions necessary to the maintenance of the City Court as provided by state statute.

(Prior Code, § 3-2-6)

Statutory reference:

Similar provisions, see A.R.S. § 22-402

§ 31.26 FIRE CHIEF.

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

(Prior Code, § 3-2-7)

CHAPTER 32: MAYOR AND COUNCIL

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COUNCIL

§ 32.001 ELECTED OFFICERS.

The elected officers of the city shall be six Council members and one directly elected Mayor in accordance with § 32.040. The Mayor and Council members shall constitute the Council and shall continue in office until assumption of duties of office by their duly elected successors. Council members shall serve four-year overlapping terms in the manner provided by state statute.

(Prior Code, § 2-1-1)

Statutory reference:

Composition of City Councils, see A.R.S. §§ 9-271 et seq.

§ 32.002 CORPORATE POWERS.

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

(Prior Code, § 2-1-2)

§ 32.003 DUTIES OF OFFICE.

The Mayor and members of the Council shall assume the duties of office at the first regularly scheduled meeting in the month of December following the election at which the Mayor or Council Member was elected

(Prior Code, § 2-1-3) (Ord. O08-09-16, passed 9-25-2008)

Statutory reference:

Similar provisions, see A.R.S. § 9-232

§ 32.004 VACANCIES IN COUNCIL.

Vacancies shall be filled pursuant to the procedures provided in state law.

(Prior Code, § 2-1-4) (Ord. O05-08-07, passed 8-25-2005)

§ 32.005 COMPENSATION.

The compensation of Council members shall be fixed from time to time by resolution of the Council.

(Prior Code, § 2-1-5)

Statutory reference:

Similar provisions, see A.R.S. § 9-274

§ 32.006 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.

(Prior Code, § 2-1-6)

Statutory reference:

Similar provisions, see A.R.S. § 28-232

§ 32.007 BOND.

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 city or any person who may be injured or aggrieved by the wrongful act or default of the officer in his or her official capacity. A person so injured or aggrieved may bring suit on the bond under provisions identical to those contained in A.R.S. § 38-260. Bonds shall be in a sum as shall be provided by resolution and the premium for the bonds shall be paid by the city. Nothing in this section shall preclude the town from obtaining a blanket bond pursuant to the provisions of A.R.S. § 9-302.

(Prior Code, § 2-1-7)

Statutory reference:

Similar provisions, see A.R.S. § 9-302

§ 32.008 FINANCIAL DISCLOSURE STATEMENT.

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

(Prior Code, § 2-1-8)

Statutory reference:

Similar provisions, see A.R.S. §§ 38-541 through 38-545

§ 32.009 QUALIFICATIONS OF OFFICE.

No person shall be qualified to be Mayor or a member of the City Council unless:

(A) At the time of the election such person is at least 18 years of age, is a qualified elector of the City of El Mirage, and has resided in the City of El Mirage for not less than one year preceding the election, or if an area has been annexed to the city for a period of less than one year next preceding the election has resided in such area for one year next preceding the election.

(B) Such person is at all times during his or her term of office a resident and qualified elector of the City of El Mirage.

(Ord. O08-09-16, passed 9-25-2008)

COUNCIL PROCEDURE

§ 32.020 REGULAR MEETINGS.

(A) The Council shall meet regularly, at least once per month, at such times and at such places as prescribed in the Regularly Scheduled Council Meetings calendar adopted annually by the Council. Notices and agendas of such meetings shall be posted pursuant to statute in such public places as the Council may set by resolution, and the places of such posting shall be kept on file with the City Clerk.

(B) The Council shall adopt by ordinance an annual schedule of Regularly Scheduled Council Meetings for each calendar year no later than the December Regular Council meeting before the next calendar year.

(C) The regular meetings of the Common Council shall be held at the El Mirage Council Chambers located at 10000 N. El Mirage Road in El Mirage, Arizona, unless otherwise changed to another location by the Mayor giving not less than 72 hours notification of the change of location to the public by posting notice of change in the locations where the agenda is posted and providing personal notice of the change to all other Council members not less than 24 hours before the beginning of the meeting.

(Prior Code, § 2-4-1) (Ord. O06-05-07, passed 5-25-2006; Ord. O09-04-02, passed 4-9-2009; Ord. O09-04-03, passed 4-9-2009; Ord. O-16-10-09, passed 10-4-2016)

Statutory reference:

Similar provisions, see A.R.S. § 9-233

§ 32.021 SPECIAL MEETINGS.

(A) The Mayor, upon his or her own motion in writing, or the City Manager upon the written request of three members of the Council, may convene the Council at any time after giving at least 24-hours' notice of the meeting to members of the Council and the general public.

(B) The notice shall include the location, date, hour, and purpose of the special meeting.

(C) In the case of an actual emergency, a meeting may be held upon the notice as is appropriate to the circumstances.

(Prior Code, § 2-4-2)

§ 32.022 MEETINGS TO BE PUBLIC.

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

(Prior Code, § 2-4-3)

Statutory reference:

Similar provisions, see A.R.S. §§ 38-431 through 38-431.09

§ 32.023 QUORUM.

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

(Prior Code, § 2-4-4)

§ 32.024 AGENDA.

Prior to each Council meeting, or on or before a time fixed by the Council for preparation and distribution of an agenda, whichever is earlier, the Clerk shall collect all written reports, communications, ordinances, resolutions, contracts, and other documents to be submitted to the Council, prepare an agenda according to the order of business, and furnish each Council member, the Mayor, the City Manager, and the City Attorney with a copy.

(Prior Code, § 2-4-5)

§ 32.025 ORDER OF BUSINESS.

The Mayor or, in his or her absence, the Vice Mayor, in consultation with the City Manager, shall set the agenda and order of the meeting pursuant to state law. The Mayor or any two Councilmembers are required to submit an item for placement on a council meeting agenda for discussion and/or action by following established procedures for submitting council agenda items to the City Clerk.

(Prior Code, § 2-4-6) (Ord. O10-05-07, passed 5-27-2010; Ord. O11-07-11, passed 7-14-2011)

§ 32.026 COMMITTEES AND COMMISSIONS.

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

(Prior Code, § 2-4-7)

§ 32.027 VOTING.

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

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

(Prior Code, § 2-4-8)

§ 32.028 SUSPENSION OF RULES.

Any of the provisions of this subchapter may be temporarily suspended in connection with any matter under consideration by the Mayor or a majority of the Council, except that this section shall not be construed to permit any action that is contrary to state statutes.

(Prior Code, § 2-4-9)

MAYOR

§ 32.040 DIRECT ELECTION OF MAYOR.

Beginning with the election to be held on March 12, 2002, the Mayor shall be directly elected by the qualified electors.

(Prior Code, § 2-2-1)

§ 32.041 VICE MAYOR.

At the first regular meeting after the general election, the Council shall designate one of its members as Vice Mayor, who shall serve at the pleasure of the Council. The Vice Mayor shall perform the duties of the Mayor during his or her absence or disability.

(Prior Code, § 2-2-2)

Statutory reference:

Powers during local emergency, see A.R.S. § 26-311B

Similar provisions, see A.R.S. § 9-236

§ 32.042 ACTING MAYOR.

In the absence or disability of both the Mayor and Vice Mayor, the 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 the absence or disability.

(Prior Code, § 2-2-3)

§ 32.043 POWERS AND DUTIES OF THE MAYOR.

The powers and duties of the Mayor shall include the following.

(A) He or she shall be the chief executive officer of the city.

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

(C) He or she shall enforce the provisions of this code.

(D) He or she shall execute and authenticate, by his or her signature, such instruments as the Council or any statutes, ordinances, or this code shall require.

(E) He or she shall make such recommendations and suggestions to the Council as he or she may consider proper.

(F) He or she may, by proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing, or any other natural or human-made calamity or disaster or in the event of the threat or occurrence of riot, rout, affray, or other acts of civil disobedience which endanger life or property within the city. After declaration of an emergency, the Mayor shall govern, by proclamation, and impose all necessary regulations to preserve the peace and order of the city. At the earliest possible time, the Mayor shall obtain ratification of the declaration of an emergency from the Council. The proclamation may include but shall not be limited to:

(1) Imposition of a curfew in all or any portion of the city;

(2) Ordering the closing of any business;

(3) Closing to public access any public building, street, or other public place; and/or

(4) Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.

(G) He or she shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the city.

(Prior Code, § 2-2-4)

Statutory reference:

Similar provisions, see A.R.S. §§ 9-236, 26-311B

§ 32.044 ABSENCE OF MAYOR.

The Mayor shall not absent himself or herself from the city for a greater period than 15 days without the consent of the Council.

(Prior Code, § 2-2-5)

§ 32.045 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 Council may, at any regular or special meeting, authorize the Vice Mayor or, in his or her absence, an acting Mayor to sign the 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.

(Prior Code, § 2-2-6)

§ 32.046 COMPENSATION.

The compensation of the Mayor shall be fixed from time to time by resolution of the Council.

(Prior Code, § 2-2-7)

Statutory reference:

Similar provisions, see A.R.S. § 9-274

ELECTION

§ 32.060 PRIMARY ELECTION.

Any candidate who shall receive, at the primary election a majority of all ballots cast shall be declared to be 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 that candidate. If more candidates receive a majority of ballots cast 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.

(Prior Code, § 2-3-1) (Ord. O08-09-16, passed 9-25-2008)

§ 32.061 NON-POLITICAL BALLOT.

Nothing on the ballot in any election shall be indicative of the support of the candidate.

(Prior Code, § 2-3-2)

§ 32.062 GENERAL ELECTION NOMINATION.

If the office of Mayor or any seat on the Council is not decided at the primary election held for the office in accordance with § 32.060, then as to the office or offices, a general municipal election shall be held. The only candidates to be placed on the ballot at the general municipal election, shall be those not elected at the primary 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 the primary election; provided that if there be any person who, under the provisions of this section, 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 therefore, then all such persons receiving an equal number of votes shall likewise become candidates for such office. The candidate who receives the highest number of votes at the general election for an office shall be declared elected to the office.

(Prior Code, § 2-3-3) (Ord. O08-09-16, passed 9-25-2008)

§ 32.063 CANVASS; ELECTION TO OFFICE.

The Council shall canvass the results of primary, general, and special elections at a special meeting held not less than six days nor more than 20 days after the election.

(Prior Code, § 2-3-4) (Ord. O08-09-16, passed 9-25-2008)

§ 32.064 CANDIDATE FINANCIAL DISCLOSURE.

Each candidate for the office of Council member shall file a financial disclosure statement when the candidate files a nomination paper. The statement shall contain such information as required by resolution of the Council pursuant to state law.

(Prior Code, § 2-3-5)

Statutory reference:

Similar provisions, see A.R.S. § 38-545

§ 32.065 ELECTION DATES.

Commencing with the 2006 election, the primary and general elections will be held on the dates prescribed in A.R.S. § 16-204(B) for the fall (September and November) elections.

(Ord. O04-07-25, passed 7-22-2004)

ORDINANCES, RESOLUTIONS, AND CONTRACTS

§ 32.080 PRIOR APPROVAL.

All ordinances, resolutions, and contract documents shall, before presentation to the 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. That person shall have an opportunity to present his or her objections, if any, prior to the passage of the ordinance, resolution, or acceptance of the contract. No contract shall be valid unless approved by the Council at a public meeting.

(Prior Code, § 2-5-1)

§ 32.081 INTRODUCTION.

Ordinances, resolutions, and other matters or subjects requiring action by the Council shall be introduced and sponsored by a member

of the Council, except that the Attorney, the Manager, or the Clerk may present ordinances, resolutions, and other matters or subjects to the Council, and any member of the Council may assume sponsorship thereof by moving that the ordinance, resolution, matter, or subject be adopted; otherwise, they shall not be considered.

(Prior Code, § 2-5-2)

§ 32.082 REQUIREMENTS FOR AN ORDINANCE.

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.

(Prior Code, § 2-5-3)

§ 32.083 EFFECTIVE DATE OF ORDINANCES, RESOLUTIONS, AND FRANCHISES.

No ordinance, resolution, or franchise shall become operative until 30 days after its passage by the Council and approval by the Mayor, except measures necessary for the immediate preservation of the peace, health, or safety of the city, 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 elected to the Council, taken by ayes and nays.

(Prior Code, § 2-5-4)

Statutory reference:

Similar provisions, see A.R.S. § 19-142B

§ 32.084 SIGNATURES REQUIRED.

Every ordinance passed by the Council shall, before it becomes effective, be signed by the Mayor and attested by the Clerk.

(Prior Code, § 2-5-5)

§ 32.085 PUBLISHING REQUIRED.

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

(Prior Code, § 2-5-6)

Statutory reference:

Similar provisions, see A.R.S. Title 9, Chapter 7, Art. 2

§ 32.086 POSTING REQUIRED.

Every ordinance imposing any penalty, fine, forfeiture, or other punishment shall, after passage, be posted by the Clerk in three or more public places within the city and an affidavit of the person who posted the ordinance shall be filed in the office of the Clerk as proof of posting.

(Prior Code, § 2-5-7)

Statutory reference:

Similar provisions, see A.R.S. § 9-813

CHAPTER 33: CITY COURT

Section

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GENERAL PROVISIONS

§ 33.01 CITY COURT ESTABLISHED; JURISDICTION.

There is hereby established in the city a City Court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the city is located of violation of laws of the state committed within the limits of the city. The City Court is established pursuant to the Arizona Constitution and A.R.S. § 22-402, and shall be known as the "City Court of the City of El Mirage, Maricopa County, State of Arizona".

(Prior Code, Art. 5-1)

PRESIDING OFFICER

§ 33.15 PRESIDING JUDGE; APPOINTMENT; JUDGES PRO TEMPORE; QUALIFICATION; JUDICIAL SELECTION ADVISORY AND REVIEW BOARD.

(A) *Presiding Judge: appointment*. The presiding officer of the City Court shall be the Presiding City Judge who shall be appointed by the City Council.

(B) *Judges pro tempore*. The Presiding Judge may appoint qualified persons to serve as judges pro tempore as are required by the City Court. The Judge shall be compensated in an amount established by the Presiding Judge, on a contractual or hourly basis, shall not be eligible for any benefits as a full-time employee, and shall be appointed for a term as set forth by the Presiding Judge for a term of not more than two years.

(C) *Qualification*. All judges of the City Court, regular or pro tempore, shall be attorneys at law, admitted to the practice of law by the Supreme Court of the State of Arizona, and have at least five years practice of law; have sufficient experience and temperament to preside over cases in the Municipal Court; and continue to meet all qualifications as may be established by the Arizona Supreme Court or as required by law for judges.

(Prior Code, § 5-2-1) (Ord. O11-08-14, passed 8-25-2011; Ord. O16-11-11, passed 11-1-2016)

§ 33.16 POWERS AND DUTIES.

(A) The powers and duties of the Presiding Judge shall include:

(1) The powers and duties set forth and conferred upon him or her under the provisions of the state's Constitution and statutes, this code, and the ordinances and resolutions of the city;

(2) The keeping of a docket in which shall be entered each action and the proceedings of the Court therein;

(3) The responsibility for fixing and receiving all bonds and bails and receiving all fines, civil sanctions, penalties, fees, and other monies as provided by law;

(4) Payment of all fees, civil sanctions, fines, penalties, and other monies collected by the Court to the Treasurer; and

(5) Not withstanding any other provisions of the city code, management and administration of the City Court as a separate and independent branch of government in accordance with fiscal policies established by the City Council in the adoption of the budget and city personnel policies and procedures consistent with applicable state and federal constitutional mandates, statutes, and rules of the Arizona Supreme Court.

(B) The authority of the Presiding Judge pursuant to state law to manage and expend monies collected or granted pursuant to statute is hereby expressly affirmed. Further, the authority of the Presiding Judge to manage the Court budget in his or her sole discretion is also hereby expressly affirmed.

(Prior Code, § 5-2-2)

§ 33.17 REMOVAL OF CITY JUDGE FROM OFFICE.

(A) The Council may suspend, remove, or otherwise sanction the City Presiding Judge or any Assistant Associate City Judge for

cause, including but not limited to:

(1) If the City Judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under any law of the state or a federal law, or of any other crime that involves moral turpitude under the law;

(2) If the Judge has a disability that seriously interferes with the performance of the Judge's duties and that is, or is likely to become, permanent; and

(3) If the Judge engages in actions that constitute willful misconduct in office, willful and persistent failure to perform the Judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judiciary and judicial office into disrepute.

(B) Pursuant to § 33.15(D)(5), the Council may refer to the Judicial Review Board any verified complaints or allegations of serious misconduct by a sitting judge which may support disciplinary action by the Council.

(1) The Board, upon receipt of such complaint or allegations, shall investigate as necessary to determine the validity thereof, and thereafter make recommendations to the council on what action, if any, is appropriate.

(2) The Council shall not take action under this section until after receiving a recommendation from the Board, except that matters which are deemed to be an emergency may be considered by the Council without the necessity of such recommendation.

(Prior Code, § 5-2-4) (Ord. O11-08-14, passed 8-25-2011)

§ 33.18 COMPENSATION OF JUDGES.

The annual salary of the Presiding Judge and for any associate judicial position shall be set by the City Council at a percentage of the annual salary payable to a judge of the Superior Court and, in addition thereto, the Presiding Judge shall be entitled to employee benefits as provided for by the City of El Mirage. Such compensation shall be adjusted bi-annually on the anniversary date of the Judge's initial appointment.

(Prior Code, § 5-2-5) (Ord. O11-08-14, passed 8-25-2011)

§ 33.19 TERM.

(A) The Presiding Judge of the City Court shall be appointed for a term of four years after due recommendation by the Judicial Selection Advisory and Review Board and approval by the City Council. The beginning and end of the Judge's term shall be dated as of the date of the appointment.

(B) In the event that the Judge under consideration is subject to reappointment for an additional term, the reappointment of the Presiding Judge shall only be considered by the City Council after receiving the report of the Judicial Selection Advisory and Review Board.

(Prior Code, § 5-2-6) (Ord. O11-08-14, passed 8-25-2011)

§ 33.20 HEARING OFFICERS.

The Presiding Judge may appoint one or more hearing officers to preside over civil traffic violation cases when the appointment of the hearing officers is necessary to assure prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the Presiding Judge. The hearing officers shall either serve without salary or compensation, or be compensated in an amount established by the Presiding Judge on a contractual or hourly basis, shall not be eligible for any benefits as a full-time employee, and shall be appointed for a term as set forth by the Presiding Judge for a term of not more than one year.

(Prior Code, § 5-2-7)

§ 33.21 JUVENILE HEARING OFFICER.

The appointment by the Presiding Judge of the Juvenile Court in Maricopa County of all judges of the City Court, regular and pro tempore, to serve as juvenile hearing officers, is hereby approved.

(Prior Code, § 5-2-8)

§ 33.22 DUTIES OF MANAGEMENT, CITY COUNCIL; CITY MANAGER.

(A) The City Council shall provide for the financial, physical, personnel, and consulting requirements of the City Court and may adopt additional ordinances as may be deemed necessary for the consistent implementation of this code.

(B) The City Manager and Presiding Judge shall confer, in good faith, in all efforts to reconcile any conflicts of authority between branches of government. Pursuant to case law, the final authority over all judicial functions within the City Court is hereby expressly reserved unto the Presiding Judge.

(Prior Code, § 5-2-9)

PROCEEDINGS OF COURT; CONDUCT OF BUSINESS

§ 33.35 WHEN OPEN; TRANSACTION OF CERTAIN BUSINESS ON NON-JUDICIAL DAYS.

The City Court shall always be open, except on non-judicial days and on such non-judicial days, it may transact such business within its jurisdiction as is authorized by law to be transacted by courts of justice of the peace, relative to businesses within its jurisdiction.

(Prior Code, § 5-3-1)

§ 33.36 JURISDICTION GENERALLY.

The City Court shall, within the territorial limits of the city, have and exercise jurisdiction as follows.

(A) It shall have and exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of any ordinance of the city, and of every action of a civil nature for the enforcement of a penalty, or the recovery of a penalty or forfeiture imposed by any ordinance of the city for violation thereof, or for neglect to perform any duty by any ordinance imposed, and of every action for the collection of any license, fine, or penalty due from any person to the city, and required to be paid, or which is due and collectible under the ordinance of the city.

(B) The City Court shall have concurrent jurisdiction with the justices of the peace, in the precincts where the city is established, over all violations of the laws of the state committed within the limits of the city; the concurrent jurisdiction shall be subject to the rules of civil procedure applicable to trials before justices of the peace.

(Prior Code, § 5-3-2)

§ 33.37 WRITS AND PROCESSES; RECORDS.

(A) The Presiding Judge, and any assistant or pro-tem judge, shall be entitled and authorized to issue and cause to be served any and all writs and processes, and he or she shall have full authority to hear and determine all matters properly coming before the Court. The writs and processes to be used shall be similar to those used by justices of the peace in cases of a similar nature, and proper record shall be kept of the issuance of writs and processes and returns and of any kind and all other actions taken relative thereto, and the actions of the Court thereon. The police of the city are hereby authorized and directed to execute and serve any and all writs and processes issued out of the City Court by the Judge, and proper return shall be made by the officer to the same extent as is required of constables and sheriffs in the service and execution of similar papers.

(B) The City Court shall have a seal with the words "Seal of the City Court of El Mirage, Maricopa County, Arizona". The seal shall be kept by the City Court Clerk and shall be used to authenticate official documents of the City Court, including and without limitation, the City Court Clerk's certification of true and conformed copies of City Court records.

(C) The City Court Clerk shall charge the certification fee as provided for by the Arizona Supreme Court for execution of the City Court seal.

(Prior Code, § 5-3-3)

§ 33.38 JURIES.

(A) *Jury formation*. The formation and summoning of juries in the City Court shall be done in the same manner as provided for by law in courts of record, in accordance with the provisions of A.R.S. § 22-426. Each juror in the City Court shall be paid as provided by law.

Statutory reference:

The statute cited in this division has been repealed. Current provisions for selecting a jury, see A.R.S. Rules Crim. Proc. Rule 18.5

(B) *Reasonable resource protection fee*.

(1) The reasonable resource protection fee shall be assessed to cover administrative costs incurred as a result of the unnecessary expenditure of otherwise available resources due to unreasonable delay, prolongation, or duplication occasioned by litigants.

(2) The resource protection fee shall be in an amount of not more than actual costs involved, and not to exceed $1,000 per event, and may be assessed against litigants or their counsel, but shall not be assessed against any person representing a political subdivision of the state.

(3) This fee is intended to include, without limitation, the following:

(a) In the case of a plea to the City Court on the day of a scheduled jury trial, the fees may include all jury-related costs including, but not limited to:

1. Fees paid to jurors who have appeared in person; and

2. Mailing costs incurred by the City Court to summon the jurors for that trial.

(b) In the case of a plea to the City Court on the calendar call day which falls within the week of the scheduled jury trial, the fee shall be limited to the actual cost of the City Court to summon the jurors for that particular case.

(Prior Code, § 5-3-4)

§ 33.39 CITY COURT; GENERAL FEES.

(A) *Default fee*. The City Court shall assess the defendant a default fee of $40 for each default judgment entered in a civil traffic violation upon failure to appear or failure to pay a civil sanction, unless the default judgment is set aside under Rule 28 of the Rules of Procedure in civil traffic violation cases.

(B) *Collections*. A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Court including, but not limited to, restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs, and fees, is liable for any fees and charges assessed by a collection agency that is licensed pursuant to A.R.S. §§ 32-1021 *et seq*., and that is engaged by the City Court to collect and enforce the payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from and chargeable against the defendant.

(C) *Records search*. In all matters involving copies requested of the City Court, the Clerk of the City Court is authorized to charge any research and copy fee as authorized by the Arizona Supreme Court.

(D) *NSF/insufficient funds*. The City Court shall assess each person a service fee of $25 for each dishonored check or bank draft tendered by or on behalf of the person to the City Court.

(E) *Fee review*. The Presiding Judge and city staff shall review the fees in this subchapter every two years beginning from the date of the enactment of this code and make recommendations to the City Council regarding the continuance of fees, amendments thereto, or discontinuation thereof.

(Prior Code, § 5-3-5)

§ 33.40 COURT ENHANCEMENT AND SECURITY FEE; CITY COURT ENHANCEMENT AND SECURITY FUND.

(A) In addition to any other fee or assessment authorized by law, a court enhancement and security fee of $25 shall be imposed by the City Court on each order or agreement to pay any fine, sanction, penalty, or assessment, or to participate in any Court-authorized diversion program. The court enhancement and security fee shall not be imposed on civil parking violations. The court enhancement and security fee shall be collected by the City Court for deposit into the City Court Enhancement and Security Fund. A judge or hearing officer shall not waive all or any part of the fee unless payment of the fee violates a finding of the Court pursuant to § 33.42 of this code.

(B) A City Court Enhancement and Security Fund is established for the exclusive purpose of enhancing City Court processes and security. Monies in the Fund shall supplement, not supplant, funds provided to the City Court through the city budget process. Interest earned on the monies in the Fund shall be credited to the City Court Enhancement and Security Fund. The City Court shall administer the Fund and may make expenditures from the Fund for the purposes approved in this section.

(C) The City Court shall conduct a biennial review of the effectiveness of this subchapter at meeting the City Court's needs. The City Court shall report any findings from the periodic review to the City Council. The first review shall take place no later than two years from the effective date of this section.

(Prior Code, § 5-3-6) (Ord. O10-08-12, passed 8-26-2010)

§ 33.41 REIMBURSEMENT FOR JAIL COSTS.

(A) Any person who has been convicted of a misdemeanor criminal offense in the City Court and sentenced to a term of incarceration in the county jail or any other detention facility as authorized by law, may as a part of any fine imposed by the City Court in connection with the sentencing, be required to reimburse the city for all or any part of the actual expenses the city has or will incur to the county or other authorized detention authority by reason of the incarceration. The maximum amount ordered for reimbursement under this section shall not exceed the number of days the misdemeanant is actually incarcerated in the county jail or detention facility, multiplied by the prevailing per diem rate charged to the city at the time that the misdemeanant is actually incarcerated.

(B) No person who has been found by the City Court to be indigent may be subject to the provisions of this section.

(C) In addition to any other remedies which may be allowed by law, the City Attorney is authorized to institute civil legal proceedings in any court of competent jurisdiction to recover any fee owing under this section.

(Prior Code, § 5-3-7)

§ 33.42 WAIVER OF COSTS OF INDIGENTS.

(A) No person shall be required to pay any fee under this code who is determined as a matter of fact and law to be indigent. Prior to determining that a person is indigent for the purposes of this section, the City Court shall require a sworn statement from the defendant seeking a waiver of such fees as are authorized, which includes the following information.

(1) All income received by the defendant from any source on a monthly basis;

(2) The defendant's monthly expenses;

(3) A list of assets owned by the defendant of all real and personal property with designations of fair market value; and

(4) A list of debts owed by the defendant.

(B) The fees required under this code shall be waived by the City Court if the defendant establishes by sworn statement or otherwise that they receive assistance from one or more of the following government programs:

(1) Food stamps 7 U.S.C. §§ 2011 through 2029; and/or

(2) The general assistance program under A.R.S. §§ 42-231 *et seq*.

(C) The City Court may also waive the fees required by this code 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 fees.

(D) The City Court shall order the defendant to pay any assessed fees if, at any time prior to the entry of the final judgement, the City Court determines after notice to the defendant and a hearing that the defendant no longer meets the eligibility requirements of division (B) above.

(E) A defendant who has been granted a waiver of any fees due to indigence has an affirmative duty to promptly notify the City Court of any change in his or her financial circumstances during the pendency of an action that impacts the ability to pay the fees.

(Prior Code, § 5-3-8)

§ 33.43 SPECIAL FEES.

(A) *Warrant fee*. The City Court shall assess an administrative fee of $200 for the issuance of a warrant due to the failure of a defendant to appear or pay any fine, fee, or restitution imposed by the City Court or the failure of a defendant to comply with any other sanction or any other order regarding probation, counseling, or other diversion programs.

(B) *DUI investigation fee. (Reserved)*

(C) *Blood analysis fee. (Reserved).*

(D) *Domestic Violence Prevention Fund. (Reserved).*

(Prior Code, § 5-3-9)

HOME DETENTION AND ELECTRONIC MONITORING PROGRAM

§ 33.50 HOME DETENTION AND ELECTRONIC MONITORING PROGRAM.

If a person is sentenced to jail confinement by the City Court, the Judge may substitute home detention and electronic monitoring for a portion of the jail term as provided by this section.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.51 DEFINITIONS.

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

ELECTRONIC MONITORING DEVICE. Equipment able to continuously confirm the location of the person to whom it is issued.

HOME DETENTION AND ELECTRONIC MONITORING PROGRAM (PROGRAM). An alternative sentencing option which allows an incarcerated person to be released from jail, with the requirement that the person wear an electronic monitoring device and to conform to Court-ordered requirements.

PROVIDER. A person or company which has entered into a contract with the City to provide the following services:

(1) Issuance of electronic monitoring devices;

(2) Continual monitoring of such devices; and

(3) Furnishing of testing for alcohol and/or drug use.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.52 ELIGIBILITY.

A person is eligible for the Home Detention and Electronic Monitoring Program if:

(A) The person is eligible under A.R.S. § 9-499.07; and

(B) The person has been sentenced under A.R.S. § 28-1381(K) or § 28-1382(D) or (E) and has satisfied the requirements of those sections; and

(C) The Judge states at the time of sentencing that the person is eligible for the program; and

(D) The person does not constitute a risk to himself or other members of the community; and

(E) The person does not have a history of violent behavior.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.53 PROVIDER REQUIRED.

Before any person may participate in the Home Detention and Electronic Monitoring Program, the City shall have entered into a contract with one or more providers to implement the program, with the provider contractually required to properly monitor the person and notify the City Court.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.54 REQUIREMENTS OF THE HOME DETENTION AND ELECTRONIC MONITORING PROGRAM.

(A) Except as provided in § 33.56 below, a person participating in the program shall, as ordered by the Court, comply with A.R.S. § 9-499.07.

(B) The Court shall require that the person shall pay the fees set forth in A.R.S. § 9-499.07 unless the Court finds that the person is unable to pay some or all of the fees.

(C) The person shall serve a minimum of 15 consecutive days in jail before being released to serve the balance of their sentence in the program.

(D) Except as provided in § 33.55 below, the person shall remain at home during the hours specified by the Court.

(E) The person shall submit to drug and alcohol testing as directed by the Court.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.55 EXEMPTIONS FROM REQUIREMENTS.

With the prior written approval of the Court, a person participating in the program may be permitted to:

(A) Be employed outside the home;

(B) Complete community work service for the Court;

(C) Attend classes at accredited educations institutions;

(D) Attend funerals and religious services; and/or

(E) Attend medical appointments.

(Ord. O11-03-07, passed 3-10-2011)

§ 33.56 TERMINATING PARTICIPATION IN THE PROGRAM.

(A) The Court shall terminate a person's participation in the program, and require the person to complete the balance of their jail sentence in jail, if the Court finds:

(1) The person has failed to successfully comply with any term of the person's sentence, including requirements of the program, payment of fines, completion of counseling, and the like;

(2) The person left the premises of their home without the prior permission of the Court or the provider, during a time when the person is required to be on the premises; or

(3) The Court, in its discretion, or the City, by legislative or administrative act, terminate the program.

(B) Termination from the program will proceed according to the processes established for hearings on orders to show cause:

(1) The court shall issue a summons or warrant for the person participating in the program to appear and show cause why they should not be terminated;

(2) If the person fails to appear in response to the summons, or after having appeared the person has failed to show good cause otherwise, the person shall be terminated from the program.

(C) Upon termination from the program, the person shall serve the balance of their remaining term of incarceration by jail confinement.

(Ord. O11-03-07, passed 3-10-2011)

CHAPTER 34: CITY ORGANIZATIONS

Section

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POLICE DEPARTMENT

§ 34.01 CREATED; COMPOSITION.

There is hereby created a Police Department for the city which shall consist of a Chief of Police and as many police officers and support personnel as may from time to time be deemed necessary by the City Manager for the safety and good order of the city.

(Prior Code, § 4-1-1) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.02 COMPENSATION OF OFFICERS.

The Chief of Police shall be compensated as determined by the City Manager. All other uniformed, commissioned police officers and non-sworn employees shall be compensated as approved in a renewable memorandum of understanding (MOU) between and with the police union members and the Council. The Chief of Police shall not receive any perquisites, commissions, or compensation for his or her services as Chief of Police, except as the City Manager may prescribe.

(Prior Code, § 4-1-3) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.03 DEPARTMENTAL RULES AND REGULATIONS.

The Police Department shall be operated and managed in accordance with such Departmental rules and regulations as may from time to time be reviewed by the City Attorney, approved by the City Council, and implemented by the Chief of Police; provided, however, that the Chief of Police may designate rules, procedures, and regulations for employees pursuant to commonly accepted law enforcement standards.

(Prior Code, § 4-1-4)

§ 34.04 DUTIES OF POLICE DEPARTMENT.

(A) It is the duty of the Police Department, under the direction of the Chief of Police, to:

(1) Enforce this code and the statutes of the State of Arizona and the United States within jurisdictional limits as conferred by law and to arrest and charge the violators thereof and take any other appropriate lawful action necessary to investigate possible violations of the code and preserve the public peace, safety, and welfare;

(2) Render an account of the Police Department, its duties and receipts as may be required by the City Manager, and keep records of the office open to inspection by the City Manager at any time, except those records as may be exempt by state or federal law or for investigative purposes; and

(3) Perform such additional lawful duties as may be required by the City Manager.

(B) Any peace officer or duly authorized agent of the city 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.

(Prior Code, § 4-1-5) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.05 DUTIES OF POLICE CHIEF.

(A) The Police Chief shall be responsible for, and cause to be prepared and submitted by him or her, itemized annual estimates of expenditures required by the City Manager for capital outlay, salaries, wages, and miscellaneous operating costs; to tabulate the same into a preliminary consolidated budget and submit the same to the City Manager annually on the date specified by the City Manager with his or her recommendations as to any increases, decreases, cancellations, transfers, or changes in any of the items included in the preliminary budget.

(B) The Police Chief shall supervise the expenditure of all Departmental purchasing of all supplies, goods, wares, merchandise, equipment, and materials which may be required for the orderly operation of the Department, subject to the approval of the City Manager.

(C) The Police Chief shall perform such other duties as may be required of him or her by the City Manager not inconsistent with the laws of the state or the ordinances of the city.

(Prior Code, § 4-1-6) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.06 ANSWERING CALLS OUTSIDE THE CITY.

The members of the Police Department of the city are duly authorized to answer calls for aid and assistance beyond the corporate limits of the city, whenever the Chief of Police, in his or her discretion, shall deem it necessary to protect lives and property.

(Prior Code, § 4-1-7)

§ 34.07 INJURING POLICE DOGS.

(A) While a police dog is on duty or discharging any lawful police function, it is unlawful to and no person shall:

(1) Intentionally, knowingly, or recklessly kill, injure, torment, kick, strike, stone, interfere with, or tamper with the police dog; or

(2) Cause or direct any animal to attack or otherwise interfere with the police dog.

(B) A police officer may destroy an animal attacking a police dog if no lesser means are reasonably available to prevent injury to the police service dog.

(Prior Code, § 4-1-8) Penalty, see § 10.99

FIRE DEPARTMENT

§ 34.20 CREATED; COMPOSITION.

There is hereby created a full service Fire Department for the city which shall consist of a paid Fire Chief, fire battalion chiefs, fire captains, fire engineers, firefighters, paramedics, fire prevention officers, public education specialist, support and administrative staff in number as may be deemed necessary from time to time by the Fire Chief, and approved by the City Council, to fulfill the duties and responsibilities of the Fire Department in providing public safety services to the city.

(Prior Code, § 4-2-1)

§ 34.21 DEPARTMENTAL DUTIES AND RESPONSIBILITIES.

(A) The Fire Department shall provide a full range of public safety services including fire prevention, public safety education, incident or fire suppression, rescue, basic and advanced emergency medical services, special operations, and other services that may be deemed necessary for public safety and welfare. Services shall be performed by professional firefighters and staff, including state-certified emergency medical technicians and paramedics as appropriate.

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

INCIDENT. Any situation where Fire Department staff are call to or engaged in service delivery.

(Prior Code, § 4-2-2)

§ 34.22 COMPENSATION.

The Fire Chief, other chief officers, and non-commissioned staff shall be compensated as determined by the Manager. All other uniformed, commissioned firefighters shall be compensated as approved in a renewable memorandum of understanding (MOU) between and with the firefighter union members and the City Council.

(Prior Code, § 4-2-3) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.23 DUTIES OF CHIEF.

It is the duty of the Chief to:

(A) Be accountable to the City Manager for the personnel, morale, and general efficiency of the Fire Department;

(B) Direct the operations of the Fire Department subject to the rules and regulations thereof;

(C) Be present at all fires or other major incident, if possible, and plan and direct the mitigation thereof. During the progress of an incident, the authority of the Fire Chief shall be absolute in all matters directly concerning the mitigation of the incident and disposition of property endangered by it;

(D) Conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city, water supplies, and all other matters generally considered essential to good fire department services and safety of life and property from fire;

(E) Assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin, and circumstances of all fires;

(F) Inspect buildings and premises and serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found. For the purpose of conducting the inspection, the Chief is hereby empowered to enter any and all buildings and premises within the city at any reasonable hour. Any person served with a written notice shall comply and notify the Chief of his or her compliance within a reasonable time;

(G) Keep complete records of all incidents, inspections, apparatus and equipment, personnel, and other information about the work of the Department open to the City Manager inspection and furnish to the City Manager that information upon request;

(H) Make a complete annual report, in writing, to the City Manager within the time limits set by the City Manager. The report shall include the information specified in division (G) of this section, together with comparative data for previous years and recommendations for improving the effectiveness of the Department;

(I) Enforce or cause to be enforced all ordinances, laws, and regulations of the city and state, insofar as they pertain to fire and safety;

(J) Demote, dismiss, or expel any officer or member of the Department for neglect or refusal to perform Departmental duties, subject to the right of any members so demoted, dismissed, or expelled to appeal to the City Manager; and

(K) Recruit, test, and select both uniformed commissioned and non-uniformed members of the Fire Department.

(Prior Code, § 4-2-4) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.24 APPOINTMENT AND DUTIES OF FIREFIGHTERS.

The Council shall provide for the employment of as many firefighters as may from time to time be deemed necessary for the safety and welfare of the city. The Fire Chief shall select qualified firefighter candidates from a current, certified eligibility list. Firefighters and officers shall be subject to supervision of the Fire Chief and perform duties and assignments as necessary and directed by the Fire Chief.

(Prior Code, § 4-2-5)

§ 34.25 ENTRY UPON PROPERTY.

It is lawful for any firefighter acting under the direction of the Chief or another officer in command to enter upon property that is on fire or involved in any incident deemed an emergency or hazard to the public's safety, or on property adjacent to or in the vicinity of any building or other property and no person shall hinder, resist, or obstruct any firefighter in the discharge of his or her duty as provided in this subchapter.

(Prior Code, § 4-2-6) Penalty, see § 10.99

§ 34.26 EQUIPMENT.

The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire. Recommendations concerning apparatus and equipment needed shall be made by the Chief, and after approval pursuant to the budget process, the apparatus and equipment shall be purchased in such manner as may be designated by this code. All equipment of the Department shall be safely and conveniently housed in such place or places as may be designated by the City Manager. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully take away or conceal any article used in any way by the Department. No person shall enter any place where the fire apparatus is housed or handle any apparatus or equipment belonging to the Department unless accompanied by or having special permission of an officer or authorized member of the Department. No fire apparatus and equipment shall be hired out or permitted to be used for non-official business.

(Prior Code, § 4-2-7) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.27 POLICIES FOR PROVIDING FIRE DEPARTMENT SERVICES OUTSIDE THE CITY.

(A) The Council may enter into agreements or contracts to furnish Fire Department services outside the city or enter into mutual and automatic aid agreements, and the Fire Department is authorized to render Fire Department services pursuant to the terms of the agreements or contracts.

(B) The city shall collect the cost of any Fire Department services rendered outside the city, for special events and to areas not covered by a contractual agreement for Fire Department services. The cost for these services shall be determined by the Fire Chief using the current local standard rates as a minimum basis and as approved through the budget process.

(Prior Code, § 4-2-8) (Res. R05-04-13, passed 4-28-2005; Ord. O05-04-05, passed 5-12-2005)

§ 34.28 ACKNOWLEDGMENT OF RIGHT-OF-WAY.

All motor equipment of the Department shall have right-of-way over all other traffic when responding to an alarm. No unauthorized vehicle shall follow within 500 feet of any apparatus belonging to the Department nor park any vehicle or otherwise cause any obstruction to be placed within 20 feet of the driveway entrance to any fire station or other place where fire apparatus is stored and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance or within 15 feet of any fire hydrant. No person shall drive any vehicle over fire hose except upon specific orders from the Chief or other officer in charge where the hose is used.

(Prior Code, § 4-2-9) Penalty, see § 10.99

§ 34.29 FIRE ALARMS.

Suitable arrangements or equipment shall be provided for citizens to turn in an alarm and for notifying the Department so that they may promptly respond. It is unlawful for any person knowingly to turn in or cause to be turned in a false alarm.

(Prior Code, § 4-2-10) Penalty, see § 10.99

§ 34.30 ORDERS OF FIRE CHIEF.

It is unlawful for any firefighter or citizen to refuse to obey an order issued by the Fire Chief or another officer in command pursuant to his or her authority.

(Prior Code, § 4-2-11) Penalty, see § 10.99

§ 34.31 PARTICIPATION IN THE FIRE/EMS AUTOMATIC AID SYSTEM.

The Fire Department shall, by contract, participate in the valley-wide Fire Department automatic aid computer aided dispatch system. This system provides automatic assistance to and from valley fire departments by way of a central dispatch center providing a full range of responses regardless of jurisdictional boundaries. This system may also include joint training; purchasing; and other efforts as may be deemed necessary. This automatic aid system may include a minimum standard for operational and command procedures, staffing, apparatus, tools and equipment, communications equipment, training, and safety to ensure consistency in the system.

(Prior Code, § 4-2-12) (Ord. O04-05-15, passed 5-27-2004)

CHAPTER 35: TAX CODE

Section

35.01 Adoption of tax code; amendments

§ 35.01 ADOPTION OF TAX CODE; AMENDMENTS.

The Tax Code of the City of El Mirage, 2009 edition, is set out in full in the attachment to this chapter. No format or stylistic changes have been made. Amendments to this Tax Code are hereby adopted by reference and incorporated herein in full.

TAX CODE

Please click to view the attachment in PDF.

(Prior Code, Chapter 9) (Ord. O06-11-20, passed 1-11-2006; Res. 6-11-32, passed - -2006; Ord. O08-03-04, passed 3-27-2008; Res. R08-03-10, passed 3-27-2008; Res. R09-08-28, passed 8-27-2009)

TITLE V: PUBLIC WORKS

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CHAPTER 50: WATER

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50.152 Regulations part of contract

50.153 Unauthorized use; tampering; damages

50.999 Penalty

GENERAL PROVISIONS

§ 50.001 MANAGEMENT OF SYSTEM.

The City Manager shall have the immediate control and management of all things pertaining to the city water system and shall cause to be performed all acts that may be necessary for the prudent, efficient, and economical management and protection of the water system, subject to the approval and confirmation of the Council. The Council shall have the power to prescribe such other and further rates, rules, and regulations as it may deem necessary.

(Prior Code, § 14-1-1)

§ 50.002 RECEIPTS AND DEPOSITS.

The Clerk shall keep a correct account of all receipts, make out all bills for water and materials furnished to consumers, collect the same, and deposit the proceeds so collected to the credit of the city and in accordance with the direction of the Council.

(Prior Code, § 14-1-2)

§ 50.003 THERMAL EXPANSION.

(A) Thermal expansion is the build-up of water pressure in a water system due to the addition of heat. In extreme cases, thermal expansion has caused water heater explosions that have resulted in great property damage and the loss of lives.

(B) Thermal expansion is an important factor to consider whenever a backflow assembly is installed on a plumbing system that supplies a hot-water system. The backflow assemblies do not allow built up pressure in a water system to be back pressured and dissipated back into the water supply mains, contributing to the danger of a water heater explosion due to thermal expansion.

(C) (1) The chances of thermal expansion increase dramatically whenever a water heater is old or not well maintained. Usually, the first few times that a properly working temperature and pressure (T & P) valve is activated on a water heater, it can be relied upon to guard against thermal expansion. However, a T & P valve is not designed to be used repeatedly in this manner. In addition, T & P valves can be removed or altered and made inoperable by an uninformed property owner, and can also be affected by scale build up.

(2) There are three general types of products used to protect against thermal expansion. An expansion tank installed on the hot water system is one option. A second, less expensive option is a toilet tank ball cock product designed to vent water in the event of a line pressure build-up. This may require the installation of a pressure-reducing valve if line pressures regularly exceed 80 PSID. A third type of product would be a pressure relief valve on the cold water feed line to the water heater. A drain line would be needed here if the valve is installed indoors. Replacing old T & P valves is also a good idea, but not as effective as one of the above products.

(Prior Code, § 14-11-2)

(D) Ideally, the T & P valve should be considered as a back up to one of these other products. In actuality, however, many people rely strictly on their water heater's T & P valve to handle any occasional excess pressure build up. In all cases, but especially where the T & P valve is the only safety feature in use, it is recommended that the T & P valve should be exercised at least once a year and replaced at least every five years.

(E) The greatest potential for thermal expansion problems would be from a poorly maintained water heater on a small water line with a backflow assembly installed just upstream of it. All maintenance personnel need to be encouraged to make sure their water heaters and T & P valves are maintained in good condition, checked regularly, and replaced every five years.

(Prior Code, § 14-11-3)

APPLICATION FOR SERVICE

§ 50.015 APPLICATION FOR WATER AND OTHER UTILITY SERVICES.

Applications for water, sewer and sanitation services provided by the city (hereinafter "utility services") shall be made, in person, at the city hall or by alternative means set by the city. The owner of the property, as reflected in the records of the Maricopa County Assessor's Office, or the owner's authorized representative, evidenced by a notarized power-of-attorney or Arizona Department of Real Estate Licensee's listing agreement executed by the owner, or a tenant/lessee providing a duly executed lease or rental agreement may apply for utility services to be provided by the city. If the ownership of a recent transferee of property is not reflected in the County Assessor's records, ownership may be established by a fully executed sales agreement or other documentation acceptable to the city.

(Prior Code, § 14-2-1) (Ord. O10-06-08, passed 6-24-2010; Ord. O11-02-04, passed 2-10-2011)

§ 50.016 GROUNDS FOR REJECTION OF APPLICATION.

The city may reject any application for water service for any good and sufficient reason including the following: service not available under a standard rate; service which involves excessive service expense; service which may affect the supply to other consumers; service to the premises until all charges against the premises then due and payable to the city shall have been paid, whether on account of water service connection, meter installation, billing for water previously supplied to the same premises, whether used by the applicant or against the premises for which water service is requested.

(Prior Code, § 14-2-2)

§ 50.017 VIOLATION OF APPLICATION PROVISIONS.

For violation of any of the provisions relating to application for service, the city shall, at the expiration of 15 days after mailing written notice to the last known address of the consumer and providing an opportunity for a hearing, at its option, remove the meter and discontinue service. Where the meter is thereafter reinstalled, the consumer shall first pay to the city a reinstallation charge which shall be set by resolution of the Council.

(Prior Code, § 14-2-3)

DEPOSIT

§ 50.030 DEPOSIT REQUIRED.

A deposit shall be charged for water service to be provided to any premises before the service commences. The amount of the deposit shall be set by resolution of the Council. Deposits shall be non-interest bearing and shall be refunded to the consumer upon discontinuance of service and payment of charges, provided that charges may be deducted from the security deposit before the refund is made.

(Prior Code, § 14-3-1)

§ 50.031 PAYMENT RESPONSIBILITY.

The individual in whose name the deposit is made receiving water and other utility services from the city shall be responsible for payment of all bills incurred in connection with the services furnished by the city to the property.

(Prior Code, § 14-3-2) (Ord. O10-06-08, passed 6-24-2010; Ord. O11-02-04, passed 2-10-2011)

DISCONTINUANCE OF SERVICE

§ 50.045 NOTICE REQUIRED; VOLUNTARY TERMINATION OF SERVICE.

Any person who desires to discontinue the use of water or other utilities provided by the city shall file written notice with the city at least three working days in advance of intended termination of service. Responsibility for water consumed is determined by final meter reading on the requested date of service disconnection. Until a written request to discontinue service is received, the premises shall be deemed occupied by the consumer and customer's liability for service charges continued.

(Prior Code, § 14-4-1) (Ord. O10-06-08, passed 6-24-2010)

§ 50.046 DISCONTINUANCE UNDER CERTAIN CONDITIONS.

The city may discontinue water service under any of the following conditions:

(A) To prevent fraud or abuse;

(B) Disregard of city rules pertaining to water service;

(C) Emergency repairs;

(D) Insufficient supply caused by factors outside the control of the city;

(E) Legal process;

(F) Direction of public authorities;

(G) Local emergency requiring emergency measures;

(H) Tampering with meter by the consumer; and/or

(I) Nonpayment of bill as provided in § 50.062.

(Prior Code, § 14-4-2)

RATES AND BILLS

§ 50.060 WATER RATES.

The Council shall, by resolution, determine water rates for consumers both inside and outside the city limits.

(Prior Code, § 14-5-1)

§ 50.061 MINIMUM RATE.

Service for a time period less than a month shall be charged at the minimum monthly rate or for the actual usage, whichever is greater.

(Prior Code, § 14-5-2)

§ 50.062 UTILITY SERVICES BILLING; UNIFIED BILLING; PAYMENT.

(A) Water meters shall be read once per month, and a separate bill shall be rendered for each meter and mailed to the owner of the property.

(B) Charges for utility services shall be billed on one unified bill issued once per month. The bill shall be mailed to the owner at the address of the property at which the utility services are provided unless the owner requests, in writing, the bill be mailed to an alternative address. Charges for utility services are due and payable when rendered and shall become delinquent if not paid by the due date stated on the bill. A late fee in an amount set by resolution of Council shall be charged on all delinquent payments for utility services. Service may be terminated for nonpayment at any time after payment is delinquent. The city reserves the right to vary the dates or length of billing period, temporarily or permanently, if necessary or desirable. All delinquent accounts may be referred to collection at any time at the option of the city.

(C) Prior to terminating service for nonpayment of amounts due, the city will mail written notice of the city's intent to terminate service, stating the date of termination, to the consumer at the address to which bills are sent. A customer who receives a notice of intent to terminate service may, prior to the scheduled date of termination set forth in the notice, request a hearing with the City Manager or his or her designee to dispute the termination. A request for a hearing shall be made in person to the city by the property owner or the property owner's designated representative.

(D) A consumer's water, sewer and/or sanitation service may be disconnected for nonpayment of a bill for water, sewer and/or sanitation service rendered at a previous location served by the city or at the request of the City of Surprise for non-payment of sewer or sanitation charges past due and owing to the City of Surprise.

(E) *Fees.* The fees set forth herein shall apply in the City of El Mirage. The amount of each fee shall be set by resolution of the City Council.

(1) Late fee: A late fee shall be added to a customer's utility bill for each month the outstanding balance is unpaid.

(2) Disconnect fee: A fee shall be added if service is disconnected due to delinquent payment. This fee shall be collected prior to reestablishment of services to said property.

(3) Establishment fee: A fee shall be added to connect service at properties with existing utility services. This fee shall be collected prior to establishing services to said property.

(4) Emergency turn-on/turn-off and after hours fee: A fee shall be charged per event unless at least 24 hours advance notice is given. This fee will be waived if the problem is determined to be on the city side of the meter.

(5) Same day fee: A fee shall be charged per event for services requested by the customer to be performed on the same business day.

(6) Hydrant meter install and relocate fee: A fee shall be charged to install or relocate a hydrant meter.

(7) Door hanger fee: A fee shall be charged for delivery of payment reminder notification to the property address.

(8) Collections fee: A fee will be added to all delinquent accounts referred to an outside collection agency.

(9) Meter testing fee: A fee will be charged for requesting a special testing of a meters accuracy.

(10) Tampering fee: A fee will be charged whenever someone is found to have tampered with water or sewer facilities.

(11) Returned check fee: A fee will be assessed for all checks returned due to insufficient funds.

(F) *Limitation on recovery for utility services (water, sewer and sanitation).* Recovery of amounts owed or credits due under this subchapter shall be limited to the 36-month period immediately preceding the date of the most recent billing by the city. However, the city may extend the period when necessary to ensure that charges for water services are just and reasonable in conformity with state statutes.

(Prior Code, § 14-5-3) (Ord. O00-02-05, passed - - ; Ord. O10-06-08, passed 6-24-2010)

§ 50.063 BILLING DISPUTES.

Any customer who believes the amount of his or her utility bill is incorrect may dispute the amount of the bill by submitting, in person, a written dispute of the bill to the city. The filing of a dispute does not extend the delinquency date for payment of the bill or exempt the customer from delinquency penalties and related fees if payment is delinquent. If a dispute is upheld, the city will reimburse any overpayment.

(Prior Code, § 14-5-4) (Ord. O10-06-08, passed 6-24-2010)

§ 50.064 UNOCCUPIED UNITS LIABLE.

The minimum charges for residential units shall apply regardless of whether the residential unit is occupied or unoccupied.

(Prior Code, § 14-5-5)

§ 50.065 COMMENCEMENT AND APPLICATION OF CHARGES.

The city shall commence service charges for a consumer when the water meter is installed and the connection is made, regardless of whether water is used or not, and the charges shall continue to accrue until the account is properly closed by the consumer in writing at city hall.

(Prior Code, § 14-5-6)

§ 50.066 DEPOSITS; SERVICE CONNECTION CHARGES; INTERRUPTION FEES.

(A) All utility customers, prior to securing service, shall place a deposit along with applicable establishment fees with the city in a sum to be determined by resolution of the Council.

(B) The developer/property, subject to city approval, shall be responsible for installing new water connections, including tapping water mains, installing water service lines, valves and meter boxes or meter vaults. It is the developer's/property owner's responsibility to pay all other associated city fees prior to the city installing a water meter.

(C) A charge, as set by resolution of the Council, shall be made for each turn on or turn off of water for residential units and commercial units.

(Prior Code, § 14-5-7) (Ord. O10-06-08, passed 6-24-2010; Ord. O16-01-01, passed 1-5-2016)

METERS

§ 50.080 GENERAL PROVISIONS.

(A) All water sold by the city shall be metered by meters which shall be owned and maintained by the city.

(B) The city may install a water meter on the property line or on the consumer's property in such location as deemed necessary and which is conveniently accessible by a meter reader.

(C) Water pipes and equipment belonging to the consumer shall be so arranged to permit the placing of a single water meter for that property convenient to the city. If the water pipes and equipment belonging to the consumer are not arranged to permit the placement of a meter and additional meters are required, each such additional meter shall be considered as an additional account and shall be so billed.

(D) When two or more meters are installed on the same premise for different consumers, they shall be closely grouped and each meter shall be clearly marked as to the consumer to which it belongs.

(Prior Code, § 14-6-1)

§ 50.081 INSTALLATION FEE.

Fees for water meter installations shall be established by resolution of the Council.

(Prior Code, § 14-6-2)

§ 50.082 METER READINGS.

(A) Water meters shall be read once per month and a water usage for each separate bill shall be rendered for each meter and mailed to the owner of the property or the owner's authorized representative.

(B) If a water meter fails to operate and a reading cannot be taken, the customer's water usage will be determined based on the average monthly water usage at the property of the highest three months of water usage for said property in the previous 12 months.

(C) In the event any condition (including, but not limited to, dogs, locked gates, overgrown vegetation) on the premises that prevents the reading of a water meter, the customer's water usage will be determined based on the highest water usage at the property in the previous 12 months. The owner is responsible for correcting said condition within 30 days of notification from the city. The city will correct and bill for the cost of corrective actions if no action is taken by the owner.

(D) Any customer may request the city perform a special testing of the customer's water meter upon the payment of a deposit in an amount to be set by resolution of the Council. If the special test indicates that the meter or reading was inaccurate by more than 3%, the deposit shall be returned to the customer and the billing adjusted accordingly; otherwise, the deposit shall be retained by the city as a charge for the special meter testing.

(E) If the results of a meter test reflects greater than a 3% inaccuracy, the city shall replace the meter at no cost to the customer.

(Prior Code, § 14-6-3) (Ord. O10-06-08, passed 6-24-2010)

CONSUMER RESPONSIBILITIES

§ 50.095 CONSUMER WATER FACILITIES.

The consumer shall have complete responsibility for the installation and maintenance of adequate water facilities on the premises, and the city shall not in any way be responsible for the installation, maintenance, inspection, or damage of the facilities or damage caused by any defect in the facilities on the consumer's premises. In addition, the facilities shall be maintained by the consumer in full compliance with any and all rules and regulations of the city in addition to applicable state statutes.

(Prior Code, § 14-7-1)

§ 50.096 DAMAGE TO WATER FACILITIES.

Any damage to the city water system on the consumer's premises shall be repaired or replaced by the consumer. In the event the consumer fails to make the repair or replacement, the city may do so and the cost of such shall be added to the consumer's bill. If the charges are not paid, water service may be discontinued.

(Prior Code, § 14-7-2)

§ 50.097 RIGHT-OF-WAY.

Each consumer shall provide to the city such easement and right-of-way as are necessary to provide water service to that consumer.

(Prior Code, § 14-7-3)

§ 50.098 INSTALLATION OF LINES.

The city may refuse to provide service unless the lines or piping are installed on the premises so as to prevent cross-connections or backflow.

(Prior Code, § 14-7-4)

§ 50.099 PROTECTION OF CITY PROPERTY.

The consumer shall guarantee proper protection for city property placed on his or her premises and shall permit access to it only to authorized representatives of the city.

(Prior Code, § 14-7-5)

§ 50.100 PROHIBITED USES.

No occupant or owner of any building into which water is introduced will be allowed to supply water to other persons or families or for use on any other property. The city reserves the right to shut off the supply for abuses of water privileges after providing written notice and an opportunity for a hearing to the consumer.

(Prior Code, § 14-7-6)

§ 50.101 COMMERCIAL USE.

Any water service for commercial use shall not be included in a residential service account and shall have a separate meter and connection.

(Prior Code, § 14-7-7)

§ 50.102 SPRINKLING RESTRICTIONS.

In case of water shortage or scarcity, the Council may, by resolution, place any restrictions which it deems necessary upon the use of water for irrigation or sprinkling purposes.

(Prior Code, § 14-7-8)

§ 50.103 WASTE OF WATER.

(A) It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity 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 city.

(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 traffic, or to cause damage to the public streets of the city through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch in which the person has a vested right or interest, or through the willful or negligent failure of the person to accept irrigation water after it has been ordered by him or her.

(C) Any person engaged in activities such as the washing of cars, boats, and so forth shall use a water bucket and shall keep any water sprayed from a hose to the least amount possible. Under no circumstances may a person allow water to run continuously from a hose into the street.

(D) No person draining a swimming pool or backwashing a swimming pool filter shall allow the water to run into the street. All such water must either be entirely contained on the person's property, or in the alternative, pumped directly into the sewer line where it can be recaptured.

(E) All persons owning property which has plants which must be watered shall design their landscaping in such a way to ensure that when watering, the water does not escape their property.

(F) Special events utilizing water, such as charity car washes or a Firefighter's Muster, shall not be allowed except upon the express permission of the city. Any person requesting a permit shall make written application on a form provided by the city, and shall fulfill any reasonable conditions placed on the issuance of the permit as the city may require. The applications shall be filed with the City Clerk, reviewed by the Building Inspector, and sent to the Council for approval. Prior to the issuance of any permit, the applicant will be advised of the city's goal to conserve water and that the applicant will be expected to operate the special event in the way that will use the least water.

(G) Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. All water outlets, including those used in conjunction with hydrants, urinals, water closets, bathtubs, and other fixtures, must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for code violations, the water supply may be turned off where any such waste occurs after providing written notice and an opportunity for a hearing to consumer.

(Prior Code, § 14-7-9) Penalty, see § 50.999

§ 50.104 INSPECTIONS.

Whenever, in the judgment of the City Manager or his or her designee, it is deemed necessary, he or she may inspect the premises or buildings of any water consumer for the purpose of examining the condition of all pipes, motors, meters, and water fixtures, or the manner in which the water is used. He or she shall be vigilant to protect and remedy all abuses, whether from waste or other improper use of water.

(Prior Code, § 14-7-10)

§ 50.105 THEFT OF WATER.

A person commits theft punishable under this code if, without lawful authority, the person knowingly obtains water without paying or diverts water to his or her own or another's benefit without authority to do so, or tampers with a water meter in such a manner as to alter or damage the meter or obtain any water without payment.

(Prior Code, § 14-7-11)

BACKFLOW PREVENTION AND CROSS-PREVENTION CONTROL

§ 50.120 PURPOSE.

All provisions for this subchapter shall be interpreted to give effect to the following purposes for which it is enacted:

(A) To protect the public potable water supply of the City of El Mirage from the possibility of contamination or pollution by preventing the backflow of contaminants and pollutants into the public potable water supply system;

(B) To promote the elimination or control of existing cross-connections, actual or potential, with a customer's internal potable water system, plumbing fixtures and industrial piping systems; and

(C) To provide for a continuing program of cross-connection control which will prevent the contamination or pollution of the public potable water supply system.

(Prior Code, § 14-10-1)

§ 50.121 BACKFLOW PREVENTION REQUIRED.

(A) An approved backflow prevention assembly shall be utilized or installed at every service connection to a customer's water system or at any usage point in the water system when the Water Department ("Department" herein) determines that the potable water supplied by the city may be subject to contamination, pollution, or other deterioration in sanitary quality as a result of conditions within the customer's water system.

(B) The backflow assembly to be utilized or installed shall be determined by the Department. The method required by the Department shall be sufficient to protect against the potential degree of hazard, as determined by the Department, to the public potable water supply from the customer's water system.

(Prior Code, § 14-10-2)

§ 50.122 HAZARD POTENTIAL.

The degree of hazard potential to the public potable water supply and system from a customer's water supply system shall be determined using the following hazard factors.

(A) *Contamination*. Any condition, device or practice which, in the judgment of the Department, may create a danger to the health and well-being of the potable water customers.

(B) *Cross-connection*. An actual or potential plumbing-type connection that is not properly protected by an approved backflow prevention assembly.

(C) *Hazard*. An actual or potential threat which may cause severe damage to the physical facilities of the public potable water supply system to which may have a protracted effect on the quality of the potable water in the system.

(D) *Pollution*. An actual or potential threat to the physical facilities of the public potable water supply system or to the public potable water supply which, although not dangerous to health, would constitute a nuisance or be aesthetically objectionable, or could cause damage to the system or its appurtenances.

(Prior Code, § 14-10-3)

§ 50.123 BACKFLOW PREVENTION METHODS; LIST.

(A) A backflow prevention method shall be any assembly or other means designed to prevent backflow. The following are the recognized backflow prevention methods which the Department may require under § 50.121 or § 50.124.

(1) *Air gap*. The unobstructed vertical distance through the free atmosphere between the opening of the pipe or faucet supplying potable water to a tank, plumbing fixture, or other device. An approved air gap shall be at least double the diameter of the supply pipe or faucet and in no case less than one inch.

(2) *Reduced pressure principle assembly (hereinafter "RPA")*. An assembly containing two independent acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves, and at the same time below the first check valve. The assembly shall include properly located test cocks and tightly closing shut-off valves located at each end of the assembly and fitted with properly located test cocks.

(3) *Double check valve assembly (hereinafter "DCVA")*. An assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves located at each end of the assembly and fitted with properly located test cocks.

(4) *Pressure vacuum breaker assembly (hereinafter "PVB")*. An assembly containing an independently operating, loaded check valve and an independently operating, loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks and tightly closing shut-off valves located at each end of the assembly.

(B) A backflow prevention assembly may be approved by the Department if it has received the approval of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California and has conformed to the 1991 Edition of the UPC.

(C) The Department shall maintain a list of approved backflow prevention assemblies, by type and manufacturer. The list shall be available to any customer required to install a backflow prevention assembly.

(Prior Code, § 14-10-4)

§ 50.124 BACKFLOW PREVENTION METHODS REQUIRED.

(A) Whenever the following items exist or activities are conducted on premises served by the public potable water system, a potential hazard to the public potable water supply shall be presumed, and a backflow prevention method of the type specified herein for that item or activity must be utilized or installed at each service connection for that premise. The type and size of the assembly shall be determined by the Department. The basis for these requirements is contained in the *Manual of Backflow Prevention and Cross-Connection Control Program* as is further set forth in § 50.136.

(1) Cooling tower, boiler, condenser, chiller, and other cooling systems utilizing potable water: RPA.

(2) Tank, vessel, receptacle, and all other water connections including mobile units without approved air gap (except emergency vehicle and private swimming pools): RPA.

(3) Icemaker (other than a residential service): RPA.

(4) Water cooled equipment, boosters, pumps, or autoclaves: RPA.

(5) Water treatment facilities and all water processing (other than residential water softeners): RPA.

(6) Bottle washer, bedpan washer, garbage can washer: RPA.

(7) Pesticide, herbicide, fertilizer, and chemical applicators (other than typical in-home use): RPA.

(8) Aspirator: RPA.

(9) Commercial dishwasher, food processing, and/or preparation equipment, carbonation equipment, or other food service processes utilizing potable water: RPA.

(10) Decorative fountain, baptismal, or any location water is exposed to atmosphere: RPA.

(11) X-ray equipment, plating equipment, or any other photographic processing equipment utilizing potable water: RPA.

(12) Auxiliary water supply and/or connections to unapproved water supply systems: RPA.

(13) Reclaimed water customers: RPA.

(14) Recreational vehicle dump stations (sewer), or any other locations where potable water may be exposed to bacteria, virus, or gas: RPA.

(15) Any premises on which chemicals, oils, solvents, pesticides, disinfectants, cleaning agents, acids, or other pollutants and/or contaminants are handled in a manner by which they may come in direct contact with potable water, or there is evidence of the potential to contact potable water (other than typical, infrequent in-home applications): RPA.

(16) Materials and piping systems unapproved by the Uniform Plumbing Code (UPS) or Environmental Protection Agency for potable water usage (for fire systems see the following listings: 20, 21, and 22): Contaminant: RPA Pollutant: CDVA.

(17) Separately metered or unprotected irrigation systems, and construction water services: RPA or PVB - Pollutant: CDVA.

(18) Any premises where a cross-connection is maintained or where internal backflow protection is required pursuant to the Uniform Plumbing Code: RPA.

(19) Multi-metered properties with more than one meter connected to another or any building three stories or greater than 34 feet in height from service level: DCVA.

(20) Fire Systems - American Water Works Association Classes 1 and 2 systems constructed of a piping material not approved for potable water pursuant to the Uniform Plumbing Code as adopted by the city: as required by the City of El Mirage.

(21) Fire Systems-American Water Works Association Classes 3, 4, 5, 6: DCVA or RPA as allowed. Backflow assemblies with detectors may be required by the Department for certain installations.

(22) Fire systems which require backflow protection and where backflow protection is required on the industrial/domestic service connection that is located on the same premises, both service connections will have adequate backflow protection for the highest degree of hazard affecting either system: RPA - (Requirement may be waived by the Department).

(B) When two or more of the activities listed above are conducted on the same premises and served by the same service connection or multiple service connections, the most restrictive backflow prevention method required for any of the activities conducted on the premises shall be required to be utilized or installed at each service connection. The order of most restrictive to least restrictive backflow prevention methods shall be as follows:

(1) Air gap (most restrictive);

(2) Reduced pressure principle assembly (RPA);

(3) Double check valve assembly (DCVA); and

(4) Pressure vacuum breaker assembly (PVB) (least restrictive).

(Prior Code, § 14-10-5)

§ 50.125 BACKFLOW ASSEMBLY INSTALLATION REQUIREMENTS.

(A) Backflow prevention assemblies shall be installed by the customer, at the customer's expense, and in compliance with the standards and specifications adopted by the city, at each service connection as close to the service connection as possible and on private property unless otherwise authorized. The assembly shall have a diameter at least equal to the diameter of the supply piping or service connection as required by UPC.

(B) The assembly shall be in an accessible location approved by the Department. The reduced pressure principle assembly, pressure vacuum breaker assembly, and the double check valve assembly shall be installed above ground.

(C) When a customer desires a continuous water supply, two backflow prevention assemblies shall be installed parallel to one another at the service connection to allow a continuous water supply during testing of the backflow prevention assemblies. When backflow prevention assemblies are installed parallel to one another, the sum of the cross-sectional areas of the assemblies shall be at least equal to the cross-sectional area of the service connection.

(D) No person shall alter, modify, bypass, or remove a backflow prevention assembly without the approval of the Department.

(Prior Code, § 14-10-6) Penalty, see § 50.999

§ 50.126 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLIES FOR FIRE SYSTEMS.

In addition to the requirements of § 50.124, the following shall also apply:

(A) Fire protection systems consist of sprinklers, hose connections, and hydrants. Sprinkler systems may be dry or wet, open or closed. Systems of fixed-spray nozzles may be used indoor or outdoors for protection of flammable liquid and other hazardous processes. It is standard practice, especially in cities, to equip automatic sprinkler system with Fire Department pumper connections.

(1) A meter (compound, detector check) should not normally be permitted as part of a backflow prevention assembly. An exception may be made, however, if the meter and backflow prevention assembly are specifically designed for that purpose.

(2) For cross-connection control, fire protection systems shall be classified on the basis of water source and arrangement of supplies as follows:

(a) Class 1 - Direct connections from public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to atmosphere, dry wells, or other safe outlets. For minimum protection, see § 50.124;

(b) Class 2 - Same as Class 1, except that booster pumps may be installed in the connections from the street mains. Booster pumps do not affect the potability of the system; it is necessary; however, to avoid drafting so much water that pressure in the water main is reduced below 20 psi. For minimum protection, see § 50.124;

(c) Class 3 - Direct connection from public water supply main plus one or more of the following: elevated storage tanks, fire pumps taking suction from above-ground covered reservoirs, or tanks; and pressure tanks (all storage facilities are filled or connected to public water only, the water in the tanks to be maintained in a potable condition). Otherwise, Class 3 systems are the same as Class 1. Class 3 systems will generally require minimum protection (approved double-check valves) to prevent stagnant waters from backflowing into the public potable-water system;

(d) Class 4 - Directly supplies from public mains similar to Classes 1 and 2, and with an auxiliary water supply on or available to the premises; or an auxiliary supply may be located within 1,700 feet of the pumper connection. Class 4 systems will normally require backflow protection at the service connection. The type (air gap or reduced pressure) will generally depend on the quality of the auxiliary supply;

(e) Class 5 - Directly supplies from public mains, and interconnect with auxiliary supplies, such as: pumps taking suction from reservoirs exposed to contamination, or rivers and ponds, driven wells, mills, or other industrial water system; or where anti-freeze or other additives are used. Class 4 and 5 systems normally would need maximum protection (air gap or reduced pressure) to protect the public potable water system; and

(f) Class 6 - Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks. Class 6 system protection would depend on the requirements of both industry and fire protection, and could only be determined by a survey of the premises.

(B) When a backflow prevention assembly is required for a water service connection supplying water only to a fire system, the assembly shall be installed on the service line in compliance with standard specifications adopted by the City of El Mirage. (Installation of DCVA's or DDCVA's in a vertical position on the riser may be allowed on fire systems with the Department's approval.)

(Prior Code, § 14-10-7)

§ 50.127 INSPECTIONS.

A customer's water system shall be available at all times during business operations for premises inspection by the Department. The inspection shall be conducted to determine whether any cross-connection or other hazard potentials exist and to determine compliance with this subchapter and modifications, if any, pursuant to § 50.130.

(Prior Code, § 14-10-8)

§ 50.128 PERMIT REQUIRED.

Installation permits for the installation of all backflow prevention assemblies required by the Department shall be obtained from the

Department prior to installation. A separate permit shall be obtained for each required backflow prevention assembly to be installed, including any replacement.

(A) *Notification*. It shall be the duty of the person doing the work authorized by the permit to notify the Department, orally or in writing, that the system is ready for inspection. The notification shall be given not less than 24 hours before the work is to be inspected and shall be given only if there is reason to believe that the work done will meet UPC and current USCS standards, as are referenced in the *Backflow Prevention Manual*.

(B) *Stop orders*. Whenever any work is being done contrary to the provisions of the UPC or this code, the Department or an authorized representative may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done, and any such person shall forthwith stop the work until authorized by the Department to proceed with the work.

(C) *Suspension or revocation*. The Department or any employee may, in writing, suspend or revoke a permit issued under provisions of this code, whenever the permit is issued in error or on the basis of incorrect information supplies, or in violation of any ordinance or regulations of any provision of the UPC or this code.

(D) *Permit fee*. A fee will be required on all backflow preventions. The fee for the permit is $39.

(Prior Code, § 14-10-9) Penalty, see § 50.999

§ 50.129 TESTS, MAINTENANCE, RECORDS.

(A) The customer shall be responsible for testing and servicing backflow prevention assemblies at least once a year. If the testing reveals the assembly to be defective or in unsatisfactory operating condition, the customer shall be responsible for any necessary repairs, including replacement or overhaul of the assembly, if necessary, which will return the assembly to satisfactory operating condition.

(B) If the Department or a customer learns or discovers, during the interim period between tests, that an assembly is defective or in unsatisfactory operating condition, the customer shall be responsible for any necessary repairs, including replacement or overhaul of the assembly, if necessary, which will return the assembly to satisfactory operating condition.

(C) The annual testing shall be performed by an individual certified to conduct the testing by the American Water Works Association agency, approved by the Department, and licensed by the American Water Works Association (AWWA) unless otherwise authorized by the Department. Additionally, the Department reserves the right to require further examination and/or qualifications for recognition as an approved tester. A list of certified, approved, and recognized individuals will be maintained by the Department and will be available upon request to all persons required to install or maintain a backflow prevention assembly. A certification issued to a backflow prevention assembly tester may be revoked or suspended for improper testing, maintenance, reporting, or other improper practices.

(D) The tester shall be responsible for providing the results of all tests and all servicing, repairs, overhauls, or replacements of the backflow prevention assembly to the Department.

(E) Fire systems shall not be out of service for more than eight consecutive hours due to testing, maintenance, or repairs. The City of El Mirage Fire Department having jurisdiction, shall be issued 24-hour notice prior to shut-off and immediate notice of re-connection. Fire system flow test shall be performed in conjunction with the backflow assembly testing on all fire systems.

(Prior Code, § 14-10-10)

§ 50.130 MODIFICATION OF BACKFLOW PREVENTION REQUIREMENTS.

If the Department determines, after inspection of the customer's system, that a backflow assembly less restrictive than that required in § 50.124 will provide adequate protection of the public potable water supply from the degree of hazard potential by the customer's water system, the Department may, at its sole discretion, modify the requirement of § 50.124 accordingly. A written record of the modification shall be maintained by the Department.

(Prior Code, § 14-10-11)

§ 50.131 DISCONTINUANCE OF WATER SERVICE.

(A) If the Department discovers that a customer has not installed a required backflow assembly or that a backflow assembly has been improperly tested or maintained, bypassed or removed, or that an unprotected cross-connection exists in the customer's water system, the water service to that service connection shall be disconnected if the situation is not remedied within the time specified in the notice sent to the customer as required by this section. The service shall not be restored until the condition is remedied.

(B) Water service to a fire sprinkler system shall not be subject to disconnection under this section. If a situation, which would otherwise result in discontinuance of water service in division (A) of this section, is not remedied within the time provided in the notice sent to the customer, multiple violations will accrue for each day the violation continues.

(C) Prior to disconnecting any water service because a condition set forth in division (A) of this section exists, the Department shall issue a notice to the customer describing the condition and notifying the customer that the condition must be remedied within 45 days from the initial inspection date. If there is no immediate action on the part of the customer, a second notice will be sent 30 days after the initial inspection date stating that water service will be disconnected within 15 days of the second notice. If there is still no action, a turn off notice shall be sent to the customer stating that service will be disconnected on date certain (approximately seven days from the date of the turn off notice). For retrofit notification procedures, see § 50.134.

(Prior Code, § 14-10-12)

§ 50.132 ADMINISTRATIVE APPEAL.

(A) An administrative appeal may be requested whenever a violation or dispute of any of the requirements of this subchapter is determined, whether during construction or at the plan review stage, and the applicant wishes to appeal the decision of the staff because of code interpretation, unreasonable hardship, or other acceptable reasons.

(B) The appeal may be made to the Backflow Cross-Connection Hearing Committee as follows.

(1) The applicant shall file a written appeal on the forms provided by the Department.

(2) The appeal will be heard within seven days, at a regular, specified time.

(3) The Hearing Committee shall consist of the Public Works Director, and the Mayor. Additional inspectors or other technical persons may be added for a particular appeal, at the discretion of the Department.

(4) Adequate information shall be provided by the applicant in order to fully describe the conditions in question.

(5) The applicant may, but is not required to, personally attend the meeting.

(6) There shall be no further appeal following the Committee's decision which shall be binding on the city and the applicant.

(Prior Code, § 14-10-13)

§ 50.133 VIOLATION A CIVIL INFRACTION.

If the Department discovers a cross-connection problem has occurred which results in contamination of the public water system, the City of El Mirage will forward a written cross-connection incident report within five business days to the local health authority containing the following information:

(A) Date and time of discovery of the unprotected cross-connection;

(B) Nature of the cross-connection problem;

(C) Affected area;

(D) Cause of the cross-connection problem;

(E) Public health impacts;

(F) Dates and texts of any public health advisories issued;

(G) Corrective action taken; and

(H) Date of completion of corrective action.

(Prior Code, § 14-10-14)

§ 50.134 RETROACTIVE APPLICATION.

(A) The provisions of this subchapter shall apply to all new water customers or users and all water customers or users existing prior to the enactment date of this subchapter. Non-compliance may result in discontinuance of water service without further notice.

(B) Backflow prevention assemblies installed prior to enactment of this subchapter, and which do not comply with the requirements set forth herein, shall be replaced with assemblies which comply with the standards set forth herein.

(C) The initial backflow assembly installation permit fee required by § 50.135 shall be waived by the Department for retrofit premises only.

(D) Meters documented as running backwards or contamination conditions as defined in § 50.122 shall be immediately addressed under § 50.131, and the provisions of § 50.131(A) shall not apply to them.

(Prior Code, § 14-10-15)

§ 50.135 FEES; RULES AND REGULATIONS.

(A) The fee for any permit required pursuant to the terms of this subchapter shall be established and modified by Council resolution from time to time. The water user will be responsible for initial testing after installation. Fees shall be payable at the time of obtaining a permit.

(B) The Department may adopt from time to time, rules and regulations required to enforce the provisions of this subchapter.

(C) All such rules and regulations shall have the force and effect of law. Violation of same shall be considered a violation of city code and prosecuted as such.

(Prior Code, § 14-10-16)

§ 50.136 BACKFLOW AND CROSS-CONNECTION MANUAL INCORPORATED BY REFERENCE.

(A) All information and technical requirements not specifically set forth in this subchapter (standard details and the like) will be a matter of public record and will be contained in the following document.

University of Southern California

Manual of Cross-Connection Control published by:

Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California

Dated June, 1988, or the latest revision thereto.

(B) The manual is adopted by this reference as part of this subchapter and shall be available to the public during the Department's normal business hours for inspection and purchase. Three copies of the manual shall be kept on file in the City Clerk's office.

(Prior Code, § 14-10-17)

LIABILITY

§ 50.150 INTERRUPTION OF SERVICE.

The City of El Mirage shall notify the consumer in advance of any anticipated interruption of service when advance notice is possible. The city shall not be responsible for any interruption of water service caused by forces beyond its control.

(Prior Code, §§ 14-8-1 and 14-11-1)

§ 50.151 LIABILITY LIMITED.

No liability shall attach to the city for any injury or damages that may result from turning on or shutting off the water in any main service connection or pipe; or the restriction of use or discontinuance of any water service, or any failure of the water supply, regardless of any notice or lack of notice thereof. The city shall not be held liable, in any respect, for the condition, defects, failure, or use of any pipe, connection, fixture, or appurtenance not belonging to the city, or any premises, or for loss or damage resulting therefrom.

(Prior Code, §§ 14-8-2 and 14-11-2)

§ 50.152 REGULATIONS PART OF CONTRACT.

All regulations contained in this subchapter or adopted pursuant to same shall be considered a part of the contract of every consumer/occupant taking water service from the city, and the consumer/occupant taking water service shall be considered as having expressly consented to be bound thereby. Consumers outside the city limits shall, upon application for water service, be required to sign a statement agreeing to the regulations set forth in this subchapter.

(Prior Code, § 14-11-3)

§ 50.153 UNAUTHORIZED USE; TAMPERING; DAMAGES.

(A) Any person who engages in the unauthorized use of water services shall be subject to a tampering fee set by resolution of Council, criminal charges, and charges for the estimated amount of water used for each occurrence of unauthorized use of water services. Unauthorized use of water services shall mean the taking of service by:

(1) Turning or attempting to turn service on without authority;

(2) Connecting or attempting to connect directly into service or hydrant without a meter;

(3) Intentionally or knowingly connecting or attempting to connect directly to other properties or service connections;

(4) Intentionally or knowingly modifying or attempting to modify a meter or service apparatus so as to cause loss or reduction in consumption registration; or

(5) Intentionally or knowingly modifying or attempting to modify a service connection to by-pass a meter.

(B) A tampering fee assessed pursuant to this section shall be charged against the premises, and no water service shall be provided to the premises until the tampering fee is paid in full. The provisions of this section shall not preclude the filing of criminal charges or criminal penalties.

(C) Charges for damages and/or special services will be assessed based upon materials and/or labor plus a 15% administrative fee. The charges for damages and special services shall be assessed against the premises, and the supply of water to such premises shall be withheld until such sum is paid. The provisions of this section shall not preclude the filing of criminal charges or criminal penalties.

(D) The city is hereby authorized to disconnect water service to any premises served in violation of this section.

(E) Investigation of criminal charges for theft of water services and damages to city property shall be investigated by the City of El Mirage Police Department.

(Ord. O10-06-08, passed 6-24-2010)

§ 50.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be a civil infraction punishable by a fine of up to $1,000 for each day a violation of any provision of §§ 50.120 through 50.136 continues. If the violation consists of a failure to obtain a permit for installation or inspection of a backflow device, the fine shall be a minimum of $250 for the first violation, $500 for a second violation, and$1,000 for a third violation. If the violation consists of a failure to timely report the results of testing or retesting of a backflow device, the fine shall be minimum of $450 per day for each

working day a violation continues.

(Prior Code, § 14-10-14)

(C) Theft of water fines will be on a case by case basis from $0 to $500 per day per occurrence. The fines will be assessed and billed by the Water Department.

(Prior Code, § 14-10-18)

CHAPTER 51: SEWERS

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GENERAL PROVISIONS

§ 51.001 DEFINITIONS.

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

APPROVED LABORATORY PROCEDURES. The measurements, tests, and analyses of the characteristics of water and wastes in accordance with analytical procedures as established in 40 C.F.R. part 136 as revised.

BIOCHEMICAL OXYGEN DEMAND (B.O.D.). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C expressed in milligrams per liter.

BRANCH SEWER. A sewer which receives sewage from lateral sewers from a relatively small area.

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

CATEGORICAL STANDARD. Federal categorical pretreatment standards issued in accordance with § 307 of the Clean Water Act.

CITY. The City of El Mirage, Arizona.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

DEVELOPER. Any person engaged in the organizing and financing of a sewage collecting system within an area contributing to a trunk sewer of the city sewer system. Such may be either a subdivider or a legally constituted improvement district.

DOMESTIC WASTE. A typical, residential-type waste which requires no pretreatment under the provisions of this chapter before discharging into the sanitary sewer system, excluding all commercial, manufacturing, and industrial wastes.

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

INDUSTRIAL DISCHARGE. Any introduction into the POTW of a non-domestic pollutant which:

(1) Is produced by a source which would be subject to any categorical standards or pretreatment requirements if such source were to be discharged to the POTW; and

(2) Contains any substance or pollutant for which a discharge limitation or prohibition has been established by any categorical standard or pretreatment requirement.

INDUSTRIAL USER.

(1) Any non-residential user of the sewer system which discharges more than the equivalent strength of 25,000 gallons per day of domestic wastes;

(2) Any non-residential user of the sewer system which either discharges or produces a waste which potentially could be discharged to the POTW which would be subject to any categorical standard or pretreatment requirement;

(3) Has control over the disposal of a waste as described in divisions (1) and (2) above; and/or

(4) Has the right of possession and control over any property which produces a waste as described in division (1), (2), or (3) above.

INDUSTRIAL USER PERMIT or ***PERMIT.*** The permit granted by the city which each industrial user must first obtain prior to causing or allowing any industrial discharge to the POTW.

INDUSTRIAL WASTES. Liquid wastes from industrial users.

INTERFERENCE. Inhibition or disruption of the sewer system, treatment process, or operations as the result of the discharge of any pollutant capable of causing or significantly contributing to the:

(1) Violation of any NPDES permit standard which has been imposed on the city;

(2) City's inability to reasonably allow the maximum benefit reuse of POTW residuals; or

(3) City's ability to reasonably provide the least expensive method of disposal for POTW residuals.

LATERAL SEWER. A sewer which receives sewage from one or more branch sewers as tributaries.

MAIN SEWER. A sewer which receives sewage from one or more branch sewers as tributaries.

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

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

POTW. Publicly-owned treatment works, and includes all facilities for collecting, transporting, pumping, treating, and disposing of

sewage, which are owned and/or operated, in whole or in part, by the city and which provide the city with wastewater collection and disposal services.

PRETREATMENT. The physical, chemical, biological, or other treatment of any industrial discharge prior to discharge to the POTW, for the purpose of:

(1) Reducing the amount or concentration of any pollutant;

(2) Eliminating the discharge of any pollutant; or

(3) Altering the nature of any pollutant characteristic to a less harmful state.

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.

REPLACEMENT. Those expenditures made for obtaining and installing equipment, accessories, and/or appurtenances during the useful life of the treatment works which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.

SANITARY SEWER. A sewer connected to the POTW which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

SEWAGE. 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.

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 CONNECTION FEE. The initial sewer connection charge as set forth in § 51.016 and shall apply to all sewer connections to the public sewer.

SEWER DEPARTMENT. Those officers and agents of the city supervising sewer operations for the city.

STANDARD METHODS. The procedure as described in the most current edition of *Standard 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 U.S. Environmental Protection Agency.

STORM SEWER or ***STORM DRAIN.*** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

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

TRUNK SEWER. A sewer which receives sewage from many tributary main sewers and serves as an outlet for a large territory.

USER. Any person, entity, lot, parcel of land, building, premises, municipal corporation, or other political subdivision that discharges, causes, or permits the discharge of wastewater into the sewage system.

WASTEWATER. Any liquid- or water-carried pollutant, including an industrial discharge, which is introduced into the sewage works from any dwelling, commercial building, industrial facility, or institution or by any user.

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

(Prior Code, Art. 16-1)

RULES AND REGULATIONS

§ 51.015 APPLICATION FOR SERVICE.

(A) No sewer connection to the city POTW shall be made by any person or the city except upon approval of the city. A written application for sewer connection shall be furnished to the city by the owner, as reflected in the records of the Maricopa County Assessor's Office, of the property to which sanitary sewer service is to be furnished or by the owner's designated representative, evidenced by a notarized power-of-attorney signed by the owner, or by such other alternative means as set by the city. If ownership of a recent transferee of property is not reflected in the County Assessor's records, ownership may be established by a fully executed sales agreement or other documentation acceptable to the city.

(B) An initial sewer connection fee shall be required in addition to a monthly charge for the sanitary sewer connection according to the rates fixed by the city until the service is discontinued by order of the Public Works Department or written order of the owner or the owner's designated representative. A charge shall be made for re-application of service to an existing connection. Any sewer connection fee is non-refundable. Sewer connection fees will be waived by the city for all properties, both residential and commercial, located within city limits that sign up for connection for the POTW prior to July 1,1987, and whose use was in existence prior to May 1, 1987.

(Prior Code, § 16-2-1) (Ord. O10-06-08, passed 6-24-2010)

§ 51.016 CHARGES AND FEES.

The sewer connection fee and monthly charge shall be as determined from time to time by resolution of the Council.

(Prior Code, § 16-2-2)

EXTENSION POLICY

§ 51.030 EXTENSION POLICY.

(A) When it becomes necessary to extend main sewers from a distant point in order to serve a new development, the cost of the main extension (hereafter "extension main") will be the responsibility of the developer. In no case will the developer be required to pay for an extension main exceeding 18 inches in diameter. The city reserves the right to increase the diameter of an extension main beyond 18 inches; in such case, the developer shall pay only that portion of the cost as would have been incurred were an 18-inch extension main installed.

(B) Plans and specifications for all extension mains must be approved by the City Engineer. Engineering costs incurred by the developer for preparation of plans and specifications and staking of extension mains may be included in repayment agreements pursuant to division (E) of this section. The cost of branch sewers and lateral sewers within the boundaries of the development shall not be eligible for inclusion in extension main repayment agreements.

(C) Sealed bids for construction of extension mains shall be submitted to the office of the City Manager. The city and developer, together and separately, reserve the right to reject any and all bids. Construction costs for extension mains shall be determined in advance of construction. Upon completion, extension mains shall become the property of the city which shall maintain exclusive control of connections.

(D) In the event any subsequent developer desires to connect onto the extension main, the city shall enter into an agreement with subsequent developer establishing an equitable and reasonable charge to permit the connections. The charge shall be established giving due consideration to the effective drainage area of the extension main and be computed on a per-acre basis.

(E) Extension main connection charges as provided in division (D) of this section shall be repaid to the original developer. The total of the repayments shall not exceed the original construction cost. The period of any repayment agreement negotiated pursuant to this section shall not extend beyond 15 years from the date construction of the extension main has been completed. No interest may be accrued to the original construction cost.

(Prior Code, Art. 16-3)

DEPARTMENT AND CONSUMER RESPONSIBILITIES

§ 51.045 SEWER DEPARTMENT RESPONSIBILITIES AND LIABILITIES.

(A) The Sewer Department shall not be responsible for the installation, maintenance, or inspection of the user's building sewer, piping, or apparatus or for any defects therein.

(B) The Sewer Department shall have the right to refuse service, unless the building sewer is installed in such manner as to prevent cross-connections or backflow.

(C) Under normal conditions, the user shall be notified of any anticipated interruption of service.

(D) The Sewer Department shall not be responsible for the negligence of third persons or forces beyond the control of the Sewer Department resulting in any interruption of service or damage to the property of the user.

(E) The Sewer Department may refuse service to any prospective user when the capacity of the POTW will not permit additional loads being placed thereon.

(F) The Sewer Department may discontinue its service for the following additional reasons:

(1) To prevent fraud or abuse; and

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

(Prior Code, § 16-4-1)

§ 51.046 USER RESPONSIBILITY.

(A) Building sewer connections on the user'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 user's building sewer line, sewer connection, and apparatus shall be installed and maintained by the user, at the user's expense, in a safe and efficient manner and in accordance with the Sewer Department's rules and regulations and in full compliance with the regulations of the State Department of Health Services.

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

(D) In the event that any loss or damage to the property of the Sewer Department or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the user, his or her agents, or employees, the cost of necessary repairs or replacements shall be paid by the user to the Sewer Department and any liability otherwise resulting shall be the responsibility of the user. The user agrees to indemnify the city, its agents, and employees against any loss or liability resulting therefrom. In addition, the amount of the loss or damage or the cost of repairs may be added to the user's bill, and, if not paid, service may be discontinued as set forth herein.

(E) When service to a user shall require the laying of any city sewer lines or the installation of any other city property on, under, across, or over the user's property, the user will grant to the city an easement, right-of-way, or license for the installation.

(Prior Code, § 16-4-2)

§ 51.047 INTERFERENCE WITH SEWER DEPARTMENT OR BUILDING INSPECTOR; DIGGING UP STREETS WITHOUT PERMIT.

It is unlawful for any person:

(A) To interfere in any way with the officers of the City Sewer Department or Building Inspector in the discharge of any of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the city, or in the laying or connecting of the pipe, main, or lateral;

(B) To dig up or cause to be dug up any street or alley in the city for the purpose of connection with the sewer system of the city without first obtaining a permit from the Sewer Department;

(C) Fail or neglect to replace the street or alley in its original condition under the supervision of the Sewer Department and as

required by it, or to fail to supply the city with a performance bond or cash deposit, if required by the Sewer Department, to guarantee the full, proper, and timely street or alley repair; and

(D) Tapping of any sewer pipe, main, or lateral except in the presence and under the inspection of a proper representative of the Sewer Department.

(Prior Code, § 16-4-3) Penalty, see § 51.999

§ 51.048 UNSANITARY DISPOSAL OF EXCREMENT PROHIBITED.

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

(Prior Code, § 16-4-4) Penalty, see § 51.999

§ 51.049 PRIVATE SEWAGE SYSTEMS.

(A) *Treatment of polluted wastes required*. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided, in accordance with provisions of this subchapter.

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

(C) *When permitted; sanitation*. Where a public sanitary or combined sewer is not available within the city or in any area under the jurisdiction of the city, the building sewer shall be connected to a private sewage disposal system, which complies with the provisions, recommendations, and regulations of the Arizona Department of Environmental Quality (ADEQ) and the sanitary code of the county health department. Such installations must be approved in writing by the City Engineer prior to requesting a permit from the county. The private sewage disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

(D) (1) *Discontinuance*. Within 180 days after a public sewer becomes available within 300 feet of and directly adjacent to any property served by a private sewage disposal system, a direct connection shall be made to the public sewer, at the property owner's expense, and in accordance with the provisions of this subchapter, and any septic tanks, cesspools, and similar private sewage facilities shall be abandoned and filled with suitable material.

(2) Notwithstanding division (D)(1) above and within 60 days of receiving an official notice from the city of noncompliance with division (D(1), the property owner may petition the City Engineer to continue operating and maintaining the private system upon providing the City Engineer with a recent (no older than five years) inspection report conducted at the property owner's expense, by a qualified firm or the County Health Department, establishing the private system is operating properly and poses no environmental problems or hazards. The inspection report shall include an expiration date or a recommended date for re-inspection, at which time the City Engineer may request a new inspection report. At any time the City Engineer determines an inspection report to be inadequate, the property owner will be given 180 days within which to connect to the public sewer and to abandon the private system.

(3) At any time a private system, in an area serviced by public sewer, (1) requires repairs or is modified and such repair or modification requires a permit by the county or (2) creates an environmental problem or hazard which is not repaired or which cannot be repaired without a permit issued by the county, the property owner shall immediately make modifications to connect to the public sewer and abandon the existing private system(s) servicing the property.

(4) Any septic tank, cesspool or similar private sewage disposal facilities abandoned pursuant to this section shall be filled with suitable material in accordance with all applicable state and county regulations.

(Prior Code, § 16-4-5) (Ord. O11-01-03, passed 1-13-2011; Ord. O13-06-08, passed 6-4-2013) Penalty, see § 51.999

§ 51.050 TAMPERING WITH EQUIPMENT PROHIBITED.

No person shall break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is the POTW.

(Prior Code, § 16-4-6) Penalty, see § 51.999

§ 51.051 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any POTW without first obtaining a written permit from the Sewer Department.

(Prior Code, § 16-4-7) Penalty, see § 51.999

§ 51.052 APPLICATION.

Upon issuance of a required permit to any person, each and every permit issued shall be presented by the person to the Sewer Department and application made for the building connection.

(Prior Code, § 16-4-8)

§ 51.053 INSPECTION AND APPROVAL BY SEWER DEPARTMENT OR BUILDING INSPECTOR.

No building sewer will be connected to the POTW until it has been inspected and approved by the Sewer Department or Building Inspector.

(Prior Code, § 16-4-9)

§ 51.054 RECORDS TO BE KEPT BY SEWER DEPARTMENT.

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

(Prior Code, § 16-4-10)

§ 51.055 FEES.

The fee for each building sewer connection for all users shall be set by resolution of the City Council. Classes may be established for different users, and different fees established for each class.

(Prior Code, § 16-4-11)

USE OF PUBLIC SEWERS

§ 51.070 PROHIBITED SUBSTANCES AND DISCHARGE LIMITATIONS.

(A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

(B) Except as provided in this section, 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 gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(3) Any garbage that is not properly shredded;

(4) 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 sewers or other interference with the proper operation of the sewer works;

(5) Any waters or wastes having a pH lower than five and one-half or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the POTW;

(6) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the POTW;

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

(8) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(9) Any water or wastewater greater than the following parameters (mg/l):

Total grease, oil, and the like	100.0
Dissolved sulfides	0.5
Cyanide (amenable to chlorination)	0.2
Total cyanide	2.0
Arsenic	0.1
ChromiumVI	0.5
Barium	10.0
Copper	10.0
Boron	10.0
Lead	0.5
Cadmium	0.1
Manganese	0.5

(10) Any water or wastewater that has, in any way, been diluted, as a substitute for pretreatment, for the purpose of obtaining compliance with any categorical standard or pretreatment requirement imposed by this subchapter except where dilution is expressly authorized by any categorical standard;

(11) Any water or wastewater that could cause a violation of any categorical standard or pretreatment requirements;

(12) Any water or wastewater that is transported from the point of discharge to the POTW by any septic tank pumper, chemical waste hauler, or similarly transported unless the transporter has first:

(a) Disclosed to the Sewer Department the origin, nature, concentration, and volume of all pollutants to be discharged; and

(b) Obtained the consent of the Sewer Department to discharge.

(13) Any water or wastewater which could cause interference with POTW operations.

(Prior Code, § 16-5-1) Penalty, see § 51.999

§ 51.071 INTERCEPTORS REQUIRED.

(A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Sewer Department, 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.

(B) 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 gas tight and watertight.

(C) 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.

(Prior Code, § 16-5-2)

§ 51.072 AUTHORITY OF SEWER DEPARTMENT TO ESTABLISH PERMISSIBLE LIMITS, AND IMPOSE CHARGES.

In addition to the discharge limitation contained herein, the city shall have the authority to establish quantity of discharges and permissible limits of concentration for various specific substances, materials, waters, or wastewaters that can be accepted into the POTW, and to specify those substances, materials, waters, or wastewaters that are prohibited from entering the POTW. Each permissible limit so established shall be placed on file with the City Clerk.

(Prior Code, § 16-5-3)

§ 51.073 PRELIMINARY TREATMENT.

(A) *Required*. Where necessary in the opinion of the Sewer Department, any user of the POTW shall provide, at his or her expense, such pretreatment as may be necessary to reduce objectionable characteristics or constituents to within the maximum limits provided for in this subchapter.

(B) *Approval*. Plans, specifications, and any other pertinent information relating to proposed pretreatment facilities shall be submitted for approval of the Sewer Department and the Arizona State Department of Health Services. No construction of the facilities shall be commenced until the approvals are obtained in writing.

(C) *Maintenance of facilities*. Where pretreatment 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.

(Prior Code, § 16-5-4)

§ 51.074 CONTROL MANHOLES.

When required by the Sewer Department, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation and sampling of wastes. The manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Sewer Department. 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.

(Prior Code, § 16-5-5)

§ 51.075 SPECIAL AGREEMENTS WITH INDUSTRIAL CONCERNS.

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

(Prior Code, § 16-5-7)

§ 51.076 RIGHT OF ENTRY FOR INSPECTION.

(A) Any authorized employee of the Sewer Department shall, upon presentation of his or her credentials, have free access at all reasonable hours to any commercial or industrial premises connected to the POTW for the purpose of making an inspection of the premises to determine the nature and quantity of wastes discharged to the POTW.

(B) Service people, industrial waste inspectors, sanitary engineers, or other employees of the Sewer Department, whose duty it may be to enter upon commercial or industrial premises to make inspections and collect samples or measure the quantity of waste discharged to the POTW, shall be provided with credentials to identify them as authorized representatives for the Sewer Department.

(C) No person, except an authorized employee of the Sewer Department, shall have or exhibit any credentials of the Sewer Department. It shall be the duty of each employee of the Department, upon resignation or dismissal, to deliver and surrender all credentials of the Department in his or her possession.

(Prior Code, § 16-5-8) Penalty, see § 51.999

§ 51.077 DISCHARGES TO BE REPORTED.

Every user of the POTW system shall report to the Sewer Department immediately any accident, negligent act, or other occurrence that occasions a discharge to the POTW of any wastewater that exceeds the permissible limits for such wastewater established by the Sewer Department.

(Prior Code, § 16-5-9)

§ 51.078 TESTS AND ANALYSES.

All tests and analyses of the characteristics of waters and wastewaters shall be determined in accordance with the latest edition of *Standard Methods for Examinations of Water and Sewage*.

(Prior Code, §§ 16-5-6 and 16-5-10)

§ 51.079 REMEDIES.

(A) The Sewer Department shall have the authority to discontinue water and/or sewer service to a premises for any of the following reasons:

(1) Failure to pay a charge assessed by the Sewer Department for unauthorized discharges;

(2) Failure to correct an unauthorized discharge as required by the Sewer Department; and/or

(3) Discharging any unauthorized substances, materials, water, or wastewater as prohibited by this subchapter or the Sewer Department.

(B) Before discontinuing water or sewer service as provided herein, the Sewer Department shall give written notice to the user of the discontinuance and an opportunity to appear before the Sewer Department or designee on any disputed matter relative to the discontinuance of sewer service. This section shall not prohibit the Sewer Department from discontinuing water or sewer service if deemed immediately necessary to protect public health and safety.

(C) Upon notice of the final determination by the Sewer Department of an assessment owing or order to correct an unauthorized discharge, the responsible party shall tender the fee assessed within ten days of the date ordered or discontinue the unauthorized discharge as ordered by the Sewer Department. In the event the unauthorized discharge is not corrected or the assessment is not tendered, it is hereby declared to be, and is, a public nuisance which may be abated by order of a court of competent jurisdiction and its continued operation is unlawful. The remedy provided herein shall be in addition to any other remedy authorized by this subchapter.

(Prior Code, § 16-5-11)

SEWER SERVICE CHARGES

§ 51.090 USER CHARGE FORMULA.

(A) The POTW is primarily flow dependent. Therefore, the following formula is used to calculate user charges.

$$Cu = \frac{Ct}{Vt} \times Vu$$

Where:

Ct = Total operation and maintenance plus replacement (O&M+R) costs per unit of time.

Cu = A user's charge for O&M+R per unit of time.

Vu = Volume contribution from a user per unit of time.

Vt = Total volume contribution from all users per unit of time.

(B) In the event BOD, suspended solids, or other pollutant concentrations from a user exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge added to the base charge (above) will be levied. The surcharge will be computed by the formula below.

$$Cs = (Bc(B) + Sc(S) + Pc(P))\ Vu$$

Where:

Cs = A surcharge for wastewaters of excessive strength.

Bc = O&M+R cost for treatment of a unit of biochemical oxygen demand (BOD).

B = Concentration of BOD from a user above a base level.

Sc = O&M+R cost for treatment of a unit of suspended solids.

S = Concentration of SS from a user above a base level.

Pc = O&M+R cost for treatment of a unit of any pollutant.

P = Concentration of any pollutant from a user above a base level.

Vu = Volume contribution from a user per unit of time.

(C) Any other pollutant which causes an increase in the cost of treatment will be assessed in a similar fashion.

$$\text{Other Pollutant Rate} = \frac{\text{Total Cost to Treat Other Pollutant}}{\text{Total Pounds of Other Pollutant}}$$

(Prior Code, § 16-6-1)

§ 51.091 DETERMINATION OF WASTEWATER QUANTITY.

(A) Adjustments shall be made to metered water consumption for a 12-month period beginning July 1 of each year to reflect sewer flow.

(1) The average metered water usage billed during the preceding January, February, and March shall represent sewage flow for residential customers, including multi-family.

(2) If the Sewer Department determines that adequate water meter information is not available for billing a residential customer as described above, then the customer will be charged the average monthly billing for that user class.

(3) All non-residential use will be billed on the basis of the actual metered water use.

(B) All users for which the water supply is from other suppliers of water may furnish to the Sewer Department either a certified meter reading of water delivered or a copy of the billings from the water supplier. The Sewer Department shall have the exclusive authority to determine the adequacy of this information and request additional documentation or tests if it finds the information supplied inadequate. If the Sewer Department finds the information adequate, the user's charges will be calculated and the same conditions will apply as if the city was the supplier of water to the user.

(C) Upon approval of the Sewer Department, any individual user may, at his or her own expense and subject to the regulations of the Department, install a separate meter in order to determine the quantity of water actually entering the sewer system, and future sewer charges shall be limited to that water actually entering the sewer system as so determined by the Sewer Department.

(D) If, within ten days of billing, a user files a written complaint with the Sewer Department alleging that a significant portion of his or her water usage does not enter the sewer system, the Sewer Department in accordance with written appeals procedure, will provide an opportunity for the user to present his or her supporting documentation to the City Manager or his or her designee to hear complaints.

(E) The Sewer Department shall have the authority to investigate and evaluate user complaints and appeals from billing decisions of his or her subordinates and may correct the billing to reflect what, in his or her opinion, the correct billing should be, where he or she finds that a meter has been misread or some other obvious billing error has occurred. If the Sewer Department determines that a significant amount of water was used during the winter months for lawns, shrubbery, or other non-sewer purposes, he or she shall have the authority to make a corresponding reduction in the sewer billing on all subsequent billings.

(Prior Code, § 16-6-2)

§ 51.092 DETERMINATION OF WASTEWATER QUALITY.

(A) *Authority.* The Sewer Department shall have the authority to make whatever tests are necessary to carry out a planned sampling program and to make whatever analyses are needed for all commercial and industrial users. The B.O.D. test shall be considered the standard test; however, C.O.D. ("Chemical Oxygen Demand" means quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in mg/l) or T.O.C. ("Total Organic Carbon" means the total of all organic compounds expressed in milligrams per liter as determined by the combustion-infrared method prescribed by approved laboratory procedure) tests may be substituted in cases where it has been determined by the Sewer Department that the B.O.D. test is not representative of actual wastewater loading. Wastewater characteristics shall be determined by the Department on the basis of monitored wastewater discharged, a certified statement from the user, or on the best available data as to the characteristics of the discharges.

(B) *Variation of more than 2%.* Any change in the ongoing process(es) employed by a user contributing industrial wastewater which results in a variation of more than 25% in one or more of the effluent loading concentrations shall be reported to the Department within 30 days of the change.

(C) *Sewer charge adjustment.* If it is determined through testing that a significant variation exists between the user's certified data and the discharge characteristics monitored by the Department, the city may adjust the sewer use charge based on the monitored data from the original date of certification, unless written communication has occurred notifying the Department of changes in loading and giving specific dates of changes.

(D) *Designated discharge.* Where sampling and gauging of a specific user is not practical for physical, economic, safety or other reasons, the Sewer Department may designate values for concentrations of the wastes discharged into the sewage system for all users in the same standard industrial classification.

(Prior Code, § 16-6-3)

§ 51.093 OTHER USER CHARGE PROVISIONS.

(A) *Biennial review.* The Sewer Department will review, not less often than every two years, the wastewater contribution of users and user classes, the total costs of operation and maintenance of the POTW, and its approved user charge system. The Sewer

Department shall, at that time, recommend a revision in the sewer service charge and user classes to accomplish the following:

(1) Maintain a reasonable proportionate distribution of operation and maintenance costs among users and user classes;

(2) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and adjust the rate accordingly.

(B) *Notification of users*. Each user will be notified, at least annually, in conjunction with a regular bill, of the user charge rate and that portion of the total charges which are attributable to user charges.

(C) *Inconsistent agreements*. The user charge system set forth in this subchapter is applicable to all agreements or contracts between the city and users including industrial users, other municipalities or federal agencies or installations, and the terms of this subchapter shall take precedence over any such agreements or contracts which are inconsistent with the requirements of this subchapter.

(Prior Code, § 16-6-4)

§ 51.094 OTHER SEWER SERVICE CHARGES.

In addition to the user charges described herein, the rate schedules shall be sufficient to cover the following costs.

(A) A portion of the annual debt service costs for retirement of sewer bonds will be charged to all customers served directly by the city's POTW. The Sewer Department shall make recommendations to the City Council at least once every two years as to how these costs shall be proportioned among the users. Charges to recover these costs will be called "other charges".

(B) Adequate reserve funds to allow for reasonably expected increases in the cost of providing services will be charged to all customers served directly by the city's POTW. The Sewer Department shall make recommendations to the City Council as to the amount of reserve funds necessary and as to how these funds shall be proportioned among the users.

(C) The costs of billing and collection and performing industrial wastewater services shall be charged to customers on an equitable basis. The Sewer Department shall make recommendations to the City Council as to how these costs shall be proportioned among the users. Charges to recover these costs will be called billing and collection charges and industrial wastewater charges respectively.

(Prior Code, § 16-6-5)

§ 51.095 PAYMENT OF BILLS AND CHARGES.

(A) All sewer user accounts shall be carried on the books of the city by the street address, tax parcel ID number and assigned account number. All notices sent out by the city regarding sewer user accounts, and all notices regarding any other matter pertaining to the use of the city POTW, shall be sent to the street address of the property. Should the owner of the property desire notices be sent to an alternative or additional address, the owner shall submit a mailing address to the city's Customer Services Division. To ensure proper delivery of notices, all errors in street addresses should be promptly reported in writing to the city's Customer Services Division.

(B) See also § 50.062.

(Prior Code, § 16-6-6) (Ord. O10-06-08, passed 6-24-2010)

§ 51.096 DISTRIBUTION OF SEWAGE SYSTEM REVENUES AND UTILIZATION OF FUNDS.

(A) *Financial management.* The city will establish an adequate financial management system which will accurately account for operation and maintenance plus replacement (O&M+R) revenues, expenditures, and sewer system debt service.

(1) The accounting system will segregate O&M+R revenues and expenditures from other wastewater revenues and expenditures to assure adequate revenues to properly operate and maintain the treatment works.

(2) The fund will have three accounts, one for O&M, one for replacement costs, and one for debt service. The user charge rates

will be revised as needed to generate sufficient revenue to pay the total O&M+R and debt service.

(B) *Inconsistent agreements.*

(1) The city may have pre-existing agreements which address:

(a) The reservation of capacity in the city's treatment plant; and/or

(b) The charges to be collected by the city in providing wastewater treatment services or reserving capacity.

(2) The user charge system shall take precedence over any terms of conditions of agreements or contracts between the grantee and users (including industrial users, special districts, other municipalities, or Federal agencies or installations) which are inconsistent with the requirements of § 204(b)(1)(A) of the Clean Water Act (33 U.S.C. § 1284).

(C) *Wastewater treatment by-products*. All revenue from the sale of treatment related by-products shall be used to offset the cost of operation and maintenance. User charges shall be proportionally reduced for all users. Total annual revenues received from the sale of a by-product shall be credited to the treatment works O&M cost no later than the fiscal year immediately following their receipt.

(Prior Code, § 16-6-7)

INDUSTRIAL USER AND PRETREATMENT REQUIREMENTS

§ 51.110 GENERAL INDUSTRIAL USER REQUIREMENTS.

All industrial users shall:

(A) Comply with the categorical standards, pretreatment requirements, and all other requirements imposed by this subchapter;

(B) Comply with the orders of the Sewer Department designed to implement the categorical standards, pretreatment requirements, and all other requirements imposed by this subchapter;

(C) Within 90 days of the adoption of this subchapter and prior to the discharge of wastewater to the POTW by any new user thereafter, file a written notice with the Sewer Department which identifies the:

(1) Name and address of the existing or prospective users;

(2) Business location(s) serviced or to be served by the POTW;

(3) Nature, concentration, and amounts of any substance present, at or intended to be present at such business location(s) which, if discharged to the POTW could constitute an industrial discharge; and

(4) Nature and concentration of all pollutants currently discharged to the POTW from such business location(s).

(D) File an annual POTW user report with the Sewer Department by the first of January of each year which provides an update to the information obtained pursuant to division (C) above. This reporting requirement does not apply to industrial users operating pursuant to an industrial user permit;

(E) Carry out and maintain an adequate record of all self-inspection and self-monitoring activities necessary for the user to know at all times whether or not the user is introducing any industrial discharge to the POTW;

(F) Assist the Sewer Department to determine the exact nature, concentration, and volume of any pollutant intended for discharge to the POTW. Therefore, upon request, any industrial user shall promptly:

(1) Allow the examination and copying of all relevant records or documents available to the user;

(2) Allow the inspection of all business locations served by the POTW, including all pretreatment equipment, methods, and activities utilized by the user at such locations;

(3) Install and maintain, at the user's expense, convenient and adequate monitoring and/or sampling point(s) needed by the Sewer Department for monitoring and/or sampling purposes;

(4) Allow the taking and removal of samples from any wastewater discharged or intended for discharge, to the POTW; and

(5) Provide the Sewer Department with any other information, including, but not limited to, chemical analyses of wastewater and architectural or engineering design data, drawings and the like, which are reasonably needed by the Sewer Department for the purpose of determining the user's compliance with the requirements of this subchapter.

(G) Not cause an industrial discharge without having first obtained, or applied for, an industrial user permit pursuant to the requirements of this subchapter;

(H) Comply with the demand of the Sewer Department to immediately halt any actual or threatened discharge to the POTW when the Sewer Department has given notice that the actual or threatened discharge:

(1) Presents or may present an imminent or substantial endangerment to the health or welfare of any person or to the environment; and/or

(2) Will cause interference with POTW operations.

(I) Immediately give notice to the Sewer Department of any discharge, including an accidental discharge, which is in violation of any categorical standard, pretreatment requirement, or permit condition imposed by this subchapter. The notice shall also describe the:

(1) Location of the discharge;

(2) Known or estimated nature, concentration, and volume of the discharged pollutant(s);

(3) Type of assistance desired from the city; and

(4) Corrective action(s) undertaken, being undertaken, and/or to be undertaken by the user. Any user causing such a discharge shall also initiate all appropriate corrective action(s) by the Sewer Department which are needed to:

(a) Prevent any further injury to human health or safety or to the environment, the POTW, and/or any other property;

(b) Promptly repair all or part of any injury or damage caused by the discharge; and

(c) Ensure that such a discharge does not occur again.

(J) Pay all sewer fees charged by the city for the wastewater collection and disposal services provided by the POTW pursuant to the requirements of this subchapter. The service fees will apply equally to all POTW users and will be determined by each user's proportionate share of the POTW operating and maintenance costs. In turn, the proportionate share will be based on such factors as the strength, volume, and flow rate of wastewater discharged to the POTW by each user;

(K) Reimburse the city for all extraordinary expenses reasonably incurred by the city in insuring user's compliance with the applicable requirements of this subchapter. An extraordinary expense is any cost not otherwise reimbursed from the normal collection of sewer fees. These extraordinary expenses include, but are not limited to, the costs in:

(1) Issuing permits;

(2) Conducting inspection, surveillance, and monitoring activities;

(3) Obtaining laboratory analyses of waste samples;

(4) Taking enforcement actions against users not in compliance with the requirements of this chapter; and

(5) Carrying out any measure needed for the protection of human health or safety, the environment, the POTW, or any other property in order to correct or mitigate any harm caused by the violation of any categorical standard or pretreatment requirement.

(L) Be financially responsible for all injury, damage, and/or loss suffered by any person as a result of any industrial discharge, by the user, which violates any categorical standard, pretreatment requirement, or permit condition enforced pursuant to this subchapter. In particular, the user shall be liable for the:

(1) Personal injury suffered by any person as a result of the discharge;

(2) Costs reasonably incurred by any person in correcting or otherwise mitigating any adverse environmental impact which resulted from the discharge; and

(3) Economic loss and property damage suffered by any person as a result of the discharge.

(Prior Code, § 16-7-1)

§ 51.111 SPECIFIC INDUSTRIAL USER REQUIREMENTS.

(A) In addition to all other requirements, each industrial user who discharges an industrial discharge into the POTW shall also:

(1) Obtain an industrial discharge permit from the Sewer Department. Any application for a permit or an amended permit shall contain the information specified in the application form or such other information as may be requested by the Sewer Department. After the effective date of this subchapter, any person intending to commence any new industrial discharge(s) or any additional industrial discharge(s) not already allowed pursuant to an existing permit shall first obtain a new or an amended industrial discharge permit, as applicable, from the Sewer Department prior to initiating the discharge(s);

(2) Comply fully with all requirements and conditions of any industrial user permit. Once a permit is issued, no industrial user shall:

(a) Make any new or increased industrial discharge; or

(b) Otherwise make any change in the nature of its industrial discharge(s) if the change will cause any new or increased industrial discharge.

(3) Provide all of the pretreatment necessary to comply with the categorical standards and pretreatment requirements imposed by this subchapter;

(4) Maintain a continuous discharge record which clearly identifies the:

(a) Dates and times of all industrial discharges; and

(b) Nature, concentration(s), and volume(s) of all the discharges.

(5) Provide the Sewer Department with all the same self-monitoring reports and notices which the industrial user is required to submit to any other authority in accordance with the provisions of 40 C.F.R. § 403.12. In particular, the industrial user shall meet the requirements of:

(a) Notices which must be filled within 180 days of the adoption of any categorical standard, including a compliance schedule;

(b) Notices which must be filed within 90 days of any final compliance date;

(c) Reports which must be filed by the industrial user in June and December of each year;

(d) The immediate notice which must be given after a slug load release of any industrial discharge;

(e) The sampling and analysis of pollutants discharged to the POTW; and

(f) The maintenance of records by the industrial user.

(B) An industrial user with an industrial discharge permit issued prior to the effective date of this subchapter shall file with the Sewer Department within 90 days of the effective date of this subchapter a written statement by an authorized agent of the permittee certifying that the permittee is in compliance with the terms of this subchapter.

(C) If an industrial user with an industrial discharge permit cannot provide the certification set forth in division (B), then the industrial user shall submit an application for a new industrial permit which shall include a proposed schedule for coming into compliance with the terms of this subchapter.

(Prior Code, § 16-7-2)

§ 51.112 AUTHORITY OF THE SEWER DEPARTMENT.

(A) The Sewer Department is authorized to enforce user compliance with the requirements of this subchapter. In carrying out this responsibility, the Sewer Department has authority to:

(1) Issue or amend (as applicable) industrial user permits within 60 days of receiving the application for the permit or amended permit. Once issued, a permit:

(a) Will be for a period of time not to exceed two years. A permit may be terminated by revocation by the Sewer Department or upon voluntary surrender of the permit by the permittee at an earlier date;

(b) Is non-transferable by the permittee; and

(c) Will specifically identify all applicable discharge prohibitions and limitations which the Sewer Department will enforce.

(2) Incorporate the pertinent requirements of this subchapter into every city contract with any user located outside of the municipal jurisdiction of the city. The contracts may also provide for liquidated damages and, if applicable, specific performance as remedies for breach of contract;

(3) Receive and analyze all self-monitoring reports and notices submitted by industrial users;

(4) Randomly sample and analyze effluent from users and conduct those surveillance and inspection activities needed to identify, independently of any information supplied by the users, occasional or continuing non-compliance with any categorical standard or pretreatment requirement;

(5) Investigate instances of non-compliance with any categorical standard or pretreatment requirement when notice of any actual or probable non-compliance has been received by the Sewer Department or any representative of the Sewer Department;

(6) Notify users of non-compliance with categorical standards or pretreatment requirements discovered by the Sewer Department. The notice shall also contain a demand for any appropriate corrective action which is necessary to meet the applicable requirements of this subchapter. Any user will be allowed opportunity to respond to an order of the Sewer Department before any enforcement action against the user is initiated, unless the discharge is a threat to the public health, safety, and welfare, in which case the Sewer Department may immediately disconnect service and initiate enforcement action without giving notice;

(7) Comply with the public participation requirements of 40 C.F.R. part 25 in connection with the city's enforcement of any national pretreatment standards; and

(8) Impose appropriate penalties for non-compliance with any of the requirements of this subchapter. The penalties may include any or all of the following:

(a) Suspension or revocation of any industrial user permit for the failure of an industrial user to comply with the pertinent requirements of such permit;

(b) Termination of service;

(c) Restricting or otherwise limiting allowable discharges; and/or

(d) Requesting that the City Attorney commence criminal and/or civil action against any user violating any requirement of this subchapter.

(B) The Sewer Department shall:

(1) Determine which actual or threatened discharge to the POTW will cause interference with the POTW or will present (or may present) an imminent or substantial endangerment to the health or welfare to any person and/or to the environment;

(2) Abate any actual or threatened discharge which would violate any categorical standard or pretreatment imposed by this subchapter. In the minimum, the Sewer Department will be able to promptly plug or disconnect any sewer service connection to the POTW; and

(3) Correct or mitigate any injury to the environment, the POTW, or to any other property as a result of any discharge in violation of a categorical standard or pretreatment requirement imposed by this subchapter.

(C) Annually publish, in a newspaper circulated in the city, public notice of all industrial users who at least once during the preceding 12-month period were significantly violating any categorical standard or pretreatment requirement imposed by this subchapter. The notification shall also summarize any enforcement actions taken against the users during the same 12-month period.

(D) (1) Notify industrial users of applicable pretreatment standards and any applicable requirements under §§ 204(b) and 405 of the Clean Water Act (33. U.S.C. §§ 1284 and 1345) and subtitles C and D of the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.* and §§ 6941 *et seq.*).

(2) The Sewer Department shall file with the City Clerk three copies of all federal statutes and regulations cited by this subchapter in order to allow regulated users adequate opportunity to be informed of the applicable federal requirements herein incorporated by reference.

(Prior Code, § 16-7-3)

§ 51.113 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. To claim this trade secret protection, the user must specify at the time of submitting his or her reports or information, that part he or she desires to protect.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit, and/or the pretreatment programs; provided, however, that these portions of a report shall be available for use by the city, the state, or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(Prior Code, § 16-7-4)

§ 51.114 MORE STRINGENT TO CONTROL.

Upon the effective date of any federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter, shall immediately supersede these limitations.

(Prior Code, § 16-7-5)

ACCIDENTAL DISCHARGE

§ 51.125 PERMITTEE PROVIDES PROTECTION.

Each permittee shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter.

(Prior Code, § 16-8-1)

§ 51.126 PERMITTEE SHALL NOTIFY CITY OF ACCIDENTAL DISCHARGE.

(A) In order that timely countermeasures may be taken by the city to minimize damage to the POTW and/or degradation of the receiving waters, the permittee shall notify the city immediately upon accidentally discharging wastes in violation of this subchapter.

(B) This notification shall be followed within 15 days of the date of occurrence by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. The notification will not relieve the permittee of liability for any expense, loss, or damage to the POTW, or for any fines imposed on the city on account thereof, and/or for any enforcement action pursuant to this occurrence.

(Prior Code, § 16-8-2)

§ 51.127 PERMITTEE WILL NOTIFY EMPLOYEES.

(A) In order that officers, agents, and employees of permittee will be informed of the city's requirements, permittee shall make available to their employees copies of this subchapter together with such other wastewater information and notices which may be furnished by the city from time to time for the purpose of improving and making more effective water pollution control.

(B) A notice shall be furnished and permanently posted on the permittee's bulletin board advising officers, agents, and employees who to call in case of an accidental discharge in excess of the limits authorized by the permit.

(Prior Code, § 16-8-3)

§ 51.128 PERMITTEE SHALL LABEL POTENTIAL ACCIDENTAL DISCHARGE POINTS.

Any possible connection or entry point for a hazardous and/or prohibited substance to the permittee's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substance in violation of this subchapter.

(Prior Code, § 16-8-4)

SEWER DEVELOPMENT FEES

§ 51.140 PURPOSE.

Due to the costs associated with the expansion of the city's sewer system, it is necessary to implement a method of direct cost recovery from persons, firms, or corporations responsible for new physical development within the city to provide a source of funding for the city's continued capital investment in the system.

(Prior Code, § 16-9-1)

§ 51.141 FEES; COLLECTION; EXEMPTIONS; DISPOSITION.

(A) A sewer development fee shall be charged by the city as established by resolution of the City Council.

(B) The fee imposed shall be collected by the Building Safety Director, who shall be charged with the administration of this subchapter. The fee for each dwelling unit or, in the case of commercial and industrial construction, the fee for connection shall be collected by the Building Safety Director prior to the issuance of a building permit, and the fee with respect to any mobile home or recreation vehicle space shall be collected prior to the issuance of a construction permit for the development of a mobile home or recreation vehicle park. The Building Safety Director shall not issue a building permit or construction permit until the fees required hereby have been paid.

(C) Any separate water meter installed for irrigation purposes only will not be included in the calculation of the sewer development fee. In addition, no sewer development fee will be collected for the installation of fire lines provided the line is not served by a water meter.

(D) All revenue received from the sewer development fee shall be deposited in the Sewage System Construction and Expansion Account and/or the Sewage System Debt Service Account for the retirement of debt service, both principal and interest, related to sewer system development.

(Prior Code, § 16-9-2)

§ 51.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, entity, or user found guilty of violating any provision of §§ 51.001 through 51.141 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed $2,500 or by imprisonment for a period not to exceed six months, or by both the fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.

(Prior Code, Art. 16-10)

(C) In addition to any criminal fine which may be imposed for violation of any provision of §§ 51.070 through 51.079, any business, person, or user shall be liable for all charges which may be assessed by the Sewer Department for discharging wastewaters containing non-permissible quantities of prohibited substances into the POTW. The Sewer Department is authorized to assess charges based on the extra costs incurred by the city in surveillance, sampling, and testing of the discharges, for additional operating and maintenance expenses, or for any other action required to identify, handle, process, or supplement normal activities due to the unauthorized discharge of wastewater, plus overhead charges. Fines may also be assessed on a case by case basis, from $0 to $10,000 per day per occurrence.

(Prior Code, § 16-5-11)

CHAPTER 52: SANITATION

Section

Garbage and Trash Collection

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GARBAGE AND TRASH COLLECTION

§ 52.01 DEFINITIONS.

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

COMMERCIAL UNIT. Any real property from which refuse is generated, other than a residential unit.

GARBAGE. All putrescible wastes, except sewage 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 all public and private establishments and residences.

REFUSE. All garbage and trash.

RESIDENTIAL UNIT. Any single structure used for housing one or two families.

TRASH. All nonputrescible wastes.

VEGETATION MAINTENANCE. Any abatement of plant growth whether living or dead, including but not limited to grass and weeds, on non-agricultural property, shall be mowed rather than disked or plowed.

(Prior Code, § 10-1-1)

§ 52.02 COLLECTION AGENCY.

The city, or other collectors authorized by the city, shall collect all refuse within the city. No person, except as provided in this chapter, shall collect or gather refuse within the city.

(Prior Code, § 10-1-2)

§ 52.03 COLLECTION HOURS.

The hours of collection of refuse shall be designated by the Council.

(Prior Code, § 10-1-3)

§ 52.04 RATES.

(A) The Council shall from time to time by resolution fix the rates and classifications for garbage and trash collection within the city and shall make such other rules and regulations as may be necessary to properly administer and enforce this chapter.

(1) Garbage rates: Set by resolution of the City Council.

(2) Uncontained trash fees (trash, green waste, manure, highway truck tires, appliances, passenger tires with rims, passenger car tires, non-granted tires): In addition to the current landfill charges, customers shall be charged a service fee in an amount set by resolution of the City Council.

(3) Uncontained trash service: This service is provided in conjunction with the City of El Mirage Municipal Water Service. Only customers with current water accounts are eligible to receive this service unless a $200 cash deposit is paid to the city's Customer Services Division. All tonnages are estimated and all payments are due and payable on a water bill when service is rendered, or water service may be interrupted or suspended.

(B) The amount for the purchase of a garbage container shall be set by resolution of the City Council.

(Prior Code, § 10-1-4) (Ord. O10-06-08, passed 6-24-2010)

PREPARATION OF REFUSE FOR COLLECTION

§ 52.15 PREPARATION OF REFUSE.

All refuse shall be prepared for collection or disposed of as follows.

(A) *Mandatory trash containers and payment per each household*. Upon payment of a non-refundable fee in an amount set by the City, residential unit customers shall receive a City provided garbage container and/or a recycling container compatible with the rapid-rail collection system. All costs associated with replacing garbage and/or recycling containers shall be the responsibility of the residential unit customer. In the event garbage generated by commercial unit customers is compatible with the use of a rapid-rail garbage container and/or a recycling container, the City may elect to allow the commercial unit customer to make payment of a non-refundable fee in an amount set by the City, and the customer shall receive the use of a City provided garbage container and/or recycling container compatible with the rapid-rail collection system. All other commercial unit customers shall provide their own dumpster-type containers which must be compatible with the collection system then in use by the City. All containers shall be kept in good repair and in a sanitary condition. Containers found to be no longer serviceable through disrepair or maintained in an unsanitary condition may be condemned by the City for further use. Legal notice of a condemnation shall consist of a label or tag affixed to the container, which tag shall contain the following wording:

"The container to which this label is attached is no longer serviceable through disrepair or is maintained in an unsanitary condition, and for that reason it is condemned for further use. This label is notice that the receptacle will be removed and destroyed by the city unless replaced or placed in a satisfactory condition within 15 days from its date. You may request a hearing as to the condition of the

receptacle by calling telephone #_____,or by writing to_____at the address noted. If you request a hearing, the receptacle will not be destroyed until completion of the hearing and a determination by the hearing officer. All costs associated with a hearing will be the responsibility of the non-prevailing party. If you do not request a hearing, the receptacle will be destroyed after 15 days from the date of this notice. Dated this____day of____, 20__. City of____, by_____(authorized signature)."

(B) *Brush*. Brush shall be cut into such a size that one person can readily load the individual pieces into a truck or chipper, be piled in neat order with all long branches parallel to one another, and shall have all metal or foreign materials removed to facilitate chipping.

(C) *Appliances and vehicles*. The customer shall remove or cause to be removed all appliances, vehicles, or equipment classed as refuse from their premises or the public right-of-way.

(D) *Building materials*. All owners, contractors, and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description, or kind, which has resulted from the building of the structure, including all lumber scraps, shingles, plaster, brick, stone, concrete, and other building material, and shall place the lot and all nearby premises utilized in the construction in a sightly condition. Residential customers may dispose of small amounts of building materials from time to time, providing it is placed in a container as described above and contains no concrete, masonry, or soil.

(E) *By-products*. Any commercial or manufacturing establishment which, by the nature of its operations, creates an unusual amount of by-product refuse may be required by the city to dispose of its own wastes as opposed to having the city provide the service.

(F) *Dangerous waste*. Dangerous wastes shall be placed in a proper container, plainly marked "DANGER". The city reserves the right to deny service for certain dangerous wastes and to require the customer to properly dispose of it by other means.

(G) *Soil and concrete*. Waste soil, concrete, masonry blocks, sod, and rocks shall be disposed of by the owner, tenant, or occupant of the premises.

(Prior Code, § 10-2-1) (Ord. O11-08-13, passed 8-25-2011)

§ 52.16 LOCATION FOR PICK UP.

Containers used for garbage, rubbish, and recycling shall be placed for collection as follows:

(A) Containers shall be placed at the curb (not on the street) in front of the premises except that at a corner lot containers may be placed at the curb of the side street, if approved by the City Manager or his or her designee. Containers shall be placed at least three feet from another container and may not be placed on sidewalks or curbing in any manner as to be hazardous to pedestrians or vehicles.

(B) Containers may be set out after 6:00 p.m. of the day preceding regular collection and shall be removed from the curb by 6:00 a.m. of the day after collection. Containers shall be stored between collections on or in the premises in such a manner that they are not readily visible from the street.

(Prior Code, § 10-2-2) (Ord. O13-04-07, passed 4-16-2013)

§ 52.17 LIDS AND COVERS.

The lids or covers of all containers shall, at all times, be kept secure so that flies and other insects may not have access to the contents and shall only be removed while the containers and receptacles are being filled, emptied, or cleaned.

(Prior Code, § 10-2-3)

§ 52.18 USE OF CONTAINERS.

(A) It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he or she does not own or lease, or is not entitled to use as a tenant or which the city or its agent has otherwise assigned to an individual, entity, or an address.

(B) It shall be a violation of this section for any person not authorized by the city to remove, collect or disturb the solid waste and recyclables stored in such containers or to remove from a solid waste or recycling container any solid waste or recyclables set out for

collection and disposal by the city or agents of the city or licensed solid waste haulers. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.

(Prior Code, § 10-2-4) (Ord. O13-08-13, passed 8-20-2013) Penalty, see § 10.99

OTHER METHODS OF GARBAGE AND TRASH REMOVAL

§ 52.30 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 city, in violation of any of the provisions in this chapter.

(Prior Code, § 10-3-1) Penalty, see § 10.99

§ 52.31 VEHICLES AND RECEPTACLES TO BE SPILL PROOF.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the city any garbage, unless the garbage is contained in strong, watertight vehicles or vehicles with watertight receptacles, constructed to prevent any of the garbage from falling, leaking, or spilling and any odor from escaping.

(Prior Code, § 10-3-2) Penalty, see § 10.99

§ 52.32 SPILLED REFUSE.

Any person hauling any refuse along the streets of the city shall immediately replace in the conveyance used for the hauling any refuse which may fall upon any street.

(Prior Code, § 10-3-3)

§ 52.33 DUMPING REFUSE.

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the city, except as specifically permitted in this chapter.

(Prior Code, § 10-3-4) Penalty, see § 10.99

§ 52.34 BURNING PROHIBITED.

It is unlawful for any person to burn or attempt to burn refuse of whatever manner within the city except in accordance with the provisions of any permit that is issued by the county.

(Prior Code, § 10-3-5) Penalty, see § 10.99

CHAPTER 53: STORM WATER QUALITY PROTECTION

Section

53.01 General powers and purpose

53.02 Definitions

53.03 Declaration of nuisance

53.04 Prohibited practices

53.05 Storm water management plans prepared by permit applicants

53.06 Inspections

53.07 Treatment devices

53.08 Obligation to review

53.09 Requirement to monitor, analyze, and remediate

53.99 Penalty

§ 53.01 GENERAL POWERS AND PURPOSE.

(A) The City Manager or his or her designee may regulate the use, grading, paving, maintenance, and operation of public rights-of-way and public storm drain systems so as to reduce, to the maximum extent practicable, the addition of pollutants to storm water in quantities or concentrations that could reasonably be expected to cause or contribute to either a violation of an applicable water quality standard or any condition of a storm water National Pollutant Discharge Elimination System (NPDES) or Arizona Pollutant Discharge Elimination System (AZPDES) permit issued to the city; or any other act that causes or contributes to damage to a public storm drain system. The City Manager or his or her designee may regulate the use of the public storm drain system through administrative rules, permits, and other written forms of approval for activities that could release pollutants or storm water to a public storm drain system.

(B) Nothing in this subchapter shall be construed as an assumption by the City of El Mirage of any other person's duties or responsibilities arising under any applicable law, including the common law. Any activities of the City Manager authorized by this subchapter are permissive rather than mandatory.

(C) The City Manager or his or her designee will provide implementation guidance to assist the public in complying with this subchapter. This guidance may consist of fact sheets, policy and procedure manuals, and other pertinent information relating to the development and implementation of best management practices for storm water quality protection.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.02 DEFINITIONS.

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

APPLICABLE WATER QUALITY STANDARD. Federal and state numeric or narrative water quality criterion that limits the quantity or concentrations of pollutants that may be present in navigable waters defined in 33 U.S.C. § 1362(7).

BEST MANAGEMENT PRACTICES (BMPS). A schedule of activities, pollution treatment practices or devices, prohibition of practices, general good housekeeping practices, pollution prevention, waste minimization, educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the amount of pollutants entering the public storm drain system, surface water, air, land, or groundwater. ***BEST MANAGEMENT PRACTICES*** may include a physical, chemical, structural, or operational practice or device that can help to achieve compliance with this chapter.

DIRECT CONNECTION. Any pipe, conduit, or other conveyance that is inserted into any part of the public storm drain system either temporarily or permanently. ***DIRECT CONNECTIONS*** to the public storm drain system are prohibited without permission of the City Manager or his or her designee.

FIREFIGHTING ACTIVITIES. All emergency response activities that control or extinguish fires. The phrase does not include the release of significant materials that occur after an emergency situation has ended.

MS4. Municipal Separate Storm Sewer System; public storm drain system.

NON-RESIDENTIAL PROPERTY. Any real property that is actually or intended to be used for commercial, industrial, agricultural, or recreational purposes, including but not limited to the immediate vicinity of five or more connected residential dwelling units, and residential subdivisions or dwellings that have not been occupied by a bona fide purchaser or tenant.

NPDES or ***AZPDES PERMIT.*** An authorization to discharge storm water issued pursuant to 33 U.S.C. § 1342 or 49 A.R.S. Chapter 2, Art. 3.1.

PERMIT. Written authorization to engage in specific conduct or activities that is issued pursuant to and in accordance with the particular laws, rules, or ordinances governing that conduct or activity.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, or any other legal entity, including their legal representatives, agents, or assigns.

POLLUTANT. Solid, liquid, gaseous, or other substances that can alter the chemical or physical properties of water, including but not limited to: fluids, solid wastes, pesticides, herbicides, fertilizers, solvents, sludge, petroleum and petroleum products, biological materials, radioactive materials, sand, dirt, animal wastes, acids, and bases.

POLLUTION. The presence of pollutants on land or in the storm water.

POLLUTION PREVENTION. Operational procedures, processes, and improvements in housekeeping or management techniques that reduce potential or actual releases of pollutants to the environment including all air, water, and land resources affected by those pollutants.

PUBLIC STORM DRAIN SYSTEM also known as ***MUNICIPAL SEPARATE STORM SEWER SYSTEM-MS4***. All or any part of the publicly-owned storm drains, basins, ditches, pipes, graded areas, and gutters located within easements, rights-of-way, parks, streets, roads, highways, or in common areas of real property leased from the City of El Mirage, that are used for collecting, retaining, or conveying storm water.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing into or on any land in a manner that significant materials, pollutants, or storm water that might come to be located in a public storm drain system.

SIGNIFICANT MATERIALS. Any solid, liquid, or gaseous substance other than storm water that can release pollutants, including but not limited to: raw materials; fuels; solvents; detergents; finished materials; hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601(14); any chemical for which a report must be filed pursuant to § 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 11023; fertilizers; pesticides; herbicides; and waste materials, including garbage, trash, ashes, slag, yard waste, animal waste, and sludge.

STORM WATER. Rainfall or snow melt runoff.

STORM WATER MANAGEMENT PLAN (SWMP). A document required by the City of El Mirage from any person that proposes to or does conduct an activity on non-residential property, or that proposes to or does conduct an activity for a fee or charge on residential property, that has the reasonable potential to affect the quality or quantity of storm water impounded upon or released from the property that serves as a written guide for reducing, limiting, and monitoring the reduction of pollutants that are discharged to the publicly owned storm drain system.

STRUCTURAL BEST MANAGEMENT PRACTICES (BMPS). Any berm, retention/detention basin, drywell, or other manmade object that is designed to control the velocity, volume, and/or quality of storm water runoff.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.03 DECLARATION OF NUISANCE.

(A) A public nuisance is anything which is injurious or obnoxious to health or the environment, or is offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by any considerable number of persons, or which obstructs the free passage or use, in any customary manner, of any street, alley, sidewalk, or other public right-of-way.

(B) (1) It is hereby declared to be a public nuisance for any person to directly or indirectly release significant materials, pollutants, or storm water without proper authorization in quantities, velocities, or concentrations that may reasonably be expected to cause or contribute to: damage to a public right-of-way or public storm drain system; a violation of an applicable water quality standard; or a violation of any condition of a storm water NPDES or AZPDES permit or that will effect the flow of or obstruct traffic. As used in this section, proper authorization exists if an activity affecting storm water is specifically authorized in:

(a) This chapter;

(b) An administrative rule, permit, plan approval, or other authorization issued in compliance with this chapter; or

(c) A storm water NPDES or AZPDES permit.

(2) If a facility operating within the El Mirage City limits has a NPDES or AZPDES storm water permit, they are required to submit a copy to the City of El Mirage.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.04 PROHIBITED PRACTICES.

(A) It shall be unlawful for any person to use, store, treat, or dispose of storm water, pollutants, or significant materials in a manner that creates a public nuisance as defined in § 53.03.

(B) It shall be unlawful for any person to release to a publicly-owned right-of-way or public storm drain system any substance that is not composed entirely of storm water except:

(1) Releases pursuant to a NPDES or AZPDES permit;

(2) Releases resulting from firefighting activities;

(3) Releases associated with authorized street and municipal maintenance activities; and/or

(4) Releases of materials as provided in divisions (D) or (E) of this section.

(C) It shall be unlawful for any person to, without good cause, interfere with or prohibit any city employee from conducting any activities in furtherance of the requirements of this chapter, including conducting inspections and collecting samples.

(D) This section does not prohibit releases of storm water from storm water retention or detention basins if a permit or approval is first obtained from the City Manager or his or her designee. A person seeking such a permit or approval shall demonstrate that the release is not reasonably expected to cause or contribute to a public nuisance as defined in § 53.03. Restrictions and chemical analyses may be required before a discharge permit is issued by the City of El Mirage.

(E) This section does not prohibit releases, provided those releases are not a significant source of pollutants to navigable waters and are discharged in a manner that does not create a public nuisance as defined in § 53.03, from: fire hydrant flushing; potable water systems, including water line flushing; foundation or footing drains that are not contaminated by pollutants; naturally occurring seeps, springs, wetlands, or riparian areas; diverted stream flows and rising groundwater; non-agricultural irrigation water and lawn watering; individual residential and not-for-profit/charitable fundraising vehicle washing; residential evaporative coolers and air conditioner condensate; dust control watering; and city street sweeping activities.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006) Penalty, see § 53.99

§ 53.05 STORM WATER MANAGEMENT PLANS PREPARED BY PERMIT APPLICANTS.

(A) Any person who conducts an activity on non-residential property or conducts an activity for a fee or charge on residential property that has the reasonable potential to affect the quality or volume of storm water impounded upon or released from the property, regardless of whether it is raining at the time, shall prepare a detailed written storm water management plan as described in this section. There is a rebuttable presumption that a storm water management plan is not required for activities conducted within completely enclosed structures and in other areas that are permanently inaccessible to contact with rainfall or other sources of water, including run-on and runoff.

(B) All persons applying to any chapter of the El Mirage City Code for authorization, permission, or a permit to perform or engage in an activity that might affect the quality or volume of storm water impounded upon or released from the property as a result of the activity for which approval is sought shall prepare and submit a storm water management plan.

(C) A storm water management plan shall apply to all contiguous land under common ownership or control, and shall specifically state the address of each parcel of property subject to the plan. The plan shall include seven sections unless a section is waived by the City Manager or his or her designee. Section one shall describe the facility information such as complete address, owner/operator

name, telephone numbers of responsible parties, and nature of business. Section two must list all materials and chemicals found on the property, their quantity, how they will be used, and disposal methods. Section three must include administrative Best Management Practices (BMPs) describing the housekeeping strategies that are used to reduce or eliminate storm water pollution. Section four shall describe a spill control plan designed to identify the procedures that will be used to clean up a spill, the location of the spill control kits, and the type of spill control equipment; materials; personal protective equipment (PPE) that will be used in the event of a spill cleanup. Section five must describe any structural BMPs in place on the property that may include sealed concrete berms, roofs, spill control pallets, over-pack drums, retention/detention basins, or other devices to protect storm water from becoming polluted and discharging offsite. Section six is a site drainage plan showing the anticipated flows of storm water from the site. Section seven shall include a checklist of BMPs used during inspections during a rain event to insure the BMPs to protect storm water are working properly and a Storm Water Certification/Authorization page to be signed by a duly authorized company representative stating the information they supplied is correct to the best of their knowledge; and any additional information concerning storm water management and pollution prevention efforts that are or will be prepared to comply with any rules or NPDES permits promulgated pursuant to the portions of 40 C.F.R. part 122, that relate to discharges of storm water. The storm water management plan shall be provided to the City Manager or his or her designee. A storm water pollution prevention plan (SWPPP) as required by the United States Environmental Protection Agency (USEPA) Region 9 may be submitted in lieu of the storm water management plan although revisions may be requested by the City Manager or his or designee before approval.

(D) A storm water management plan may apply to more than one parcel of property so long as the activities on the properties are sufficiently similar that the plan is appropriate.

(E) Permits, approvals, or other authorizations that require storm water management plans as provided in this section shall not be issued until the City Manager or his or her designee has received the applicable storm water management plan. If significant materials are not at all times managed in substantial compliance with the applicable storm water management plan, or if the authorized activity causes or contributes to violations of this chapter, the City Manager or his or her designee may modify or revoke the permit, approval, or other authorization. There shall be an enforceable commitment that the persons described in § 53.99(C) will update the storm water management plan as necessary if activities at the affected property are modified in a manner that may cause a material detrimental change in the volume, velocity, or quality of storm water released offsite.

(F) A storm water management plan shall include, to the extent applicable, practicable measures (Best Management Practices-BMPs) for: managing litter; the use, storage, treatment, and disposal of significant materials; the quantity, use, and disposal of pesticides and herbicides; reducing the velocity of releases to a public storm drain system; the use of landscape features to reduce the quantity and velocity of storm water that may be released offsite; maintenance of retention/detention basins and other structural BMPs or storm water management devices; maintenance and cleaning of parking lots and buildings; ensuring that significant materials are not exposed to direct contact with storm water; and documented employee and contractor training. The storm water management plan must include, at a minimum, quarterly inspections and inspections during rain events with a flow of 0.1 inches or greater of all structural and non-structural BMPs to ensure that all BMPs are functioning as per their intended uses. BMPs that are insufficient to protect storm water runoff will be reviewed and repaired as needed within ten days of the observation. A site plan indicating the location of buildings, storage areas, stored materials and/or chemicals, spill control stations, structural BMPs, loading/unloading docks, and the direction of runoff shall be included. Storm water pollution prevention plans that comply with a storm water NPDES permit and applicable requirements of 40 C.F.R. part 122 and this chapter may be used as part of the entire storm water management plan required by this section.

(G) Upon request, the City Manager or his or her designee may issue a determination that existing or proposed activities on non-residential, or proposed activities for a fee or charge on residential property, will be conducted in such a manner that a storm water management plan is not required. A person seeking this determination shall submit all information necessary to make the determination, including but not limited to verification that the volume or quantity of water impounded upon or released from the property has no reasonable potential to adversely affect a public storm drain system or create a public nuisance. Any determinations made under this section are valid only with respect to material conditions disclosed at the time the determination is rendered, and may be conditioned on the installation and maintenance of measures intended to prevent public nuisances.

(H) The City Manager or his or her designee may require structural devices that will assist in reducing the pollutant loading from the facility. The facility or property owner is responsible for installing and maintaining any such device. Devices that are found to be inoperable or in disrepair will be subject to a violation for allowing pass-through of potentially polluted waters into the MS4.

(I) Temporary discharge permits issued by the city shall control the volume, velocity, and quality of the discharge and meet other regulations deemed necessary including the Americans with Disabilities Act (ADA) requirements.

(J) Applications to construct improvements shall contain plans and specifications to control the volume and velocity of discharged storm water based on current city storm drain design manual or more stringent regulations.

(K) The City Manager or his or her designee reserves the right to require amendments to a storm water management plan as deemed necessary to reduce or eliminate pollutant sources from reaching the publicly-owned storm drain system or environment.

(L) A storm water pollution prevention plan (SWPPP) that complies with a storm water NPDES permit and applicable requirements of 40 C.F.R. part 122 may be used as part or all of the storm water management plan required by this section.

(M) A storm water management plan or storm water pollution prevention plan is not transferable to a new business or property owner. The new business or property owner is required to submit a new storm water management plan or storm water pollution prevention plan. Businesses and properties under new ownership are also subject to re-inspection by the City Manager or his or her designee.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.06 INSPECTIONS.

(A) The City Manager or his or her designee is authorized to enter and inspect real property, structures, and buildings as necessary to assess compliance with this chapter or storm water NPDES or AZPDES permit. These inspections shall be conducted in accordance with applicable constitutional or statutory requirements.

(B) Inspections conducted pursuant to this chapter may be expanded to include items covered by other chapters of the El Mirage City Code that relate to the quality or management of storm water.

(C) The City Manager or his or her designee may collect and analyze samples of storm water and significant materials, install and require the installation of storm water sampling and measurement devices, and examine records concerning significant materials and storm water.

(D) The City Manager or his or her designee may require the business owner/operator to install and maintain structural BMPs to control storm water pollution as needed, including, but not limited to, storm water type interceptors, sealed concrete berms, permanent awnings/roofs, and the like. The City Manager or his or her designee will determine whether the device(s) are acceptable based on the specific circumstances found within the confines of the property. The device(s) may be changed at the discretion of the City Manager or his or her designee if the potential pollutants or processes are changed or altered at the facility.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.07 TREATMENT DEVICES.

(A) Where necessary in the opinion of the City Manager or his or her designee, any person that seeks to use a direct connection to the MS4 shall provide, at their expense, such treatment devices, facilities, or interceptors as may be necessary to reduce objectionable characteristics or constituents of the released water to within the limits in this chapter. Plans, specifications, and any other pertinent information relating to proposed treatment devices, facilities, or interceptors shall be submitted for the approval of the City Manager or his or her designee. No construction of such treatment devices, facilities, or interceptors shall be commenced until the written approval from the city is obtained. City approval of the plans and inspection of construction shall not relieve the owner from complying with the release limits set forth in this chapter or the Arizona Surface Water Quality Standards as amended.

(B) Where treatment devices, facilities, or interceptors are used in a direct connection to the public storm drain system, those devices, facilities, or interceptors shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. The owner shall keep written records and documentation of all cleaning, repair, calibration, and maintenance required to demonstrate compliance with this section. Records shall be kept at the property upon which the treatment devices, facilities, or interceptors are located for a minimum of three years and be made available to the city upon request.

(C) Storm water type interceptors or other treatment devices shall be provided for any commercial or industrial facility and other facilities when, in the opinion of the City Manager or his or her designee they are necessary for the proper handling of storm water containing sediments, oil, and grease or any flammable wastes, sand, trash, and any other harmful ingredients.

(D) All storm water interceptors or other storm water treatment devices shall be of a type and capacity approved by the City Manager or his or her designee and shall be located as to be readily and easily accessible for cleaning and inspection.

(E) Storm water interceptors and other treatment devices shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and chemicals. They shall be of substantial construction, watertight, and equipped with

easily removable covers. When bolted covers are required, they shall be gastight and watertight.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.08 OBLIGATION TO REVIEW.

Anyone encroaching upon the City of El Mirage right-of-way, which may include streets or roads, is required to research the locations of all utilities under the surface of the public right-of-away. Storm drain structures are not blue staked as other utilities are; therefore, all contractors shall research the locations of the publicly-owned storm drain structures prior to any digging, drilling, excavating, and the like. Storm drain maps are available through the Public Works Department for a minimal fee.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.09 REQUIREMENT TO MONITOR, ANALYZE, AND REMEDIATE.

(A) The City Manager or his or her designee shall have the authority to require responsible parties of a facility who spill chemicals or other pollutants offsite into the MS4 to clean up or remediate the spills whether accidental or not. In the event that the responsible parties of a business refuse to clean up or remediate the polluted discharge offsite into the MS4, the city will attempt to clean up the spill and back-charge the discharger for the cleanup effort based on the costs of the entire clean up operation.

(B) Where a reasonable basis exists to conclude that a person engaged in any activity and/or owning or operating any property has violated this chapter, the City Manager or his or her designee may require by written notice that the person undertake, at their expense, such monitoring and analyses and furnish the resulting reports to the City of El Mirage as deemed necessary to determine compliance with this chapter.

(C) Where a person engaged in any activity and/or owning or operating any property has violated this chapter, the City Manager or his or her designee may require by written notice that the person remediate or restore, within a specified period of time, any property, conveyance, or equipment contaminated by or otherwise adversely affected by the activities giving rise to the violation.

(Ord. O06-07-12, passed 8-31-2006; Res. R06-07-20, passed - -2006)

§ 53.99 PENALTY.

(A) The remedies specified herein are cumulative and the city Manager or his or her designee, or the City Attorney, may proceed under these or any other remedies authorized by law. In addition to any other authorized remedies, a person who violates any provisions of this chapter shall be guilty of a misdemeanor. Each day of violation shall be a separate offense.

(B) Any person having control over an activity or any real property, or who causes, authorizes, facilitates, aids, or abets any violation of any provision of this chapter, or who fails to abate any nuisance or prohibited practice for which the person is responsible, is guilty of a Class 1 misdemeanor.

(C) The City Manager or his or her designee may issue a notice of violation or other compliance/enforcement documentation to any person who has violated or is in violation of this chapter. Failure to perform any act required in the notice of violation shall be a separate violation for each day the violation continues beyond the date of the notice.

(D) The transfer of ownership, possession, or control of real property to another person does not relieve the transferor of responsibility for violations of this chapter, as provided in division (B) of this section, which occurred before the transfer unless the transferee accepts responsibility for the violations.

(E) A person who violates this chapter is subject to a civil action in any court of competent jurisdiction to collect a civil sanction of not less than $50 nor more than $25,000 for each violation. Each day of each violation shall constitute a separate civil offense.

(F) The owner of record of the property upon which a violation of this chapter occurs shall be presumed to be a person having lawful control over an activity or real property, unless it is demonstrated that another person has knowingly and in good faith accepted responsibility for the activity or property at issue. If more than one person is identified as the owner of record, the persons shall be presumed to be jointly and severally in lawful possession and control of activity or land.

(G) Any person, builder, contractor, or other agent who encroaches into the right-of-way without researching (reviewing or

purchasing maps) the location(s) of the public owned storm drain system will be required to repair or replace the damaged structures of the public owned storm drain system to the satisfaction of the City Engineer or his or her designee.

(H) Any person causing or contributing to a violation of this chapter or a permit issued in accordance herewith, shall notify the city immediately upon learning of the events that resulted in the violation. This notification shall be followed within five days by a detailed written statement describing the cause of the violation and the measures being taken to prevent reoccurrence. Neither the submission to city of the original notification, nor the detailed written statement, will not relieve the person of liability for any expense, loss or damage to the publicly owned storm drain system, or for any fines imposed on or by the city on account thereof.

(Prior Code, § 22-1-10)

TITLE VII: TRAFFIC CODE

Chapter

70. ADMINISTRATION

71. TRAFFIC CONTROL

72. PARKING

73. OPERATION OF VEHICLES

74. OUTDOOR STORAGE OF DISMANTLED, ABANDONED, OR INOPERABLE MOTOR VEHICLES

75. MOTOR CARRIER SAFETY REGULATIONS

76. TRAFFIC SCHEDULES

CHAPTER 70: ADMINISTRATION

Section

70.01 Duty of Police Department

70.02 Records of violations

70.03 Police Department to investigate accidents

70.04 Traffic accident studies

70.05 Traffic accident reports

§ 70.01 DUTY OF POLICE DEPARTMENT.

It shall be the duty of the Police Department under the direction of the Police Chief to provide for the enforcement of the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic 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 Chief by this chapter.

(Prior Code, § 13-1-1)

§ 70.02 RECORDS OF VIOLATIONS.

(A) (1) The Chief of Police shall be responsible for the issuance of uniform traffic ticket and complaint forms, which are serially numbered.

(2) The Chief of Police shall maintain a record of every book and each citation contained therein issued to individual members of

the Police Department and shall require and retain a receipt for every book issued.

(B) Every police officer issuing a traffic ticket and complaint form shall deposit the original or a copy with a court having jurisdiction over the offense.

(C) The City Judge shall keep or cause to be kept a record of every traffic ticket or complaint or other legal form of charge deposited with or presented to the court. The City Judge shall also keep a record of every official action by the court thereon.

(Prior Code, § 13-1-2)

§ 70.03 POLICE DEPARTMENT TO INVESTIGATE ACCIDENTS.

It shall be the duty of the Police Department under the direction of the Police Chief to investigate traffic accidents and to arrest and assist in the prosecution of those persons charged with violations of law causing or contributing to the accidents.

(Prior Code, § 13-1-3)

§ 70.04 TRAFFIC ACCIDENT STUDIES.

Whenever the accidents at any particular location become numerous, the Police Department shall conduct studies of the accidents and determine remedial measures.

(Prior Code, § 13-1-4)

§ 70.05 TRAFFIC ACCIDENT REPORTS.

(A) The Police Department shall maintain a suitable system of filing traffic accident reports.

(B) The Police Department shall receive and properly file all accident reports required under state law or under any law of the city.

(Prior Code, § 13-1-5)

CHAPTER 71: TRAFFIC CONTROL

Section

71.01 Directing traffic

71.02 Obedience to traffic regulations

71.03 Traffic control devices

71.04 Authority to designate crosswalks, establish safety zones, and mark traffic lanes

71.05 Authority to place and obedience to turning markers

71.06 Authority to place and obedience to restricted turn signs

71.07 One-way streets and alleys

71.08 Regulation of traffic at intersections

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71.12 Local speed limits

71.13 Definitions

71.14 Bicycles, non-motorized scooters, skates

71.15 Motorized play vehicles; prohibition, regulations, violations

71.16 Parking violations

71.99 Penalty

§ 71.01 DIRECTING TRAFFIC.

(A) Police officers are hereby authorized to direct all traffic by voice, hand, or signal.

(B) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Prior Code, § 13-2-1)

§ 71.02 OBEDIENCE TO TRAFFIC REGULATIONS.

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 this chapter or willfully fail or refuse to comply with any lawful order or direction of a police officer or of any Fire Department official.

(Prior Code, § 13-2-2) Penalty, see § 71.99

§ 71.03 TRAFFIC CONTROL DEVICES.

(A) The City Manager or his or her designee shall place and maintain traffic control devices, signs, and signals when and as required under the traffic regulations of the city to make effective the provisions of the regulations, and may place and maintain such additional traffic control devices as may be deemed necessary to regulate traffic under the traffic laws of the city or under state law or to guide or warn traffic.

(B) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic regulations of the city unless otherwise directed by a police officer, subject to the exceptions granted in this chapter or by state law.

(Prior Code, § 13-2-3)

§ 71.04 AUTHORITY TO DESIGNATE CROSSWALKS, ESTABLISH SAFETY ZONES, AND MARK TRAFFIC LANES.

The City Manager or his or her designee is hereby authorized:

(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; and

(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 city.

(Prior Code, § 13-2-4)

§ 71.05 AUTHORITY TO PLACE AND OBEDIENCE TO TURNING MARKERS.

(A) The City Manager or his or her designee is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at the intersections, and the course to be traveled as so indicated may conform to or be other than as prescribed by law.

(B) 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 the indications.

(Prior Code, § 13-2-5)

§ 71.06 AUTHORITY TO PLACE AND OBEDIENCE TO RESTRICTED TURN SIGNS.

(A) The City Manager or his or her designee 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 those 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 the signs may be removed when the turns are permitted.

(B) Whenever authorized signs are erected indicating that no right, left, or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(Prior Code, § 13-2-6)

§ 71.07 ONE-WAY STREETS AND ALLEYS.

(A) The Council shall, by resolution, designate any streets or alleys which are to be limited to one-way traffic.

(B) When any resolution of the Council designates any one-way street or alley, the City Manager or his or her designee shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless the 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.

(Prior Code, § 13-2-7)

§ 71.08 REGULATION OF TRAFFIC AT INTERSECTIONS.

(A) The 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 Council shall designate any through street or intersection where vehicles are to stop or yield the right-of-way, the City Manager or his or her designee shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right-of-way.

(Prior Code, § 13-2-8)

§ 71.09 DRIVERS TO OBEY SIGNS.

Whenever traffic signs are erected as provided in this chapter, every driver of a vehicle shall obey the signs unless directed to proceed by a police officer or a traffic control signal. 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 included in this chapter.

(Prior Code, § 13-2-9) Penalty, see § 71.99

§ 71.10 PROCESSIONS.

(A) No procession or parade, except funeral processions, shall be held without first securing a permit from the Police Chief, and all such requests for permits shall state the time, place of formation, proposed line of march, destination, and such other regulations as the Police Chief may set forth therein.

(B) A funeral procession composed of a procession of vehicles shall be identified by such methods as may be determined and designated by the Police Chief.

(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 the vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic control signals or the Police Chief.

(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.

(Prior Code, § 13-2-10) Penalty, see § 71.99

§ 71.11 RESTRICTION ON CERTAIN VEHICLES.

(A) The Council may establish weight limits and restrictions for certain roads and streets by resolution.

(B) Except as provided below, commercial vehicle traffic is prohibited on designated streets in the City of El Mirage. The Chief of Police is hereby empowered to determine which streets shall be designated pursuant to this chapter and to post signs prohibiting commercial vehicle traffic.

(C) Commercial vehicles may operate on the streets only for the delivery and pickup of merchandise, materials, or equipment going to or from a specific location on the streets or for municipal purposes. Commercial vehicles must use the shortest and most direct route on the streets.

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

COMMERCIAL VEHICLE. Any vehicle used for commercial purposes, whether or not in use as such at the particular time of an offense under this chapter, having a gross vehicle weight of 10,000 pounds or more.

STREET. The entire width between the boundary lines of every right-of-way including the improved or unimproved shoulder or berm thereto.

(Prior Code, § 13-2-11) Penalty, see § 71.99

§ 71.12 LOCAL SPEED LIMITS.

(A) It is hereby determined upon the basis of an engineering and traffic investigation by the City Engineer that the speed limit permitted by law on the following streets and/or intersections is greater than, or less than, the speed which is reasonable and prudent under existing conditions, and it is declared that the maximum speed limit on the streets set forth in divisions (B) and (C) shall be set forth in this section.

(B) The streets listed in Chapter 76 shall have the prima facie speed limits set forth in Chapter 76.

(C) Streets adjacent to all schools shall be designated as a school zone and, with the exception of streets adjacent to high schools, shall have a prima facie speed limit set at 20 mph. Streets adjacent to high schools shall have a prima facie speed limit set at 30 mph.

(1) School zones shall be posed in accordance with the *Manual on Uniform Traffic Control Devices for Streets and Highways* established by the Federal Highway Administration.

(2) The speed limit between portable signs indicating that "school is in session" and "stop when children in crosswalk" shall be 15 mph, unless otherwise provided by state law.

(3) The city and school district shall develop a "School Route Plan" for each school.

(4) The school district shall apply to the city for establishment of school crossings. The city will establish the school crossing in accordance with the Arizona Revised Statutes, on the basis of an engineering study.

(Prior Code, § 13-2-12) (Ord. O00-05-09, passed 7-27-2000; Ord. O01-12-08, passed 12-20-2001; Ord. O06-07-13, passed 8-31-2006)

§ 71.13 DEFINITIONS.

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

BICYCLE. A device propelled by human power upon which a person may ride, having two or more wheels, and including any device generally recognized as a ***BICYCLE***.

BICYCLE LANE. The portion of the roadway set aside by the city for the exclusive use of bicycles or other modes of travel where permitted by statute or city code and so designated by appropriate signs and markings.

SKATES. A shoe or boot with wheels and commonly known and marketed as roller blades, roller skates, or in line skates.

MOTORIZED PLAY VEHICLE. A motorized play vehicle is a coaster, skateboard, scooter, any other alternatively fueled device, or other motorized vehicle that is self propelled by a gas or electric motor or engine, and which is not otherwise defined in A.R.S. Title 28 as a motor driven cycle, motorcycle, motorized wheelchair, electric personal assistive mobility device, motorized electric or gas powered bicycle or tricycle, or motor vehicle. ***MOTORIZED PLAY VEHICLE*** does not include battery operated vehicles only able to travel under five mph, or motorized electric or gas powered bicycles or tricycles that are equipped wit a helper motor that have a maximum piston displacement of 49 cubic centimeters or less, and that may also be self-propelled, and that are operated at speeds of less than 25 miles per hour.

(Prior Code, § 13-2-13) (Ord. O16-11-10, passed 11-1-2016)

Statutory reference:

Similar provisions, see A.R.S. § 28-101

§ 71.14 BICYCLES, NON-MOTORIZED SCOOTERS, SKATES.

Applicability of traffic laws; obedience to traffic signals and signs.

(A) All traffic laws shall apply to persons riding bicycles, non-motorized scooters, and skates. Every person riding a bicycle, a non-motorized scooter, or skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the state declaring rules of the road applicable to vehicles, or by the traffic regulations of the city applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions which, by their nature, can have no application.

(B) It is unlawful for any person operating a bicycle, non-motorized scooter, or skates not to obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(C) It is unlawful to ride a bicycle upon a sidewalk within a business district that is designated in some manner indicating that bicycles are prohibited.

(Prior Code, § 13-2-14) Penalty, see § 71.99

§ 71.15 MOTORIZED PLAY VEHICLES; PROHIBITION, REGULATIONS, VIOLATIONS.

(A) No person shall operate a motorized play vehicle on any public sidewalk, roadway, or any other part of a highway, or on any bikeway, bicycle path or trail, equestrian trail, or shared-use path. Motorized play vehicles may be operated on any private property open to the public, including but not limited to schools, churches, apartment complexes, or businesses, with the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.

(B) The parent, guardian, or legal custodian of a minor shall not authorize or knowingly permit the minor to violate this section. If a sanction is imposed upon a minor who is found to be in violation of this section, the parents or legal guardian having custody or control of the minor shall be jointly an severally liable with the minor for payment of the sanction whether or not the parents or guardian knew

of, or anticipated, a violation of this section.

(C) It is unlawful for a merchant to sell motorized skateboards or motorized play vehicles without making the disclosures required by this section. Any merchant who sells motorized skateboards or motorized play vehicles within the city shall:

(1) Post, in a prominent place at each location where motorized skateboards or motorized play vehicles are on display, a notice to the effect that operation of motorized skateboards or motorized play vehicles is prohibited:

(a) On any public sidewalk, roadway, or any other part of a highway or on any bikeway, bicycle path or trail, equestrian trail, or shared-use path in the City of El Mirage; and/or

(b) On any private property open to the public, including but not limited to schools, churches, apartment complexes, or businesses without the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.

(2) Provide a copy of the notice to each purchaser of a motorized skateboard or motorized play vehicle, either before or in connection with the purchase.

(D) It is unlawful for any person to operate a motorized play vehicle while under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance, or any combination of liquor, drugs, or vapor releasing substances if the person is impaired to the slightest degree. A person by operating a motorized play vehicle within the city is deemed to have impliedly consented to the administration of a chemical test of the person's blood or breath for the purpose of determining the alcoholic or drug content of that person's blood, and upon request of the arresting officer shall have the test performed.

(Prior Code, § 13-2-15) (Ord. O16-11-10, passed 11-1-2016) Penalty, see § 71.99

§ 71.16 PARKING VIOLATIONS.

(A) *Definitions.* ***PERSON***, as used in this section, means, as applicable, a human being, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority, or an individual or entity capable of holding a legal or beneficial interest, or delegated authority in property.

(B) *Applicability.*

(1) The provisions of this section shall apply to all parking violations where a notice of violation is issued.

(2) The provisions of this section shall apply to the driver of any vehicle owned by or used in the service of the United States government, state, county or city, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

(C) *Presumption.*

(1) In any prosecution charging a violation of any of the provisions of Title 28 of the Arizona Revised Statutes or the El Mirage City Code governing the standing or parking of a vehicle, the person in whose name such vehicle is registered shall be prima facie responsible for such violation and subject to the penalty for the violation.

(2) The provisions of division (C)(1) of this section shall apply to those persons in whose names such vehicle is jointly registered. The person shall be jointly and severally prima facie responsible for such a violation and subject to penalty for the violation.

(D) *Payment of penalty fee upon receipt of notice of violation.*

(1) Any person who becomes aware that a notice of violation has been issued with respect to an alleged violation of any provision of this section may, in lieu of court proceedings, pay the base penalty fee set by the City of El Mirage within 30 days of the date of violation indicated on the notice of violation.

(2) If the owner or operator of a vehicle for which a notice of violation has been issued fails to pay the base penalty fee indicated above, or request a hearing as provided in division (D)(3) of this section within 30 days from the date the notice of violation was issued, an additional penalty fee shall be added to the base penalty fee.

(3) The owner or operator of a vehicle for which a notice of violation has been issued may contest the violation by requesting a hearing. The request for hearing must be in writing and shall be submitted to the Clerk of the Court within 30 days of the date of the notice of violation. The City Court may require that the request for hearing be made as ordered by the City Court.

(4) If the owner or operator of a vehicle for which a notice of violation has been issued fails to pay the amount of the base penalty fee, or request a hearing within 30 days of the issuance of the notice of violation, then a summons and complaint shall be issued to the registered owner or the vehicle. The summons and complaint for a parking violation shall be issued within 60 days from the date of the notice of violation. The summons shall command the registered owner to appear in the City Court on a date and time provided.

(5) When a person is found responsible for a violation by a Judge or a Hearing Officer, whether by default or after a hearing, the Judge or Hearing Officer shall impose a civil sanction for the violation, which shall be not less than the amount of the base penalty fee, as indicated in division (D)(1) of this section, any additional penalty fee for the violation as provided in division (D)(2) of this section, if applicable, and any additional fees, surcharges and penalties required by state, federal, or local laws.

(6) A civil sanction imposed pursuant to division (D)(5) of this section shall be a civil judgment. Such judgment may be recovered by the city as any other civil judgment including any applicable fees and charges as provided in Title I, Chapter 10 of the El Mirage City Code.

(E) *Procedure.*

(1) The rules of procedure in civil traffic violation cases shall apply to determinations of whether or not a person is responsible for an offense under this section, unless otherwise expressly provided.

(2) An action or proceeding brought before the City Court alleging a civil traffic violation may be commenced by the filing of a summons and complaint; which may be served in person, or by regular mail to the address provided to the Arizona Department of Transportation by the person made responsible for the alleged violation of the applicable statute or ordinance; or by the use of an Arizona traffic ticket and complaint. If the proceeding is commenced by summons and complaint, the complaint may be signed by any Police Officer or any other duly authorized agent of the Police Department. Service of the summons and complaint is complete on mailing.

(3) Any person receiving a notice of violation may request and receive a hearing prior to the filing of a summons and complaint, as provided in Title I, Chapter 10 of the El Mirage City Code.

(F) *Enforcement generally.*

(1) It shall be the duty of each individual who is authorized to issue notice of violations to keep account of all violations of this section and to take the following actions:

(a) Identify the violation and the employee who issued the violation;

(b) Report the date, time and location of the violation;

(c) Report the State license plate number of any vehicle that is in violation of this section;

(d) Report any other facts, or knowledge which is necessary to a thorough understanding of the violation and its attending circumstances;

(e) Additional information may be included with the citation but is not required. Citations which contain the information in division (F)(1) (a) through (d) of this section shall be considered valid, notwithstanding information otherwise not provided on the citation; and

(f) Attach to a vehicle that is unlawfully parked a notice of violation that includes the date, time and location of the violation; the state license plate number of the vehicle; and the violation. Attachment may be accomplished by placing the citation under the windshield wiper or other place that is reasonably visible to a driver.

(2) The notice of violation will be in writing and will inform the person owning or operating the vehicle of the violation of the base penalty fee and of the additional penalty fee that may be incurred by failing to pay the base penalty fee with 30 days of the date of the notice of violation. The notice will also state that failure to pay the base penalty fee within the required time period will result in the filing of a summons and complaint in City Court.

(3) A copy of the notice of violation need not be personally served upon the owner or operator of the vehicle that is the subject of the violation, but may be served by attaching a copy of the notice of violation to the vehicle.

(4) The following individuals are authorized to issue notices of violation in accordance with the provisions of this section:

(a) City employees who are employed as Police Officers and Code Enforcement Officers;

(b) Other city employees who are authorized by the Chief of Police, in writing, and identified either as a group, by job title, or

designated individually to issue notices of violation. Written authorizations pursuant to this subsection shall be filed in the office of the City Clerk; and

(c) The Chief of the Fire Department or authorized designee.

(O17-02-02, passed 2-7-2017; R17-02-04, passed 2-7-2017)

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A violation of § 71.15(D) shall be a Class 1 misdemeanor.

(C) Violations of § 71.14 and § 71.15 shall be designated a civil traffic violation unless otherwise designated and shall be prosecuted in the same manner as provided by law for other civil traffic violations.

(Prior Code, § 13-2-15)

Statutory reference:

Civil traffic violations, see A.R.S. § 28-1591

CHAPTER 72: PARKING

Section

72.01 Method of parking

72.02 Blocking traffic

72.03 Parking adjacent to schools

72.04 Authority to erect signs restricting parking

72.05 Parking vehicles on sidewalks

72.06 Abandoned vehicles

72.07 Parking for persons with physical disabilities

72.08 Volunteer parking enforcement specialists

72.09 Parking requirements

72.10 Trucks and trailers on residential streets

72.11 Parking in residential areas; driveways or private property

72.99 Penalty

§ 72.01 METHOD OF PARKING.

Except as otherwise provided by resolution of the Council, every vehicle stopped or parked upon a roadway shall do so with the flow of traffic.

(Prior Code, § 13-3-1)

§ 72.02 BLOCKING TRAFFIC.

(A) No person shall stop, stand, or park any motor vehicle, or other vehicle, upon a street in the city in such a manner or under such conditions as to leave available less than 20 feet of the width of the roadway for the free movement of vehicular traffic, except that a person may stop temporarily, in the actual loading or unloading of passengers, or when necessary, in the observance of traffic signs or signals of a police officer.

(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 the loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic.

(Prior Code, § 13-3-2) Penalty, see § 72.99

§ 72.03 PARKING ADJACENT TO SCHOOLS.

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.

(Prior Code, § 13-3-3) Penalty, § 72.99

§ 72.04 AUTHORITY TO ERECT SIGNS RESTRICTING PARKING.

The City Manager or his or her designee, upon approval by the 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. When these signs have been erected, no person shall stop or stand a vehicle in disobedience to the parking restrictions.

(Prior Code, § 13-3-4) Penalty, § 72.99

§ 72.05 PARKING VEHICLES ON SIDEWALKS.

No person shall park any vehicle, whether in usable condition or not, nor shall an owner permit his or her vehicle to be parked upon any sidewalk in the city.

(Prior Code, § 13-3-5) Penalty, § 72.99

§ 72.06 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 may forthwith remove the same from the sidewalks or streets of the city at the expense of the owner of the vehicle.

(Prior Code, § 13-3-6)

§ 72.07 PARKING FOR PERSONS WITH PHYSICAL DISABILITIES.

(A) Except as provided in division (C) hereof, no person shall stop, stand, or park a motor vehicle within any such specially-designated and marked parking space provided in accordance with division (F) hereof and A.R.S. §§ 28-881 *et seq*., unless the motor vehicle is transporting a person who has been issued a valid placard or special number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard; or

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

(B) A person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or

unloading the disabled person. No complaint or citation shall be issued to the driver for the momentary parking.

(C) If a law enforcement officer, or a parking enforcement specialist appointed pursuant to § 72.08 herein, finds a motor vehicle in violation of this section, the officer or parking enforcement specialist shall issue a citation or complaint for a civil traffic violation to the operator or other person in charge of the motor vehicle or, if an operator or person in charge is not present, to the registered owner of the vehicle by leaving the complaint or citation on the vehicle windshield in a prominent location. The registered owner of the vehicle shall be strictly liable and responsible for violations of this section regardless of whether or not the owner was the person who parked or left the vehicle in violation of this section.

(D) This section does not apply:

(1) To zones where stopping, standing, or parking is prohibited to all vehicles; or

(2) If there is an ordinance of the city prohibiting parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

(E) Each such parking space for persons with physical disabilities shall be prominently outlined with paint and posted with a permanent sign located not less than three feet nor more than six feet above the grade and of a color and design approved by the Arizona Department of Transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking".

(F) In this section, the term "persons with physical disabilities" shall have the meaning assigned to it in A.R.S. §§ 28-881 *et seq*.

(Ord. O08-04-05, passed 4-10-2008) Penalty, see § 72.99

§ 72.08 VOLUNTEER PARKING ENFORCEMENT SPECIALISTS.

The City Manager or designee is hereby authorized to establish a volunteer parking enforcement specialist program for parking for persons with physical disabilities, in accordance with A.R.S. § 28-886, to issue citations for violations of § 72.07 of the city code.

(Ord. O08-04-05, passed 4-10-2008)

§ 72.09 PARKING REQUIREMENTS.

Off-street parking spaces shall be provided according to the following provisions and standards.

(A) Off-street parking facilities for residential uses shall be utilized solely for the parking of licensed and operable passenger automobiles, recreational vehicles, or boats owned by the occupants of the residence or the parking of passenger automobiles by guests of the occupants. Under no circumstances shall required parking facilities for a residential structure be used for storage of commercial vehicles or equipment or for the parking of vehicles belonging to the employees, owners, tenants, or customers of business or manufacturing establishments except as provided in § 72.11.

(B) Excess vehicle and visitor parking may be located in no more than 35% of the front yard containing the driveway, except on lots less than 7,000 square feet in which case the excess vehicle and visitor parking may be located up to 50% of the front yard.

(Prior Code, § 13-3-8)

§ 72.10 TRUCKS AND TRAILERS ON RESIDENTIAL STREETS.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

STREET. The entire width between the boundary lines of every way, including the improved and unimproved shoulder or berm thereto.

(B) No person shall stand or park a vehicle with a gross vehicle weight rating in excess of 25,000 pounds, or a tractor, semi-trailer, trailer, or bus on a street in a residential zone, or adjoining a residential zone, except during the process of loading or unloading the vehicle.

(Prior Code, § 13-3-9) Penalty, see § 72.99

§ 72.11 PARKING IN RESIDENTIAL AREAS; DRIVEWAYS OR PRIVATE PROPERTY.

(A) No person shall stand or park a vehicle with a gross vehicle weight rating in excess of 25,000 pounds, or a tractor, semi-trailer, trailer, or bus on any real property within a residential zoning district within the city, except during the process of loading or unloading the vehicle, or unless parked or placed in a rear yard or screened area not visible from the public street or roadway.

(B) No person shall park, or permit to be parked, any motor vehicle, trailer, boat, or camper (hereafter "vehicle") for the purpose of sale upon any lot or area within the city. This section shall not apply to:

(1) The display of one vehicle for sale when the vehicle is owned by the resident of the property and is not being sold in connection with a vehicle sales business; or

(2) Property which has a zoning classification which permits the sale of vehicles and the sale of vehicles is by the property owner, his or her lessee, or tenants.

(Prior Code, § 13-3-10) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) The City Court, upon a finding that a vehicle has been in violation of § 72.07, shall impose on the operator, person in charge, or owner of the vehicle a fine of not less than $250 for a first offense, not less than $500 for a second offense, and not less than $1,000 for a third and all subsequent offenses. All fines shall have added the penalty assessments prescribed by the Arizona Revised Statutes.

(C) (1) Unless otherwise provided, a violation of § 72.11 shall be a civil traffic violation and shall be subject to a civil sanction of not more than $100, plus any applicable surcharges.

(2) Violation of § 72.11(B) shall constitute a civil traffic violation and the violator shall be subject to a civil sanction of not more than $250, plus any applicable surcharges. No person shall be charged with a violation of § 72.11(B) unless either:

(a) A sign(s) visible from all entrances to the lot or from the parking space prohibits unauthorized parking; or

(b) The person parking on the private parking area has been warned orally or in writing to refrain from parking there.

(Prior Code, § 13-3-10) (Ord. O08-04-05, passed 4-10-2008)

CHAPTER 73: OPERATION OF VEHICLES

Section

73.01 Excessive noise

73.02 City parks and public properties

§ 73.01 EXCESSIVE NOISE.

It is unlawful for any person to operate any vehicle, whether stationary or moving, in such a manner as to create excessive loud and unnecessary grating, grinding, rattling, or other noise. No person shall intentionally operate any vehicle at such a speed on a curve or turn or accelerate or decelerate the vehicle in such a manner as to create loud and unnecessary noise through the squealing of tires upon the pavement or to cause damage to the roadway.

(Prior Code, § 13-4-2) Penalty, see § 10.99

Statutory reference:

Mufflers and vehicle noise, A.R.S. §§ 28-955 et seq.

§ 73.02 CITY PARKS AND PUBLIC PROPERTIES.

No person shall drive, ride, stop, stand, or park any vehicle within a city park or other publicly-owned property except upon established park roads and drives specifically designated as such or in established parking areas. This section specifically prohibits the stopping, standing, or parking of any vehicles on the grassy areas of the parks.

(Prior Code, § 13-4-3) Penalty, see § 10.99

CHAPTER 74: OUTDOOR STORAGE OF DISMANTLED, ABANDONED, OR INOPERABLE MOTOR VEHICLES

Section

74.01 Definitions

74.02 Outdoor storage of dismantled, abandoned, or inoperable motor vehicles

74.03 Exemptions

74.04 Permits

74.05 Clearing of dismantled, abandoned, or inoperable motor vehicles or parts from private property

74.06 Nuisance

74.99 Penalty

§ 74.01 DEFINITIONS.

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

ABANDONED. Abandoned, worn out, inoperable, unused, stripped, unclaimed, junked, or discarded. It shall also mean an automobile being repaired when such repairs take over 30 days.

DISMANTLED and ***PARTIALLY DISMANTLED MOTOR VEHICLE.*** A motor vehicle from which some part, ordinarily a component of the motor vehicle, has been removed or is missing.

DWELLING. Any house, building, structure, tent, shelter, trailer, or vehicle or portion thereof which is occupied in full or in part as the home, residence, living, or sleeping place, or which is intended to be occupied by one or more human beings, either permanently or transiently.

INOPERABLE MOTOR VEHICLE. A motor vehicle which by reason of dismantling, disrepair, or other causes is incapable of being propelled under its own power.

MOTOR VEHICLE. Any wheeled vehicle which is self-propelled.

STORE or ***STORAGE.*** The presence or locating of any dismantled, partially dismantled, inoperable, or abandoned motor vehicle.

(Prior Code, § 13-5-1)

§ 74.02 OUTDOOR STORAGE OF DISMANTLED, ABANDONED, OR INOPERABLE MOTOR VEHICLES.

(A) Except as hereinafter provided, it is unlawful for any owner, tenant, lessee, or other occupant to store on, place on, or permit to be stored on or placed on, or allowed to remain on, any private property in the city a dismantled, partially dismantled, inoperable, or abandoned motor vehicle or any parts of a motor vehicle.

(B) Except as hereinafter provided, it is unlawful for any owner, tenant, lessee, or other occupant, to store on, place on, or permit to be stored or placed on, or allowed to remain on, any private property upon which there is a structure used in whole or in part as a

dwelling in the city, a dismantled, partially dismantled, inoperable or abandoned vehicle, or any parts of a motor vehicle, unless the vehicle, or parts of the vehicle, shall be kept in a wholly enclosed garage or other wholly enclosed structure. A fenced or walled area shall not be considered a wholly-enclosed structure hereunder if any vehicle or any part of a vehicle may be seen from a street, alley, or other private or public property.

(Prior Code, § 13-5-2)

§ 74.03 EXEMPTIONS.

(A) Any bona fide owner, co-owner, tenant, or co-tenant may store, permit to be stored, or allow to remain on the premises of which he or she is the owner, co-owner, tenant, or co-tenant, any such dismantled, partially dismantled, or inoperable motor vehicle for a period of not to exceed 48 hours. Any such owner, co-owner, tenant, or co-tenant may, in the event of hardship, upon payment of the fee hereinafter provided, secure a permit from the Community Development Director of the city to extend the period of 48 hours for an additional period of not to exceed one week for any such dismantled, partially dismantled, or inoperable motor vehicle. This section shall not be construed as to permit parking or placing of dismantled, partially dismantled, or inoperable motor vehicles on any street area in the city as now or hereafter defined by the zoning ordinance of the city.

(B) The provisions of this chapter shall not apply to any person duly licensed to store dismantled, partially dismantled, or inoperable motor vehicles or parts where such activity is within the contemplated purpose under the terms and conditions of Chapter 154 of this code, as now or hereafter amended.

(C) The provisions of this chapter shall not apply to motor vehicles manufactured prior to 1930 and considered of historical value or to a "classic car" as defined by the Classic Car Club of America.

(Prior Code, § 13-5-3)

§ 74.04 PERMITS.

Upon application duly made and upon showing of hardship, the Community Development Director of the city is hereby authorized to issue a permit provided for in § 74.03. A fee of $5 for each such permit issued shall be collected and shall be paid into the General Fund.

(Prior Code, § 13-5-4)

§ 74.05 CLEARING OF DISMANTLED, ABANDONED, OR INOPERABLE MOTOR VEHICLES OR PARTS FROM PRIVATE PROPERTY.

(A) The City Manager is hereby authorized and empowered to notify the owner or the agent of the owner of any property within the city to properly dispose of dismantled, partially dismantled, inoperable, or abandoned motor vehicles or parts located upon the owner's property which are dangerous to the public health, safety, or welfare. The notice shall be by registered mail with return receipt requested and addressed to the owner at his or her last known address.

(B) Upon the failure of any owner to properly dispose of dismantled, partially dismantled, inoperable, or abandoned motor vehicles or parts within 30 days after receipt of written notice provided for in division (A) of this section, or within 30 days after the date of the notice in the event the same is returned to the City Post Office Department because of its inability to make delivery thereof, provided that the same was properly addressed to the last known address of the owner or agent, the Manager is authorized and empowered to pay for the disposing of the dismantled, partially dismantled, inoperable, or abandoned motor vehicles or parts or to order its disposal by the city.

(Prior Code, § 13-5-5)

§ 74.06 NUISANCE.

The presence of a dismantled, partially dismantled, inoperable, or abandoned motor vehicle or part of a motor vehicle on any parcel of land in violation of the terms of this chapter is declared to be a public nuisance.

(Prior Code, § 13-5-6)

§ 74.99 PENALTY.

Every owner, tenant, lessee, or other occupant who shall store a dismantled, partially dismantled, inoperable, or abandoned motor vehicle in violation of this chapter shall be punishable as set forth in § 10.99. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter.

(Prior Code, § 13-5-7)

CHAPTER 75: MOTOR CARRIER SAFETY REGULATIONS

Section

75.01 Adoption of Federal Motor Carrier safety regulations

75.02 Scope and jurisdiction; definition

75.03 Major streets, local streets; definitions

75.04 Permissible routes, unlawful acts

75.05 Exceptions to route restrictions

75.06 Liability for damages

75.07 Definition; gross weight of trucks and load

75.08 Permits for the movement of over dimensional loads

75.09 Weighing of vehicles

75.10 Exemptions

75.11 Trucks; noise, truck routes; designations; restrictions on operation during designated hours; violations

75.99 Penalty

§ 75.01 ADOPTION OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS.

The certain code entitled *Federal Motor Carrier Safety Regulations*, 2003 edition, published by the U.S. Department of Transportation's Federal Motor Carrier Safety Administration, is hereby adopted as the Motor Carrier Safety Regulation Code of the City of El Mirage. At least three copies of the motor carrier safety regulation code shall be filed in the office of the Clerk and kept available for public use and inspection in accordance with A.R.S. § 9-802.

(Prior Code, § 13-6-1)

§ 75.02 SCOPE AND JURISDICTION; DEFINITION.

(A) This section shall apply to solely users of streets within the city boundaries and under the jurisdiction of the City of El Mirage.

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

TRUCK. Those vehicles with motive power, other than buses and recreational vehicles, having three or more axles and measuring 36 feet or longer in overall length including truck and load, which are designed and used primarily for carrying property other than the effects of the driver.

(Prior Code, § 13-6-2)

Statutory reference:

Weighing of vehicles, A.R.S. § 28-1102

§ 75.03 MAJOR STREETS, LOCAL STREETS; DEFINITIONS.

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

COLLECTOR STREETS. All those streets designated as ***COLLECTOR STREETS*** on the street classification map, on file in the office of the City Clerk. ***COLLECTOR STREETS*** provide for both land access, service, and traffic circulation within residential neighborhoods and commercial and industrial areas, and collect traffic from residential neighborhoods and channel it into the arterial street system. Such streets are not designated on the transportation element of the city's general plan.

LOCAL STREETS. All those streets designated as ***LOCAL STREETS*** on the street classification map, on file in the office of the City Clerk. ***LOCAL STREETS*** provide for access to those properties that are adjacent to the collector street network and serve travel needs over relatively short distances and connections to higher classification streets. Such streets are not designated on the transportation element of the city's General Plan.

MAJOR ARTERIAL STREETS. All those streets designated as ***MAJOR ARTERIAL STREETS*** on the street classification map, on file in the office of the City Clerk***.*** ***MAJOR ARTERIAL STREETS*** provide for traffic movement from one area of the city to another, and are primarily designed to accommodate through traffic; provision of access to abutting property is a secondary consideration. ***MAJOR ARTERIAL STREETS*** are designated on the transportation element of the city's General Plan.

MINOR ARTERIAL STREETS. All those streets designated as ***MINOR ARTERIAL STREETS*** on the classification street map, on file in the office of the City Clerk. ***MINOR ARTERIAL STREETS*** accommodate through traffic, while balancing the need to develop adjacent land uses in accordance with arterial access guidelines contained in the city's Comprehensive Plan.

PARKWAY. Those streets designated on the city's street classification map as a ***PARKWAY*** and proposed to have a right-of-way not less than that for a major arterial street and that shall have controlled points of access. These streets are designated on the transportation element of the city's General Plan. Such streets shall be treated as major arterial streets for the purpose of regulating truck traffic under this code.

(B) Truck routes and through truck routes are established for major arterial streets.

(Prior Code, § 13-6-3)

§ 75.04 PERMISSIBLE ROUTES, UNLAWFUL ACTS.

Trucks must operate only on truck routes, through truck routes, and major arterial streets, except as provided by this code. It shall be unlawful to operate any truck on any street in the City of El Mirage in violation of the provisions of this code.

(Prior Code, § 13-6-4) Penalty, see § 75.99

§ 75.05 EXCEPTIONS TO ROUTE RESTRICTIONS.

Trucks may operate off of major arterial streets only for delivery and pickup of merchandise, materials, or equipment going to or from a specific location in minor arterial, local, or collector streets. Trucks must use the shortest route on minor arterial, local, or collector streets to and from the major arterial streets.

(Prior Code, § 13-6-5)

§ 75.06 LIABILITY FOR DAMAGES.

(A) Any person driving, operating, or parking any truck upon any street under the jurisdiction of the City of El Mirage shall be liable for any damage to any street, light, or sign of the City of El Mirage as a result of any unlawful operation, driving, moving, or parking of the truck, or as a result of operating, driving, moving, or parking any truck weighing or measuring in excess of the maximum weight.

(B) When the driver is not the owner of the truck, but is operating, driving, moving, or parking the truck with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage.

(C) Damages, under this section, shall be ordered as restitution to the City of El Mirage by the Magistrate Court upon any conviction for violation of this code. The City Magistrate shall not waive or reduce the amount of restitution provided for by this section.

(D) The City Attorney may bring a civil action on behalf of the city to recover the damages.

(Prior Code, § 13-6-6)

Statutory reference:

Similar provisions, A.R.S.§ 28-1107

§ 75.07 DEFINITION; GROSS WEIGHT OF TRUCKS AND LOAD.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

TRUCK. Any motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform, or other equipment for the carrying.

(B) The axle loads and the gross weight and loads of any truck or truck and load driven upon city streets shall not exceed the loads and weights set forth in A.R.S. §§ 28-1008, 28-1009, and 28-1009.01, the provisions of which are adopted by reference as though fully contained in this code.

Statutory reference:

The statutes cited in this division have been repealed and replaced. Current maximum loads and weights, see A.R.S. §§ 28-1099, 28-1100

(C) The prohibitions of this section shall not apply to trucks operating pursuant to a permit for the movement of over-dimensional vehicles as provided in this code.

(Prior Code, § 13-6-7)

§ 75.08 PERMITS FOR THE MOVEMENT OF OVER DIMENSIONAL LOADS.

(A) The Chief of Police or his or her designee, upon written application and with good cause being shown, may issue an oversized or overweight permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight, or load exceeding the maximum specified in this chapter, or otherwise not in conformity with the provisions of A.R.S. 28-6-18, relating to size, weight, and load regulation upon any street under the jurisdiction of the city.

Statutory reference:

The statute cited in this division does not exist. Authority to issue permits, see A.R.S. § 28-1103

(B) The permit provided for in this section shall be one adopted by the Chief of Police or his or her designee, and shall be issued pursuant to and in conformity with the provisions of A.R.S. 28-6-18.

Statutory reference:

The statute cited in this division does not exist.

Authority to issue permits, see A.R.S. § 28-1103

Requirements and conditions, see A.R.S. §§ 28-1091 et seq.

(C) The Chief of Police or his or her designee may establish seasonal or other time limitations on such permits within which the vehicles described may be operated on the highways indicated, or otherwise limit and prescribe conditions of operation of the vehicles when necessary, to ensure against undue damage on the road infrastructure and/or surfaces, and may require other security as he or she deems necessary to compensate for any damage to a roadway or road structure. The person for whom a permit is issued is liable for any damage caused by his or her actions, and for the actions of parties carrying out the work covered under the permit.

(D) A permit issued pursuant to this section shall be carried in the vehicle or combination of vehicles to which it refers, and shall be open for inspection by any peace officer or agent of the city.

(E) A fee shall be assessed for each permit issued.

(F) A 30-day permit may be issued for the movement of over dimensional and/or overweight loads as long as any load to be carried within the 30-day period does not exceed the specifications listed on the permit. A fee shall be assessed for each 30-day period. A single trip permit may be issued under the same premise as is a 30-day permit, but is valid for only three days from the date of issue. A fee for this permit shall also be assessed.

(G) Applications for permits described in this section must be submitted to the Police Department not less than five working days prior to the time that work, described on the permit, is to commence.

(H) At the discretion of the Chief of Police or his or her designee, a permit holder may be required to have escorts and/or certified peace officers to accompany loads. Non-police escorts shall be trained in traffic direction and control by the permit holder and shall utilize vehicle markings that are visible from a minimum of 200 feet in daylight.

(I) Loads with widths wider than 25 feet and/or with heights greater than 15 feet will require the review of the Public Works Director, or his or her designee, before a permit can be issued.

(J) The Chief of Police, Public Works Director, or their designee may suspend permits for reasons of public safety concerns and/or negligence.

(Prior Code, § 13-6-8)

§ 75.09 WEIGHING OF VEHICLES.

Any peace officer having reason to believe that a vehicle is being operated in violation of this code is authorized to require the operator to stop and submit to an inspection and/or weighing of the vehicle and load by means of either portable or stationary scales and may require the vehicle to be driven to the nearest public scales in the event the scales are within two miles in the same manner as provided by the Arizona Revised Statutes.

(Prior Code, § 13-6-10)

§ 75.10 EXEMPTIONS.

Users of highways within the city limits of the City of El Mirage which are within the state highway system and under the jurisdiction of the State of Arizona shall comply with the requirements of state law and upon such compliance are exempt from this chapter. This chapter shall not apply to fire apparatus, urban mass transportation vehicles, or to instruments of husbandry, including farm tractors temporarily moved upon a street.

(Prior Code, § 13-6-11)

§ 75.11 TRUCKS; NOISE, TRUCK ROUTES; DESIGNATIONS; RESTRICTIONS ON OPERATION DURING DESIGNATED HOURS; VIOLATIONS.

(A) *Findings*. The City Council finds that:

(1) There are arterial and collector roadways in the City of El Mirage, as defined in the El Mirage General Plan and Transportation Plan and that have been designated under this code as truck routes that traverse through residential areas to intense

industrial and commercial zones (hereafter, designated roadways);

(2) Traffic on these designated roadways late at night and early morning results in excessive noise, excessive vibration, and dust that degrades the environment of the city to a degree that:

(a) Is harmful and detrimental to the health, welfare, and safety of the city's inhabitants;

(b) Interferes with the comfortable enjoyment of life, property, and recreation and with the conduct of business and industry;

(c) Creates nuisances; and

(d) Creates incompatibility between residential uses and commercial uses.

(3) No one has the right to create excessive noise or excessive vibration; and

(4) Effective control and elimination of excessive noise and excessive vibration is essential to the furtherance of the health and welfare of the city's inhabitants and to the conduct of the normal pursuits of life, recreation, commerce, and industrial activity.

(B) *Intent and purpose.* It is the intent and purpose of this section to prevent excessive noise and excessive vibration and to limit, control, and eliminate excessive noise and excessive vibration in general from whatever source, while minimizing any burdens on interstate or intrastate commerce in accordance with the United States Constitution and the Constitution of Arizona. Nothing in this section shall be interpreted to restrict the movement of interstate commerce under the United States Constitution and in the event any court of competent jurisdiction finds that a provision of this section constitutes a restriction upon interstate commerce under the United States Constitution, the provisions shall be severed from the remainder of the section.

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

CITY. The City of El Mirage, Arizona.

DESIGNATED ROADWAY. A public street of the city that has been designated in accordance with this section for restrictions on the operations of trucks during certain specified hours.

EXCESSIVE NOISE. Any noise prohibited by division (D) of this section.

EXCESSIVE VIBRATIONS. The presence of a vibration or vibrations of such intensity, duration, frequency, or character which annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on persons, or damage or tend to damage personal or real property.

PERSON. Any individual, natural person, syndicate, association, partnership, firm, corporation, institution, or other entity recognized by law as a subject of rights and duties.

TRUCK. Shall have the definition set forth in § 75.02.

VIBRATION. An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

(D) *Excessive noise.* It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise by operating a truck on a roadway designated in accordance with this section for restricted truck hours operation, that disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

(E) *Excessive vibration.* No person shall discharge or allow the escape of sounds or vibrations of a nature which are prohibited by or are in excess of that permitted by this section, or which result in or cause noise or excessive vibration on a roadway designated in accordance with this section for restricted truck hours operation.

(F) *Strict liability.* It shall be unlawful for any person to cause to operate or operate any truck on a roadway designated in accordance with this section for restricted truck hours operation during the hours of 9:00 p.m. to 5:00 a.m.

(G) *Other remedies.* Nothing in this chapter shall be construed as limiting the rights of any person to redress in a court of law for any injury to person or damage to property caused by noise or excessive vibration.

(H) *Powers and duties of the Department of Public Works.* The Department of Public Works shall have the following powers and duties.

(1) The Department shall be responsible for the administration and enforcement of this chapter in cooperation with the Police Department.

(2) The Department shall post notices every 300 feet along the roadway at least 11" x 17" in size providing not less than 15-days' notice of the intent to designate any designated truck route for restrictive truck hours regardless of its designation as an arterial or collector roadway. Truck operation shall be prohibited from 9:00 p.m. to 5:00 a.m.

(a) No roadway designated as a state route or state highway shall be subject to the designation process.

(b) No roadway shall be designated if the designation would preclude truck access in all four directions.

(I) *Standard.*

(1) The standard that shall be used by the Director of Public Works in designating a roadway for restrictive truck hours that may be considered in determining whether a violation of the provisions of this section exists may include, but not limited to, the following:

(a) The level of noise in accordance with recognized engineering standards adopted by the Director of Public Works and whether such standards are exceeded;

(b) Whether the nature of the noise is usual or unusual;

(c) Whether the origin of the noise is natural or unnatural;

(d) The level and intensity of the background noise, if any;

(e) The proximity of the noise to residential sleeping facilities;

(f) The nature and zoning of the area within which the noise emanates and whether the area is predominantly residential in character;

(g) The density of the inhabitation of the area within which the noise emanates;

(h) The time of the day and night the noise occurs; and/or

(i) The duration of the noise; and whether the noise is recurrent, intermittent, or constant.

(2) If the Director of Public Works determines that four or more of these factors are impacted, he or she shall have the jurisdiction to designate the roadway in accordance with this section.

(J) *Appeal.* Any owner of real property fronting a roadway proposed to be designated for restrictive truck hours may file an appeal of the proposed designation within 15 days of the date of the posted notice. The appeal shall be filed with the Director of Public Works and shall be heard by the a hearing officer appointed by the City Council for such purposes. The hearing officer shall decide the matter within 20 days of the appeal. The standard of the review shall be whether Public Works Director had a reasonable basis to determine that four or more of the factors in division (I)(1) were impacted.

(Prior Code, § 13-6-12) Penalty, see § 75.99

§ 75.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person violating the provisions of § 75.04 shall be guilty of a Class 1 misdemeanor.

(C) In addition to any other penalties provided for the violation of this chapter, any person convicted of violating the provisions of this chapter shall be punished by a fine as set forth in A.R.S. § 28-1101 and any amendments thereto.

(Prior Code, § 13-6-9)

(D) Violations of § 75.11 by operation of a truck on a designated roadway in violation of restrictive truck hours shall be a civil traffic violation. The Court or hearing officer shall impose a mandatory fine of $250 for each cited violation of § 75.11, or any other section of this code or any provision of A.R.S. Title 28, that is determined responsible, together with applicable surcharges. The Court shall not reduce the amount of the mandatory fine, but may provide for time payment.

(Prior Code, § 13-6-12)

Schedule

I. Local speed limits

SCHEDULE I. LOCAL SPEED LIMITS.

Street Name	*Length*		*Speed Limit (MPH)*	*Road Type*
	From	*To*		
115th Ave.	Corrine Dr.	Wethersfield Rd.	25	L
115th Ln.	Rosewood Dr.	Flores Dr.	25	L
116th Ave.	Rosewood Dr.	Larkspur Rd.	25	L
117th Ave.	Corrine Dr.	Rosewood Dr.	25	L
117th Ave.	Larkspur Rd.	Wethersfield Rd.	25	L
121st Ave.	Aster Dr.	Windrose Dr.	25	L
121st Ave.	Corrine Dr.	Rosewood Dr.	25	L
121st Ave.	Flores Dr.	Charter Oak Rd.	25	L
121st Dr.	Bloomfield Rd.	Cul-de-Sac	25	L
121st Dr.	Scotts Dr.	Columbine Dr.	25	L
121st Ln.	Bloomfield Rd.	Cul-de-sac	25	L
121st Ln.	Larkspur Rd.	Columbine Dr.	25	L
122nd Ave.	Aster Dr.	Corrine Dr.	25	L
122nd Ave.	Bloomfield Rd.	Cactus Rd.	25	L
122nd Ave.	Flores Dr.	Scotts Dr.	25	L
122nd Dr.	Bloomfield Rd.	Cul-de-sac	25	L
122nd Ln.	Corrine Dr.	Flores Dr.	25	L
122nd Ln.	Dahlia Dr.	Aster Dr.	25	L
		Bloomfield		

122nd Ln.	Scotts Dr.	Rd.	25	L
123rd Dr.	Bloomfield Rd.	Charter Oak Rd.	25	L
123rd Dr.	Corrine Dr.	Scotts Dr.	25	L
123rd Dr.	Scotts Dr.	Bloomfield Rd.	25	L
123rd Dr.	Sweetwater Ave.	Corrine Dr.	25	L
123rd Dr.	Valentine St.	Sweetwater Ave.	25	L
123rd Ln.	Bloomfield Rd.	Charter Oak Rd.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
123rd Ln.	Canterbury Dr.	Sierra St.	25	L
123rd Ln.	Charter Oak Rd.	Cactus Rd.	25	L
123rd Ln.	Pershing St.	Myer Ln.	25	L
123rd Ln.	Sierra St.	Berry Ln.	25	L
124th Ave.	Acoma Dr.	Via Camille	25	L
124th Ave.	Saint Moritz Ln.	Acoma Dr.	25	L
124th Ave.	Thunderbird Rd.	Myer Ln.	30	C
124th Dr.	Cul-de-sac	Saint Moritz Ln.	25	L
124th Ln.	Columbine Dr.	Bloomfield Rd.	25	L
124th Ln.	Cul-de-sac	Acoma Dr.	25	L
124th Ln.	Hearn Rd.	Via Camille	25	L
124th Ln.	Larkspur Rd.	Columbine Dr.	25	L
124th Ln.	Myer Ln.	Valentine St.	25	L
124th Ln.	Rosewood Dr.	Scotts Dr.	25	L

124th Ln.	Scotts Dr.	Larkspur Rd.	25	L
124th Ln.	Sharon Dr.	Willow Ave.	25	L
124th Ln.	Surrey Ave.	Myer Ln.	25	L
124th Ln.	Valentine St.	Windrose Dr.	25	L
124th Ln.	Windrose Dr.	Rosewood Dr.	25	L
125th Ave.	Hearn Rd.	Via Camille	25	L
125th Ave.	Mauna Loa Ln.	Acoma Dr.	25	L
125th Ave.	Shaw Butte Dr.	Canterbury Dr.	25	L
125th Ave.	Varney Rd.	Peoria Ave.	15	L
125th Ave.	Willow Ave.	Myer Ln.	25	L
125th Dr.	Charter Oak Rd.	Cactus Rd.	25	L
125th Dr.	Cul-de-sac	126th Ave.	25	L
125th Dr.	Cul-de-sac	Well St.	25	L
125th Dr.	Valentine St.	Dreyfus Dr.	25	L
125th Ln.	Acoma Dr.	Via Camille	25	L
125th Ln.	Cameron Dr.	Cul-de-sac	25	L
125th Ln.	Cul-de-sac	Mauna Loa Ln.	25	L
126th Ave.	Columbine Dr.	Cactus Rd.	25	L
126th Ave.	Crocus Dr.	Via Camille	25	L
126th Ave.	Cul-de-sac	Myer Ln.	25	L
126th Ave.	Cul-de-sac	Saint Moritz Ln.	25	L
126th Ave.	Myer Ln.	Moreno Ln.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
126th Ave.	Saint Moritz Ln.	Acoma Dr.	25	L

126th Ave.	Santa Fe Ln.	Thunderbird Rd.	25	L
126th Dr.	Cameron Dr.	Cul-de-sac	25	L
126th Dr.	Cul-de-sac	Soledad St.	25	L
126th Dr.	Soledad St.	Myer Ln.	25	L
126th Ln.	Boca Raton Rd.	Thunderbird Rd.	25	L
126th Ln.	Calavar Rd.	Boca Raton Rd.	25	L
126th Ln.	Cameron Dr.	Cul-de-sac	25	L
126th Ln.	Cul-de-sac	Larkspur Rd.	25	L
127th Ave.	Acoma Dr.	Hearn Rd.	25	L
127th Ave.	Cactus Rd.	Varney Rd.	30	C
127th Ave.	Hearn Rd.	Via Camille	25	L
127th Ave.	Saint Moritz Ln.	Acoma Dr.	25	L
127th Ave.	Santa Fe Ln.	Ventura St.	25	L
127th Ave.	Thunderbird Rd.	Cactus Rd.	30	C
127th Ave.	Varney Rd.	Peoria Ave.	15	L
127th Ave.	Varney Rd.	Thunderbird Road	25	L
127th Dr.	Aster Dr.	127th Ave.	25	L
127th Dr.	Bloomfield Rd.	Charter Oak Rd.	25	L
127th Dr.	Cul-de-sac	Cherry Hills Dr.	25	L
127th Dr.	Flores Dr.	Bloomfield Rd.	25	L
127th Dr.	Santa Fe Ln.	Well St.	25	L
127th Dr.	Sharon Dr.	Voltaire Ave.	25	L
127th Dr.	Well St.	Ventura St.	25	L
127th Dr.	Willow Ave.	Surrey Ave.	25	L
127th Ln.	Ash St.	Cul-de-sac	25	L
127th Ln.	Boca Raton Rd.	Thunderbird Rd.	25	L

127th Ln.	Cul-de-sac	Bloomfield Rd.	25	L
127th Ln.	Dreyfus Dr.	Moreno Ln.	25	L
127th Ln.	Santa Fe Ln.	Boca Raton Rd.	25	L
127th Ln.	Soledad St.	Valentine St.	25	L
127th Ln.	Valentine St.	Dreyfus Dr.	25	L
128th Ave.	Ash St.	Cul-de-sac	25	L
128th Ave.	Aster Dr.	Windrose Dr.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
128th Ave.	Cul-de-sac	Paradise Dr.	25	L
128th Dr.	Cul-de-sac	Paradise Dr.	25	L
128th Dr.	Evans Dr.	Crocus Dr.	25	L
128th Dr.	Hearn Rd.	Redfield Rd.	25	L
128th Dr.	Windrose Dr.	Bloomfield Rd.	25	L
128th Ln.	Dreyfus Dr.	Aster Dr.	25	L
128th Ln.	Flores Dr.	Charter Oak Rd.	25	L
128th Ln.	Pershing St.	Myer Ln.	25	L
128th Ln.	Rosewood Dr.	Flores Dr.	25	L
129th Ave.	Acoma Dr.	Via Camille	25	L
129th Ave.	Cactus Rd.	Cherry Hills Dr.	25	L
129th Ave.	Moreno Blvd.	Cactus Rd.	30	C
129th Ave.	Port Royale Ln.	Saint Moritz Ln.	25	L
129th Ave.	Thunderbird Rd.	Moreno Blvd.	30	C
129th Ave.	Varney Rd.	Peoria Ave.	15	L
129th Dr.	Bloomfield Rd.	Charter Oak Rd.	25	L

129th Dr.	Cul-de-sac	Via Camille	25	L
129th Dr.	Mauna Loa Ln.	Mandalay Ln.	25	L
129th Dr.	Paradise Dr.	Laurel Ln.	25	L
129th Dr.	Pershing St.	Sweetwater Ave.	25	L
129th Dr.	Sharon Dr.	Willow Ave.	25	L
129th Dr.	Soledad St.	Pershing St.	25	L
129th Dr.	Surrey Ave.	Soledad St.	25	L
130th Ave.	Saint Moritz Ln.	Evans Dr.	25	L
130th Ave.	Sharon Dr.	Ash St.	25	L
130th Ave.	Via Camille	Cul-de-sac	25	L
130th Dr.	Bloomfield Rd.	Charter Oak Rd.	25	L
130th Dr.	Cul-de-sac	Evans Dr.	25	L
130th Dr.	Cul-de-sac	Sweetwater Ave.	25	L
130th Dr.	Flores Dr.	Scotts Dr.	25	L
130th Dr.	Paradise Dr.	Laurel Ln.	25	L
130th Dr.	Sweetwater Ave.	Windrose Dr.	25	L
130th Dr.	Via Camille	Cul-de-sac	25	L
130th Ln.	Ash St.	Cul-de-sac	25	L
130th Ln.	Crocus Dr.	Hearn Rd.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
130th Ln.	Cul-de-sac	Crocus Dr.	25	L
130th Ln.	Cul-de-sac	Mandalay Ln.	25	L
130th Ln.	Cul-de-sac	Rosewood Dr.	25	L
130th Ln.	Hearn Rd.	Via Camille	25	L
130th Ln.	Larkspur Rd.	Bloomfield Rd.	25	L
130th Ln.	Laurel Ln.	Cherry Hills	25	L

		Dr.		
1st Ave.	Santa Fe Ln.	Gentry Park	25	L
2nd Ave.	Santa Fe Ln.	Gentry Park	25	L
3rd Ave.	Santa Fe Ln.	Gentry Park	25	L
4th Ave.	Santa Fe Ln.	Gentry Park	25	L
5th Ave.	Santa Fe Ln.	Gentry Park	25	L
A St.	Flores Dr.	Scotts Dr.	25	L
A St.	Thunderbird Rd.	Myer Ln.	25	L
Acoma Dr.	Dysart Rd.	Grand Ave.	25	C
Alto St.	Grand Ave.	Thunderbird Rd.	25	L
Alto St.	Surrey Ave.	Dreyfus Dr.	25	L
Ash St.	127th Ave.	125th Ave.	25	L
Ash St.	129th Ave.	Ash St.	25	L
Ash St.	130th Ln.	129th Ave.	25	L
Ash St.	Cul-de-sac	124th Ave.	25	L
Ash St.	Cul-de-sac	127th Dr.	25	L
Ash St.	Main St.	Olive St.	25	L
Ash St.	Poppy St.	El Frio St.	25	L
Aster Dr.	122nd Ln.	121st Ave.	25	L
Aster Dr.	123rd Dr.	El Mirage Rd.	25	L
Aster Dr.	124th Ln.	123rd Dr.	25	L
Aster Dr.	127th Ave.	Cul-de-sac	25	L
Aster Dr.	127th Dr.	127th Ave.	25	L
Aster Dr.	B St.	Pablo St.	25	L
Aster Dr.	Cul-de-sac	127th Ln.	25	L
Aster Dr.	El Frio St.	Reese Ave.	25	L
Aster Dr.	Pablo St.	Main St.	25	L
Aster Dr.	Palm St.	Cesar Chavez Dr.	25	L
Aster Dr.	Poppy St.	El Frio St.	25	L
B St.	Dahlia Dr.	Flores Dr.	25	L
B St.	Scotts Dr.	Wethersfield Rd.	25	L
B St.	Thunderbird Rd.	Myer Ln.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Berry Ln.	Canterbury Dr.	123rd Ln.	25	L
Bloomfield Rd.	117th Ave.	115th Ave.	25	L
Bloomfield Rd.	122nd Ln.	121st Ave.	25	L
Bloomfield Rd.	124th Ln.	123rd Dr.	25	L
Bloomfield Rd.	127th Ave.	Cul-de-sac	25	L
Bloomfield Rd.	128th Ln.	127th Dr.	25	L
Bloomfield Rd.	130th Ln.	129th Ave.	25	L
Bloomfield Rd.	B St.	Tonya St.	25	L
Bloomfield Rd.	El Frio St.	Reese Ave.	25	L
Bloomfield Rd.	Palm St.	El Frio St.	25	L
Bloomfield Rd.	Reese Ave.	B St.	25	L
Boca Raton Rd.	127th Ln.	126th Ln.	25	L
Cactus Rd.	Main St.	El Mirage Rd.	40	A
Cactus Rd.	El Mirage Rd.	A point 300 feet west of 127th Ave.	35	A
Cactus Rd.	Dysart Rd.	A point 300 feet west of 127th Ave.	45	A
Calavar Rd.	127th Ln.	126th Ln.	25	L
Cameron Dr.	123rd Ln.	El Mirage Rd.	25	L
Cameron Dr.	Cameron Circle	123rd Ln.	25	L
Canterbury Dr.	Canterbury Circle	123rd Ln.	25	L
Cesar Chavez Dr.	Cul-de-sac	Dahlia Dr.	25	L
Cesar Chavez Dr.	Dahlia Dr.	Flores Dr.	25	L
Charter Oak Rd.	117th Ave.	115th Ave.	25	L
Charter Oak Rd.	121st Ave.	El Frio St.	25	L
Charter Oak Rd.	123rd Ln.	123rd Dr.	25	L
Charter Oak Rd.	127th Ave.	Cul-de-sac	25	L
Charter Oak Rd.	127th Dr.	127th Ave.	25	L
Charter Oak Rd.	128th Ln.	127th Dr.	25	L
Charter Oak Rd.	130th Dr.	129th Dr.	25	L

Charter Oak Rd.	B St.	Tonya St.	25	L
Charter Oak Rd.	Pablo St.	117th Ave.	25	L
Cherry Hills Dr.	130th Ln.	125th Ave.	25	L
Columbine Dr.	117th Ave.	115th Ave.	25	L
Columbine Dr.	122nd Ln.	El Frio St.	25	L
Columbine Dr.	124th Ln.	123rd Dr.	25	L
Columbine Dr.	127th Ave.	Cul-de-sac	25	L
Columbine Dr.	130th Ln.	128th Ln.	25	L
Columbine Dr.	B St.	Pablo St.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Columbine Dr.	Pablo St.	117th Ave.	25	L
Corrine Dr.	122nd Ln.	121st Ave.	25	L
Corrine Dr.	124th Ln.	123rd Dr.	25	L
Corrine Dr.	126th Ave.	Cul-de-sac	25	L
Corrine Dr.	127th Ave.	126th Ave.	25	L
Corrine Dr.	130th Ln.	128th Dr.	25	L
Corrine Dr.	B St.	Pablo St.	25	L
Corrine Dr.	Pablo St.	115th Ave.	25	L
Corrine Dr.	Primrose St.	El Frio St.	25	L
Crocus Dr.	126th Ave.	125th Ln.	25	L
Crocus Dr.	130th Ln.	127th Ave.	25	L
Dahlia Dr.	122nd Ln.	El Frio St.	25	L
Dahlia Dr.	B St.	Pablo St.	25	L
Desert Cove Rd.	Dysart Rd.	El Mirage Rd.	15	L
Desert Mirage Circle	Cul-de-sac	El Mirage Rd.	25	L
Desert Oasis Circle	Cul-de-sac	El Mirage Rd.	25	L
Dreyfus Dr.	124th Ln.	123rd Dr.	25	L
Dreyfus Dr.	126th Ave.	125th Dr.	25	L
Dreyfus Dr.	127th Ave.	126th Ave.	25	L
Dreyfus Dr.	129th Ave.	127th Ln.	25	L
Dreyfus Dr.	Alto St.	Primrose St.	25	L

Dreyfus Dr.	Valentine St.	129th Dr.	25	L
Dysart Rd.	Cactus Rd.	Peoria Ave.	45	A
Dysart Rd.	Greenway Rd.	Peoria Ave.	45	A
Dysart Rd.	Greenway Rd.	Thunderbird Rd.	40	A
Dysart Rd.	Olive Ave.	Northern Ave.	50	A
Dysart Rd.	Peoria Ave.	Northern Ave.	50	A
Dysart Rd.	Peoria Ave.	Olive Ave.	45	A
Dysart Rd.	Thunderbird Rd.	Cactus Rd.	40	A
El Frio St.	Ash St.	Myer Ln.	25	L
El Frio St.	Dahlia Dr.	Aster Dr.	25	L
El Frio St.	Grand Ave.	Thunderbird Rd.	25	L
El Frio St.	Scotts Dr.	Charter Oak Rd.	25	L
El Frio St.	Windrose Dr.	Flores Dr.	25	L
El Mirage Rd.	Cactus Rd.	Peoria Ave.	40	A
El Mirage Rd.	Meyer Rd.	Olive Ave.	40	A
El Mirage Rd.	Olive Ave.	Northern Ave.	50	A
El Mirage Rd.	Paradise Ln.	Greenway Rd.	35	A
El Mirage Rd.	Peoria Ave.	Olive Ave.	45	A
El Mirage Rd.	Santa Fe Ln.	Thunderbird Rd.	25	A
El Mirage Rd.	Thunderbird Rd.	Cactus Rd.	35	A
El Mirage Rd.	Thunderbird Rd.	Meyer Rd.	35	A

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
End St.	1st Ave.	Palm St.	25	L
Evans Dr.	130th Ln.	129th Dr.	25	L

Evans Dr.	129th Ave.	128th Dr.	25	L
Flores Dr.	116th Ave.	115th Ave.	25	L
Flores Dr.	122nd Ln.	Palm St.	25	L
Flores Dr.	124th Ln.	123rd Dr.	25	L
Flores Dr.	126th Ave.	Cul-de-sac	25	L
Flores Dr.	128th Ln.	127th Dr.	25	L
Flores Dr.	B St.	Tonya St.	25	L
Flores Dr.	Cesar Chavez Dr.	El Frio St.	25	L
Flores Dr.	Cul-de-sac	129th Ave.	25	L
Fuller Dr.	Cul-de-sac	Cul-de-sac	25	L
Gelding Dr.	130th Ln.	129th Dr.	25	L
Grand Ave. Frontage Rd.	Greenway Rd.	Thunderbird Rd.	25	C
Hearn Rd.	124th Ln.	124th Ave.	25	L
Hearn Rd.	125th Ln.	125th Ave.	25	L
Hearn Rd.	128th Dr.	127th Ave.	25	L
Hearn Rd.	130th Ln.	129th Dr.	25	L
Honcho Dr.	Grand Ave.	Thunderbird Rd.	25	L
Larkspur Rd.	117th Ave.	115th Ave.	25	L
Larkspur Rd.	122nd Ln.	122nd Ave.	25	L
Larkspur Rd.	123rd Dr.	El Mirage Rd.	25	L
Larkspur Rd.	124th Ln.	123rd Dr.	25	L
Larkspur Rd.	127th Ave.	Cul-de-sac	25	L
Larkspur Rd.	130th Ln.	Scotts Dr.	25	L
Larkspur Rd.	B St.	Pablo St.	25	L
Larkspur Rd.	Palm St.	El Frio St.	25	L
Laurel Ln.	127th Ave.	125th Ave.	25	L
Laurel Ln.	130th Ln.	127th Dr.	25	L
Laurel Ln.	Dysart Rd.	130th Ln.	25	L
Lisbon Ln.	126th Ave.	125th Ave.	25	L
Lisbon Ln.	129th Ave.	Cul-de-sac	25	L
Lisbon Ln.	130th Ln.	129th Dr.	25	L
Luna St.	Grand Ave.	Thunderbird Rd.	25	L
Luna St.	Palo Verde Rd.	River Rd.	25	L
	Thunderbird			

Luna St.	Rd.	Ash St.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Main St.	Thunderbird Rd.	West Main St.	30	C
Main St.	West Main St.	Cactus Rd.	30	C
Mandalay Ln.	124th Ln.	Cul-de-sac	25	L
Mandalay Ln.	126th Ave.	125th Ave.	25	L
Mandalay Ln.	130th Ln.	127th Ave.	25	L
Mauna Loa Ln.	126th Ave.	125th Ave.	25	L
Mauna Loa Ln.	129th Ave.	Cul-de-sac	25	L
Mauna Loa Ln.	130th Ln.	129th Dr.	25	L
Moreno Ln.	127th Ln.	Cul-de-sac	25	L
Myer Ln.	129th Ave.	127th Ln.	25	L
Myer Ln.	127th Ave.	El Mirage Rd.	30	C
Myer Ln.	Cul-de-sac	127th Ave.	25	L
Myer Ln.	El Frio St.	Reese Ave.	25	L
Myer Ln.	Reese Ave.	Main St.	30	C
Olive Ave.	Dysart Rd.	El Mirage Rd.	45	A
Olive Ave.	El Mirage Rd.	City Limit	45	A
Olive St.	Grand Ave.	Ash St.	25	L
Olive St.	River Rd.	Valentine St.	25	L
Pablo St.	Dahlia Dr.	Corrine Dr.	25	L
Pablo St.	Larkspur Rd.	Wethersfield Rd.	25	L
Pablo St.	Thunderbird Rd.	River Rd.	25	L
Palm St.	Aster Dr.	Flores Dr.	25	L
Palm St.	Bloomfield Rd.	Cactus Rd.	25	L
Palm St.	Dreyfus Dr.	Dahlia Dr.	25	L
Palm St.	Grand Ave.	Thunderbird Rd.	25	L

Palm St.	Larkspur Rd.	Columbine Dr.	25	L
Palm St.	Pershing St.	Valentine St.	25	L
Palo Verde Rd.	Verbena St.	Luna St.	25	L
Paradise Dr.	127th Ave.	125th Ave.	25	L
Paradise Dr.	129th Ave.	127th Dr.	25	L
Paradise Dr.	130th Dr.	129th Dr.	25	L
Pastor Ct.	Cul-de-sac	El Frio St.	25	L
Peoria Ave.	Dysart Rd.	El Mirage Rd.	40	A
Peoria Ave.	El Mirage Rd.	WW Trtmnt Plant	25	A

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Pershing St.	123rd Ln.	Cul-de-sac	25	L
Pershing St.	124th Ln.	124th Ave.	25	L
Pershing St.	126th Ave.	125th Ave.	25	L
Pershing St.	127th Ave.	126th Dr.	25	L
Pershing St.	128th Ln.	127th Ln.	25	L
Pershing St.	130th Ln.	129th Ave.	25	L
Pershing St.	Alto St.	Primrose St.	25	L
Pershing St.	Primrose St.	Fuller St.	25	L
Poppy St.	Ash St.	River Rd.	25	L
Poppy St.	Aster Dr.	Windrose Dr.	25	L
Poppy St.	Flores Dr.	Scotts Dr.	25	L
Poppy St.	Grand Ave.	Thunderbird Rd.	25	L
Poppy St.	Soledad St.	Valentine St.	25	L
Port Royale Ln.	130th Ln.	129th Ave.	25	L
Primrose St.	Dahlia Dr.	Rosewood Dr.	25	L
Primrose St.	Grand Ave.	Thunderbird Rd.	25	L
Primrose St.	Surrey Ave.	Dreyfus Dr.	25	L
Redfield Rd.	124th Ln.	124th Ave.	25	L
Redfield Rd.	125th Ln.	125th Ave.	25	L
Redfield Rd.	129th Ave.	127th Ave.	25	L

Redfield Rd.	130th Ln.	129th Dr.	25	L
Reese Ave.	Myer Ln.	Cactus Rd.	30	C
River Rd.	B St.	Tony St.	25	L
River Rd.	Poppy St.	El Frio St.	25	L
River Rd.	Tonya St.	Olive St.	25	L
Rosewood Dr.	117th Ave.	115th Ave.	25	L
Rosewood Dr.	122nd Ln.	El Frio St.	25	L
Rosewood Dr.	124th Ln.	123rd Dr.	25	L
Rosewood Dr.	126th Ave.	Cul-de-sac	25	L
Rosewood Dr.	127th Ave.	126th Ave.	25	L
Rosewood Dr.	130th Ln.	128th Dr.	25	L
Rosewood Dr.	B St.	Tonya St.	25	L
Rosewood Dr.	El Frio St.	Reese St.	25	L

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Sahuaro Dr.	Dysart Rd.	127th Ave.	15	L
Saint Moritz Ln.	124th Ln.	124th Ave.	25	L
Saint Moritz Ln.	126th Ave.	125th Ave.	25	L
Saint Moritz Ln.	129th Ave.	127th Ave.	25	L
Saint Moritz Ln.	130th Ln.	130th Ave.	25	L
Santa Fe Ln.	126th Ave.	125th Dr.	25	L
Santa Fe Ln.	127th Ln.	127th Ave.	25	L
Santa Fe Ln.	5th Ave.	Grand Ave.	25	C
Scotts Dr.	116th Ave.	115th Ave.	25	L
Scotts Dr.	121st Ave.	El Frio St.	25	L
Scotts Dr.	122nd Ln.	122nd Dr.	25	L
Scotts Dr.	124th Ln.	123rd Dr.	25	L
Scotts Dr.	B St.	Tonya St.	25	L
Scotts Dr.	Cul-de-sac	Columbine Dr.	25	L
Sharon Dr.	124th Ln.	124th Ave.	25	L
Sharon Dr.	129th Ave.	127th Dr.	25	L
Sharon Dr.	130th Ave.	129th Dr.	25	L
Shaw Butte Dr.	127th Ave.	125th Ave.	25	L
Sierra St.	Sierra	123rd Ln.	25	L

	Circle			
Soledad St.	127th Ave.	126th Dr.	25	L
Soledad St.	129th Ave.	127th Ave.	25	L
Soledad St.	Dysart Rd.	129th Dr.	25	L
Soledad St.	El Mirage Rd.	Primrose St.	25	L
Soledad St.	Fuller Dr.	El Frio St.	25	L
Soledad St.	Tonya St.	Main St.	25	L
Sunnyside Dr.	Sunnyside Circle	125th Ave.	25	L
Surrey Ave.	124th Ln.	124th Ave.	25	L
Surrey Ave.	127th Ave.	125th Ave	25	L
Surrey Ave.	127th Dr.	127th Ave.	25	L
Surrey Ave.	130th Ln.	129th Dr.	25	L
Surrey Ave.	Alto St.	Primrose St.	25	L
Sweetwater Ave.	124th Ln.	123rd Dr.	25	L
Sweetwater Ave.	129th Dr.	129th Ave.	25	L
Sweetwater Ave.	Dysart Rd.	130th Dr.	25	L
Thompson Ranch Rd.	Greenway Rd.	Grand Ave.	35	A
Thompson Ranch Rd.	Greenway Rd.	Thunderbird Rd.	35	A
Thunderbird Rd.	Dysart Rd.	El Mirage Rd.	35	A
Thunderbird Rd.	Dysart Rd.	El Mirage Rd.	40	A
Thunderbird Rd.	El Mirage Rd.	Grand Ave.	30	A

Street Name	***Length***		***Speed Limit (MPH)***	***Road Type***
	From	***To***		
Tonya St.	Columbine Dr.	Wethersfield Rd.	25	L
Tonya St.	Corrine Dr.	Flores Dr.	25	L
Tonya St.	River Rd.	Valentine St.	25	L
Tonya St.	Scotts Dr.	Larkspur Rd.	25	L
Tonya St.	Wethersfield Rd.	Cactus Rd.	25	L
Valentine St.	124th Ln.	123rd Dr.	25	L

Valentine St.	126th Ave.	125th Dr.	25	L
Valentine St.	129th Ave.	127th Ln.	25	L
Valentine St.	Cesar Chavez Dr.	El Frio St.	25	L
Valentine St.	Dreyfus Dr.	129th Dr.	25	L
Valentine St.	El Mirage Rd.	Primrose St.	25	L
Valentine St.	Tonya St.	Olive St.	25	L
Varney Rd.	Dysart Rd.	El Mirage Rd.	15	C
Ventura St.	125th Dr.	El Frio St.	25	L
Ventura St.	126th Ave.	125th Dr.	25	L
Ventura St.	127th Ln.	127th Ave.	25	L
Verbena St.	Ash St.	Palo Verde Rd.	25	L
Verbena St.	Grand Ave.	Thunderbird Rd.	25	L
Via Camille	126th Ave.	124th Ave.	25	L
Via Camille	Dysart Rd.	127th Ln.	25	L
Voltaire Ave.	129th Ave.	127th Ave.	25	L
Voltaire Ave.	130th Ave.	129th Dr.	25	L
Well St.	1st Ave.	Poppy St.	25	L
Well St.	125th Dr.	1st Ave.	25	L
Well St.	126th Ave.	125th Dr.	25	L
Well St.	127th Dr.	127th Ave.	25	L
West Main St.	West Main St.	Main St.	25	C
West Main St.	West Main St.	West Main St.	25	C
Wethersfield Rd.	117th Ave.	115th Ave.	25	L
Wethersfield Rd.	B St.	Pablo St.	25	L
Willow Ave.	127th Ave.	125th Ave.	25	L
Willow Ave.	129th Ave.	127th Dr.	25	L
Willow Ave.	130th Ave.	129th Ave.	25	L
Willow Ave.	Cul-de-sac	124th Ave.	25	L
Windrose Dr.	124th Ln.	123rd Dr.	25	L
Windrose Dr.	127th Ave.	Cul-de-sac	25	L
Windrose Dr.	128th Ave.	127th Ln.	25	L
Windrose Dr.	130th Ln.	128th Dr.	25	L

Windrose Dr.	B St.	Pablo St.	25	L
Windrose Dr.	El Mirage Rd.	Palm St.	25	L
Windrose Dr.	Poppy St.	El Frio St.	25	L
Windrose Dr.	Primrose St.	Cesar Chavez Dr.	25	L
Windrose Dr.	Reese Ave.	B St.	25	L
Wolfley Dr.	Dysart Rd.	127th Ave.	15	L

(Ord. O00-05-09, passed 7-27-2000; Ord. O01-12-08, passed 12-20-2001; Ord. O06-07-13, passed 8-31-2006; Ord. O08-06-10, passed 7-10-2008; Ord. O10-05-06, passed 5-13-2010; Ord. O10-10-15, passed 11-4-2010; Ord. O11-08-12, passed 8-25-2011; Ord. O17-02-01, passed 2-7-2017)

TITLE IX: GENERAL REGULATIONS

Chapter

90. NUISANCE AND NEIGHBORHOOD PRESERVATION

91. ANIMAL CODE

92. PARKS

93. ABANDONED PROPERTY

94. AIR POLLUTION REGULATIONS; DUST CONTROL

95. PUBLIC SAFETY

96. ADMINISTRATIVE APPEALS

CHAPTER 90: NUISANCE AND NEIGHBORHOOD PRESERVATION

Section

90.01 Purpose and scope

90.02 Definitions

90.03 Enforcement

90.04 Owner of record

90.05 Inspections

90.06 Notices and orders of abatement

90.07 Service of notice

90.08 Removal by city

90.09 Lien for removal

90.10 Means of appeal

90.11 Subsequent assessments

90.12 Emergency abatement

90.13 Land maintenance

90.14 Vehicles

90.15 General nuisance

§ 90.01 PURPOSE AND SCOPE.

The purpose of this chapter is to preserve established communities and promote the health and safety of all residents and to protect neighborhoods against hazardous, blighting, and deteriorating influences or conditions that contribute to the downgrading of neighborhood property values by establishing minimum standards for the condition of vacant and improved land.

(Prior Code, § 20-1-1) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.02 DEFINITIONS.

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

ABANDONED/INOPERABLE VEHICLE. Any vehicle which is partially or wholly dismantled, discarded, or wrecked; or on blocks, stands, or similar devices; or stripped or scrapped; or inoperable due to mechanical disassembly; or with a deflated tire or tires, or physically incapable of operation; or other reasons that may include an expired license plate or the absence of a license affixed or assigned thereto.

ANIMAL WASTE. Waste from stables, kennels, pet pens, chicken coops, veterinary establishments, and others of similar nature and household pet waste.

BOARD OF APPEAL. The ***BOARD OF APPEAL*** established pursuant to § 111 of the International Property Maintenance Code (IPMC), 2006 edition, as adopted by the City of El Mirage Council.

CONSTRUCTION AND DEMOLITION WASTES. All waste building materials, rubble, and spoils resulting from construction, remodeling, repair, and demolition operations on any building or structure.

CONSTRUCTION MATERIAL. Includes but is not limited to asphalt, concrete, plaster, tile, rocks, bricks, sand, dirt, lumber, blocks, or any other materials commonly used in construction or landscaping material.

COUNCIL. The Mayor and City Council of El Mirage, Arizona.

DEBRIS. Substance or material of little or no apparent value, including but not limited to deteriorated lumber, old newspapers, cardboard material, scrap metal, vehicle parts, discarded furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, abandoned, broken, or neglected equipment, or the scattered remains of items.

LITTER. All solid waste including, but not limited to, ashes, street cleanings, severed plant growth, garbage, dead animals, abandoned or junked vehicles or parts thereof, solid commercial and industrial waste, paper, rugs, empty barrels, crates, packing cases, boxes, cartons, wood shavings, packing materials, wrapping, cigarettes, cardboard, landscape clippings, leaves, metal, mattresses, bedding, crockery, bottles, cans, glass, plaster, plastic, asphalt, tile, rock, bricks, clean fill, fill dirt, excavation material, or other materials tending to create an unsightly condition and having an adverse effect upon the health, safety, aesthetic, or general welfare of citizens.

PERSON. A ***PERSON*** as defined in § 10.03 of the City of El Mirage City Code and shall for purposes of this chapter include an occupant of the property.

PRIVATE PROPERTY. Land owned by any person other than the United States, the State of Arizona, a county, city, or town.

TRASH. All nonputrescible wastes consisting of both combustible and noncombustible solid waste material, excluding ashes.

UNSHELTERED. Items, rubbish, debris, or any other items located outside a garage or other building or structure in such a manner as to be visible to a person standing upon any public street or sidewalk or at ground level upon any adjoining piece of property.

VEHICLE. Every device by which any person or property is or may be transported or drawn; including but not limited to automobiles, motor homes, travel trailers, utility trailers, or watercraft. Devices moved by human power or used exclusively upon stationary rails or tracks are exempt.

VEHICLE PARTS. Any part(s), component(s), or accessory of a vehicle.

(Prior Code, § 20-1-2) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.03 ENFORCEMENT.

(A) The provisions of this chapter shall only apply to conditions that are visible to a person standing upon a public street or sidewalk except where the city determines that the conditions are, or are likely to become, a threat to the public health or safety or where the conditions are so severe they are, or are likely to become, a nuisance to a neighborhood.

(B) A violation of any of the provisions of this chapter shall be considered to be a public nuisance. The city may elect to proceed either civilly or criminally against any person who is found to be responsible for causing, permitting, facilitating, or aiding or abetting a violation of any provision of this chapter.

(C) Any code enforcement officer or police officer who observes a violation of any of the provisions of this chapter is empowered to issue a citation to the alleged violator. Prior to issuing a citation, the code enforcement officer or police officer may, except as otherwise specifically provided here, issue a written notice of violation. If the violation is not remedied within the time frame specified in the notice of violation, a citation may be issued.

(Prior Code, § 20-1-3) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.04 OWNER OF RECORD.

The owner of record, as recorded in the Maricopa County Recorder's Office, shall be presumed to be a person having lawful control over any building or parcel of land. If more than one person is recorded as the owner of the property, those persons shall be jointly and severally presumed to be persons having lawful control over the building or parcel.

(Prior Code, § 20-1-4) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.05 INSPECTIONS.

(A) Any code enforcement officer or police officer may inspect buildings or land to determine compliance with this chapter.

(B) Building exteriors and unscreened land may be inspected at any time with or without the presence of the owner or occupant in conformance with legal requirements governing administrative inspections of buildings and land.

(C) Except in a situation presenting an imminent hazard to life, health, or public safety, building interiors and screened land shall be inspected during the normal business hours of the city, unless otherwise arranged, upon:

(1) The owner's or occupant's consent; or

(2) Any administrative or court order.

(Prior Code, § 20-1-5) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.06 NOTICES AND ORDERS OF ABATEMENT.

(A) If a person owning or controlling any property fails, neglects, or refuses to remove or properly dispose of rubbish, trash, weeds, or other accumulation of litter, junk, garbage, debris, or dilapidated structures located on property owned or controlled by the person, or otherwise fails to comply with the requirements of this chapter, the person shall be given written notice from the city to remove all such matter from the property or to take such other actions as may be necessary to comply within 30 days from the date the notice was received by him or her, and prior to the date of compliance on the notice.

(B) The notice shall contain an estimate of the cost of removal by the city; a statement that unless the person owning or controlling the property complies with the notice within 30 days from the date the notice is received, that the city will, at the expense of the person owning or controlling the property, perform the necessary work at a cost not to exceed the estimate given in the notice; and that the cost of the removal by the city shall be billed separately and shall constitute a lien on the property owned or controlled by the person. The notice shall further advise that the person receiving the notice may appeal in writing to the Board of Appeal within 30 days from the date the notice is received by the person and prior to the date of compliance.

(Prior Code, § 20-1-6) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.07 SERVICE OF NOTICE.

Notice shall be personally served on the owner, person, controlling the property, and on the occupant or lessee by a code enforcement officer or police officer, or mailed certified mail to the owner or person controlling the property at his or her last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall be sent to him or her by certified or registered mail at his or her last known address. In the event that the post office address of the owner or person controlling the property is unknown or if the owner or person controlling the property cannot be reached by mail, the City Clerk may cause the notice to be published in the newspaper used by the city for one publication, and that service shall be complete and shall have the same effect and force as if personally served upon the owner or user of the property.

(Prior Code, § 20-1-7) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.08 REMOVAL BY CITY.

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 Board of Appeal on appeal, fails, neglects, or refuses to comply with the notice, the code enforcement officer is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling the property. Upon completion of the work, the code enforcement officer shall prepare a verified statement of account of the actual cost of the removal or abatement plus 50% of the cost for the city's additional inspection and other incidental costs in connection therewith, which shall constitute an assessment against the property, the date the work was completed, and the street address and the legal description of the property on which the work was done, and shall serve a duplicate copy of the verified statement upon the person owning or controlling the property in the manner prescribed in this chapter.

(Prior Code, § 20-1-8) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.09 LIEN FOR REMOVAL.

If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Board of Appeal 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 the lot or tract of land until paid. The liens shall be subject and inferior to the lien for general taxes. All costs associated with filing the lien, such as but not limited to filing fees, postage, and any other miscellaneous fees, will be added to the lien amount. 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 city 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.

(Prior Code, § 20-1-9) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.10 MEANS OF APPEAL.

The owner of record or person controlling the property may appeal a notice served pursuant to § 90.07, or an assessment served pursuant to § 90.08, within 30 days of receipt of the notice or assessment, in writing to the Board of Appeal by filing the appeal with the City Clerk's office. The Board of Appeal shall, at its next regular meeting held not less than ten days after receiving the appeal, hear and determine the same and the decision of the Board of Appeal shall be final. The Board of Appeal may affirm, reverse, or

modify the actions required in the notice or the amount of the assessment.

(Prior Code, § 20-1-10) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.11 SUBSEQUENT ASSESSMENTS.

A prior assessment against the building or property shall not be a bar to subsequent assessment or assessments for such purposes, and any number of liens on the same property may be enforced in the same action.

(Prior Code, § 20-1-11) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.12 EMERGENCY ABATEMENT.

(A) If a violation of this chapter presents an imminent hazard to life, health, or public safety, the city may notify the owner, the owner's authorized agent, the owner's statutory agent, occupant, or person responsible for the violation to correct the violation immediately or the city may abate the violation.

(B) A notice for emergency abatement may be written, oral, or electronic. A written notice shall be served by any of the following methods:

(1) By hand delivering a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee, and/or person responsible for the violation;

(2) By mailing a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee, and/or person responsible for the violation at the last known address; and/or

(3) By prominently posting a copy of the notice on the building, accessory improvement, land, or vehicle in violation.

(C) Written notice is deemed served on the date it is hand delivered, or if mailed, on the date it is deposited in the United States mail, or the date it is posted.

(D) Whether or not notice is received, the city may abate the violation.

(E) Upon request, the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee, or person responsible for a violation that presents an imminent hazard to life, health, or public safety shall be granted a hearing before the Board of Appeal but the appeal shall not stay the city's abatement of the violation.

(F) The city may assess the owner, occupant, or person responsible for a violation as set forth in § 90.08 above.

(G) The city may enforce the assessment lien as set forth in § 90.09 above.

(Prior Code, § 20-1-12) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.13 LAND MAINTENANCE.

The following acts, omissions, conditions, and things in or upon any land, building, or structure in the city constitute public nuisances, the existence which are hereby prohibited and declared to be unlawful.

(A) No person, shall place any personal property, materials, good, wares, merchandise, or similar items of any kind in or upon any public street, sidewalk, alleyway, or right-of-way. Items placed by or approved by the city are exempt from this division.

(B) No person, shall place, deposit, or leave in or upon any public street, alleyway, sidewalk, right-of-way, park, or other city building or property any bottles, glass, cans, graffiti, handbills, posters, pieces of scrap metal, metal articles, paper, or other material or items, except in proper containers for collection.

(C) No owner or an occupant of any property shall allow or permit any trees, shrubs, or other plant growth on the property to impede, obstruct, or interfere with the free passage upon any public street, sidewalk, or alleyway; or obstruct the visibility of drivers; or interfere with any traffic control device; or signs or street lighting. Tree limbs must be maintained to hang no lower than 12 feet above any public street or alleyway and seven feet above any public sidewalk. Trees below seven feet, shrubs, or other plant growth must be

maintained one foot from any public sidewalk. Dead trees, dead plants, and dead shrubs must be removed.

(D) No person shall allow the accumulation of items such as but not limited to bottles, glass, cans, pieces of scrap wood, metal, metal articles, paper, plastic, boxes, tires, vehicle parts, or other such materials or items in unsheltered areas of private property.

(E) No person shall place and/or store furniture, except furniture designed and placed for outdoor use, household equipment, appliances, construction or landscape material, cardboard material, plastic material, debris, or any similar materials in a location that is visible to a person standing upon any public street or sidewalk.

(F) No person owning or occupying any property fronting on any street, alleyway, or public place in the city including the area between the property line of the property and the street shall allow thereon grass or weeds to exceed a height over six inches when such conditions create a blighting condition or may harbor infestations or are likely to become a hazard to the public health and safety. Dead trees, dead plants, and dead shrubs must be removed.

(G) No person owning any vacant building or vacant property within the city shall allow thereon grass or weeds to exceed a height over six inches, dead trees and bushes, or allow the accumulations of discarded construction materials, construction waste, trash, or any other debris when such conditions create a blighting condition, or may harbor infestations or are likely to become a hazard to public health or safety.

(H) No person shall place any waste materials, trash, weeds, or other accumulation of debris upon any public or private property not owned or under the control of that person, other than the placement of refuse for collection in accordance with policy.

(I) The storage of construction materials in unsheltered areas of the yard in which insects may breed or multiply or which provides harborage for rodents or which constitutes a hazard to the public health or safety is prohibited. This division shall not apply to any construction materials when a valid building permit exists for the property on which the construction material is located and the construction materials is intended to be incorporated in the project for which the permit is issued.

(J) Any person owning any vacant property that has been subject to illegal dumping on more than three occasions within a 12-month period must effectively secure the area where the illegal dumping has occurred and place "no dumping" sign.

(K) The person in control of any private property shall at all times maintain adjacent unutilized street right-of-way and the portion of the alley contiguous with the property up the centerline of the alley free of litter.

(Prior Code, § 20-1-13) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.14 VEHICLES.

(A) No person shall park or permit to be parked any vehicle for the purpose of sale upon any property or vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with Chapter 154 of this code.

(1) The display of one vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved surface, and is not being sold in connection with an automobile sales business.

(2) No more than three vehicles may be displayed for sale at the same residence within a 12-month period and only one vehicle shall be displayed for sale at one time.

(B) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with Chapter 154 of this code.

(C) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or any other vehicle with a gross vehicle weight of 20,000 pounds or more in any residentially-zoned district.

(D) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk is prohibited except where the storage, repair, or restoration is customary and incidental to the principal use of the property and in accordance with Chapter 154 of this code.

(E) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles.

(F) Within any residential zoned district any vehicle undergoing repair must be titled to the owner or occupant of the property and

not exceed 15 days and no more than three such repairs shall be permitted within a 12-month period.

(G) Within any residential zoned district, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, trailer, boat, or utility trailer in any portion of the side yard unless the side yard is screened from the street and the surface area is improved to gravel, concrete, asphalt, or paving bricks.

(H) Within any residentially-zoned district no person shall park or store any vehicle, such as but not limited to watercraft, camper shell, truck camper, boat, or utility trailer in any portion of the front yard.

(Prior Code, § 20-1-14) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

§ 90.15 GENERAL NUISANCE.

(A) No person shall erect, maintain, use, place, deposit, cause, allow, leave, or permit to be or remain in or upon any private lot, building, structure, or property or in or upon any public street, alleyway, sidewalk, right-of-way, or other public or private place, any condition, thing, or act, to the prejudice, danger, or annoyance of a neighborhood or others.

(B) No person shall abandon, discard, store, or keep in any place accessible to children, a refrigerator or any other self-latching container of a capacity greater than one and one-half cubic feet which is outside of any dwelling unit or within any unoccupied or abandoned building or structure without removing the doors, lids, hinges, latches, or securing to prevent access.

(C) All property shall be maintained to prevent the accumulation of stagnant water that may cause a hazardous or unhealthy condition or breed insects.

(D) No person shall allow any swimming pool, architectural pool, pond, or spa to remain or be maintained in a condition that may breed insects or result in insect or other infestations, is polluted or stagnant, or creates a blighting condition.

(E) No person shall permit or cause the discharge of water from any swimming pool, architectural pool, or spa into any public street, alleyway, or right-of-way.

(Prior Code, § 20-1-15) (Ord. O06-11-21, passed 12-14-2006; Res. R06-11-33, passed - -)

CHAPTER 91: ANIMAL CODE

Section

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

AGENT. A person legally authorized to act in the place and stead of an animal owner, an enforcement agent, or law enforcement officer.

ANIMAL. Any creature belonging to the following taxonomic classes (except humans): mamalia, marsupial, ares, reptilia, and/or amphibia.

AT LARGE.

(1) Being neither confined in an enclosure nor physically restrained by a leash while on public property, or on private property that is not enclosed by a fence or other structure.

(2) Dogs in dog parks, and livestock and equine pleasure practices are specifically exempted.

CAT. Any animal of the feline genus.

CITY. The City of El Mirage.

COLLAR. A band, harness, or suitable device worn around the neck of an animal to which a license may be affixed.

COUNTY. The County of Maricopa, State of Arizona.

DANGEROUS AND AGGRESSIVE ANIMALS. Any animal that has a propensity to attack, to cause injury, or to otherwise endanger the safety of human beings or other animals without provocation, or that without provocation menaces, threatens, or causes injury to a human or other animal.

DEPARTMENT. The State Department of Health Services.

DOG. Any member of the canine genus.

ENFORCEMENT AGENT. A person designated by the city who is responsible for the enforcement of this chapter and regulations promulgated thereunder.

IMPOUND. The act of taking or receiving into custody by the city or its designee or authorized agent any animal for the purpose of confinement in an authorized 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 four or more dogs under controlled conditions.

LIVESTOCK. Asses, cattle, horses, mules, sheep, goats, swine, poultry, and fowl.

OWNER. Any person keeping an animal other than livestock for more than six consecutive days.

PET SHOP. Any establishment at which are kept for sale any animals generally considered to be household pets.

POULTRY. Chickens, turkeys, domesticated birds, game birds, fowl, water fowl, and exotic birds, including ostriches, rheas, and emus.

POUND. Any establishment authorized by the enforcement agent for the confinement, maintenance, safekeeping, or control of 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 the area.

RABIES VACCINATION CERTIFICATE. A method of recording and duplicating rabies information that is in compliance with the enforcement agent's licensing system or the enforcement agent's prescribed forms.

RODENT. A mammal of the order Rodentia, such as a mouse, squirrel, rat, or beaver characterized by large incisors adapted for gnawing or nibbling.

STRAY DOG. Any dog four 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, or in authorized pounds by employees trained by a veterinarian.

VETERINARIAN. Any doctor licensed to practice animal medicine in the State of Arizona.

VETERINARY HOSPITAL. Any establishment operated by a veterinarian licensed to practice in Arizona 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 that has a propensity to attack, to cause injury, or to otherwise endanger the safety of human beings without provocation, after having been so declared after a hearing before a Justice of the Peace or the Municipal Court Judge.

WILD ANIMAL. Any animal of the ferae naturae or ferae bestiae or species that have not yet been domesticated or are still subject to further domestication.

(Prior Code, § 6-1-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007; Ord. O17-04-03, passed 4-4-2017)

§ 91.02 ANIMALS AT LARGE PROHIBITED.

(A) It shall be unlawful for any person to cause, allow, suffer, or permit any animal, fowl, or rodent to be at large at any place in the city at any time.

(B) In a rabies quarantine area, no animals shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property.

(C) Any dog over four months in age shall wear a collar or harness to which is attached a valid license tag. Dogs used for the 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 tag attached, provided they are properly vaccinated, licensed, and controlled.

(D) No person in charge of any animal shall permit the animal in a public park or upon any city or public school property or upon the property of a third party unless the animal is physically restrained by a leash, enclosed in a car, cage, or similar enclosure, or being exhibited or trained at a recognized kennel club event, public school, or city-sponsored event.

(E) Whenever any animal is found at large, the enforcement agent may take one or more of the following actions:

(1) The dog may be apprehended and impounded.

(2) The enforcement agent may issue a citation to the dog owner or person acting for the owner when the dog is at large. The procedure for issuance of notice to appear shall be in conformity with A.R.S. § 13-3903, except that the enforcement agent shall not make an arrest before issuing the notice to appear. The issuance of citations pursuant to this section shall be subject to the provisions of A.R.S. § 13-3899.

(F) Upon request of the city or county and issuance of an order by a hearing officer, the Justice of the Peace, or the Municipal Court, any animal impounded under this section may be kept or impounded until there is a final disposition of any associated criminal proceeding.

(Prior Code, § 6-1-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.03 DANGEROUS AND AGGRESSIVE ANIMALS.

(A) It is unlawful to permit any dangerous, vicious, aggressive, or wild animal of any kind to run at large within the city, and such animals shall be immediately impounded by the enforcement agent.

(B) Any owner of a dangerous and aggressive animal, as defined in this code, shall carry a minimum of $50,000 of general liability insurance against such unforeseen and/or catastrophic occurrence.

(Prior Code, § 6-1-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.04 ANIMALS DISTURBING THE PEACE.

It shall be unlawful to harbor or keep any animals that disturb the peace at any time of the day or night which results in an unreasonable interference with a citizen's right to quiet enjoyment of his or her own premises.

(Prior Code, § 6-1-4) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.05 RESTRICTIONS ON THE KEEPING OF ANIMALS.

(A) No person shall keep within the corporate limits of the city any animal in such a manner as to disturb the peace, health, safety, or welfare of any person residing in the city.

(B) No person shall keep within the corporate limits of the city any animal if the animal shall cause, create, contribute to, or become a health nuisance or health hazard. The presence of flies, mosquitoes, insects, vermin, rodent harborage, odors, dust, ponded water, accumulation of manure, garbage, refuse, or other obnoxious or putrescible material shall constitute prima facie evidence of a health nuisance.

(C) The keeping of all animals within the city shall be subject additionally to the regulations of the State of Arizona and the Maricopa County Board of Health.

(D) The premises upon which animals, livestock, and poultry are kept shall always be sanitary and subject to inspection and regulation by the city's enforcement agent or his or her designee.

(1) All pens, yards, runs, or other structures wherein any animal is kept shall be of such construction and/or erection so as to be easily cleaned and maintained and shall be kept in good repair.

(2) Fences which are intended to be used as an enclosure for any animal shall be securely constructed and shall not be allowed to deteriorate or become unsightly.

(Prior Code, § 6-1-5) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007; Ord. O11-09-17, passed 9-22-2011) Penalty, see § 91.99

§ 91.06 ENFORCEMENT AGENTS; POWERS AND DUTIES.

(A) *General*. The enforcement agent shall:

(1) Enforce the provisions of this chapter;

(2) May issue citations for the violations of the provisions of this chapter and the regulations promulgated thereunder. The procedure for the issuance of notices to appear shall be in accordance with A.R.S. §§ 13-3899, 13-3903, and this code, except that the enforcement agent shall not make an arrest before issuing the notice; and

(3) Shall be responsible for declaring a rabies quarantine area with the city's jurisdiction. When a quarantine area has been declared by the enforcement agent, the agent shall meet with the State Department of Health, the Game and Fish Department, and/or the State Livestock Board as applicable, to implement an emergency program for the control of rabies within the area. Any regulations restricting or involving movements of livestock within the area shall be subject to approval by the State Veterinarian.

(B) *Interference*. It shall be unlawful to interfere with the enforcement agent in the course of his or her official duties pursuant to this code and A.R.S. § 11-1015.

(C) *Lawful presence*. An enforcement agent, police officer, or their designee is lawfully in or on the private property of the owner of an animal within the meaning of this chapter when acting as an invitee or licensee, or when in the course of performance of a duty imposed upon him or her by the law of the state, the United States, or of the city.

(D) *Wrongful removal*. No person may remove or attempt to remove an animal which has been lawfully impounded or which is lawfully in the possession of the enforcement agent except in accordance with the provisions of this chapter and the regulations promulgated thereunder.

(E) *Deputization*. The enforcement agent may appoint deputies to his or her discretion and in the manner as he or she sees fit.

(F) *Animal Control Fund*. The enforcement agent or his or her authorized representative shall place fees collected by him or her under the provisions of this chapter in a special fund to be known as the "Animal Control Fund" and these funds shall be used for the enforcement of the provisions of this chapter and the regulations promulgated thereunder.

(G) *Accounting and oversight*. There shall be an annual review of the account balances, appropriations, expenditures, and revenue sources of all monies relative to the Animal Control Fund. This review shall be prepared by the enforcement agent and shall be presented to the City Manager upon request.

(Prior Code, § 6-1-6) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.07 ANIMALS KEPT BY OWNERS; VIOLATIONS; RESPONSIBILITY FOR DAMAGES.

(A) Injury or damage to any property by an animal kept by the owner while at large shall be the full responsibility of the owner or person responsible for the animal when the damages occurred.

(B) Injury or damage to any person or animal as defined by this code shall create in the aggrieved party a cause of action for the full amount of damages associated therewith.

(Prior Code, § 6-1-7) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.08 VICIOUS ANIMALS; DETERMINATION.

(A) Any person having reasonable belief that an animal is vicious may petition the Justice of the Peace or the Municipal Court for a determination that the animal is vicious. The Court may assign the matter to a civil hearing officer within the Court for all proceedings under this section.

(1) After notice to the owner of the animal in any manner calculated to provide reasonable notice, including but not limited to the Arizona Rules of Civil Procedure, the Justice of the Peace or the Municipal Court shall conduct a hearing on the merits of the instant matter. The hearing shall be open to the public. Any relevant oral and documentary evidence from any interested party may be considered by the Court, whether or not the evidence is admissible under the Arizona Rules of Evidence.

(2) Any owner who fails to appear after notice pursuant to this section may be deemed to have waived any right to introduce

evidence and eventual right of appeal of the final judgment of the court. Further, the Justice of the Peace or Municipal Court shall thereby determine that all of the allegations contained in the petition are deemed admitted as true.

(3) The decision under this section shall be based upon the standard of a preponderance of the evidence.

(4) The Justice of the Peace or the Municipal Court may consolidate a viciousness petition with a criminal proceeding arising out of the same violation, provided that viciousness is alleged as an element of the associated criminal complaint.

(B) Upon determining an animal to be vicious, the Justice of the Peace or Municipal Court shall enter such orders as it deems necessary to protect the public. The Justice of the Peace or Municipal Court shall retain continuing jurisdiction over the matter for a period not to exceed three years to ensure that orders are enforced. The Justice of the Peace or Municipal Court may order but is not limited to the following:

(1) The owner of the vicious animal post one or more signs on the premises where the animal is kept containing letters not less than three inches high and easily readable by the public using the words: "Danger: Vicious Animal";

(2) The owner obtain public liability insurance in a single incident amount of not less than $50,000 or other such amount as determined by the Court for bodily injury or death of any person for damage to property caused by the vicious animal;

(3) The animal be destroyed or removed from the premises;

(4) The animal at all times be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed or muzzled;

(5) The animal be spayed, neutered, or tattooed for identification purposes;

(6) The animal be defanged, declawed, or debarked; and

(7) The cost of any successful proceedings to declare an animal vicious be assessed against the owner.

(C) Proof of provocation of the attack by the person injured shall be a rebuttable defense to an action to declare an animal dangerous or vicious.

(Prior Code, § 6-1-8) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.09 HANDLING OF BITING ANIMALS; RESPONSIBILITY FOR REPORTING ANIMAL BITES; AUTHORITY TO DESTROY ANIMALS; KILLING ANIMALS IN LIEU OF IMPOUNDMENT.

(A) Any animal that bites a person shall be confined and quarantined in an authorized pound or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven days. A dog properly licensed and vaccinated pursuant to this chapter that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent.

(B) Any animal other than a dog or cat that bites any person shall be confined and quarantined in an authorized pound or, upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than 14 days provided that livestock shall be confined and quarantined for the 14-day period in a manner regulated by the Livestock Board. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained, for the required period of time with the consent of and in a manner prescribed by the enforcement agent.

(C) Any wild animal which bites any person may be killed as a matter of public privilege and submitted to the enforcement agent or his or her deputies for transmission to an appropriate diagnostic laboratory.

(D) Whenever an animal bites any person, the incident shall be reported to the enforcement agent immediately by any person having direct knowledge of such a bite incident.

(E) The enforcement agent may destroy any animal confined and quarantined pursuant to this section prior to the termination of the minimum confinement period for laboratory examination of rabies if:

(1) The animal shows any clear indicator of rabies; or

(2) The owner of the animal consents to the animal's destruction.

(F) Any animal subject to licensing under this chapter found without a tag identifying its owner shall be deemed unowned.

(G) The enforcement agent shall destroy a vicious animal upon order of a Justice of the Peace or Municipal Court. A Justice of the Peace or Municipal Court may issue such an order in the manner provided for by this chapter or pursuant to the provisions of A.R.S. § 11-7-6.

Statutory reference:

The statute cited in this division does not exist. Issuance of orders, see A.R.S. § 11-1014

(H) Killing certain animals in lieu of impoundment. In the reasonable judgment of an enforcement agent or police officer, if any animal at large is dangerous or fierce and constitutes an immediate threat to human safety that cannot be immediately rectified by impoundment, that animal may be immediately slain by such agent or officer.

(Prior Code, § 6-1-9) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

IMPOUNDMENT, PERMITS, AND PUBLIC BUILDINGS

§ 91.20 IMPOUNDMENT OF LIVESTOCK, FOWL, AND RODENTS.

(A) The city or its agent or designee may apprehend and impound any livestock, fowl, or rodent that is at large within the city. The city shall have the limited authority to enter upon private property for the purpose of apprehending or impounding the livestock, fowl, or rodent. The entry upon private property shall be reasonable and shall not include entry into a residence or enclosure upon the property unless it is with the consent of the owner or the resident or occupant of the structure. After entry, the city shall take reasonable steps to apprehend and impound the livestock, fowl, or rodent. If any livestock, fowl, or rodent that is at large within the city leaves the city limits during an attempt by the city to impound or apprehend the livestock, fowl, or rodent, the city may take reasonable steps to pursue the livestock, fowl, or rodent for the purpose of impoundment or apprehension of same.

(B) After impoundment at a public facility or a private authorized facility, the city shall make a reasonable effort to contact the owner of the impounded livestock, fowl, or rodent and give the owner a reasonable opportunity to reclaim the impounded animal. The city may request assistance from the Arizona Livestock Department in contacting the owner. It shall be presumed to be a reasonable effort to contact the owner of the brand on the livestock impounded. Prior to releasing any impounded livestock, fowl, or rodent to the owner, the city shall collect from the owner the actual costs and expenses incurred in apprehending and impounding the livestock, fowl, or rodent. The city may release any impounded livestock, fowl, or rodent to the Arizona Livestock Department or Arizona Game and Fish Commission if the appropriate agency agrees to collect the city's actual costs and expenses from the owner prior to releasing the livestock, fowl, or rodent.

(C) If the owner fails within ten days after notice to reclaim any impounded livestock, fowl, or rodent by paying the city's actual costs and expenses of apprehension and impoundment, the city shall post notices in three public places and publish a notice once in a newspaper of general solicitation in the city that the impounded livestock, fowl, or rodent will be sold. The sale shall be conducted in a commercially reasonable manner and with reasonable notice. The proceeds of the sale shall be applied first to paying the city's actual costs and expenses of impoundment, apprehension and sale. The city shall pay the remaining sale proceeds, if any, to the owner of the animal(s) that were sold. Alternatively, the city may release any impounded livestock, fowl, or rodent to the custody of the Arizona Livestock Department, if the Department agrees to pay the city's actual costs and expenses or impoundment and apprehension out of the proceeds of any such sale of livestock, fowl, or rodent.

(Prior Code, § 6-2-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.21 ANIMALS IN PUBLIC BUILDINGS, PROHIBITED; EXCEPTIONS, VIOLATIONS.

(A) Except as provided in division (B) of this section, it shall be unlawful for any person to bring into any public building under the control and jurisdiction of the city any animal, fowl, or rodent.

(B) Any legally blind person, deaf person, handicapped person, dog guide trainer, or service dog trainer may make use of a dog guide or service dog while in a public building under the control and jurisdiction of the city. These uses shall be subject to the provisions of A.R.S. § 11-1024.

(Prior Code, § 6-2-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.22 DOGS; KENNEL PERMIT REQUIRED.

(A) A person operating a kennel shall obtain a permit issued by the county's Board of Supervisors unless each individual dog is licensed. A dog remaining within the kennel is not required to be licensed individually. A dog leaving the controlled kennel conditions shall be individually licensed unless it is only being transported to another kennel for which a permit has been issued under this section.

(B) A person operating a kennel must obtain a business license from the city, have a zoning clearance from the Community Development Department, and may only operate a kennel subject to applicable zoning restrictions. For purposes of this section, kennel operations shall include any animal which is domesticated by the full blood or in part.

(Prior Code, § 6-2-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.23 DOG LICENSE.

It is unlawful to keep a dog that is over the age of four months that is not currently licensed by the county.

(Prior Code, § 6-2-4) (Ord. O07-07-06, passed 7-12-2007, Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.24 LICENSE FEES.

The annual license fee for all animals shall be set by the county's Board of Supervisors for unincorporated Maricopa County and maintained in accordance with all applicable county and state laws.

(Prior Code, § 6-2-5) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.25 ESTABLISHMENT OF POUNDS; IMPOUNDING AND DISPOSING OF DOGS AND CATS; RECLAIMING IMPOUNDED DOGS AND CATS; IMPOUND FEES.

(A) All animals impounded under this code shall be given proper care and maintenance.

(B) Each stray animal impounded shall be kept for no less than 72 hours unless claimed by its owner.

(C) Prior to the release of a stray dog or cat from the pound for purchase by any person, the dog or cat shall be surgically spayed or neutered.

(D) The pound may use any unrefunded deposits for any of the purposes provided for in A.R.S. § 11-1022(D).

(E) Any person may purchase an impounded dog or cat upon expiration of the impoundment period, provided that person pays the actual costs and pound fees associated with the animal, and complies with all licensing, vaccinating, and sterilization provisions of this chapter. If a dog or cat is not claimed within the impoundment period, the enforcement agent shall take possession of the unclaimed animal and may place the animal for sale or may dispose of the cat or dog in a humane manner. The enforcement agent may destroy impounded, sick, or injured dogs or cats whenever necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

(F) Any impounded licensed dog or cat may be reclaimed by its owner or the owner's agent provided that the person reclaiming the dog or cat furnishes proof of right to do so and pays all pound fees. If the dog or cat is not reclaimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of same in a humane manner. Any person purchasing such an animal shall pay all pound fees associated with the animal.

(Prior Code, § 6-2-6) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.26 PROPER DESTRUCTION OF IMPOUNDED ANIMALS.

(A) Any dog or cat, except those showing signs of rabies destroyed while impounded in an authorized county, city, or town pound shall be destroyed only by the use of one of the following:

(1) Sodium pentobarbital or a derivative of sodium pentobarbital;

(2) Nitrogen gas; or

(3) T-61 euthanasia solution or it's generic equivalent.

(B) If an animal is destroyed by means specified above, it shall be done by a licensed veterinarian or in accordance with procedures established by the state veterinarian pursuant to A.R.S. § 24-153.

(Prior Code, § 6-2-7) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

Statutory reference:

The statute cited in division (B) has been repealed and renumbered. State procedures, see A.R.S. § 3-1213

§ 91.27 ANIMAL WASTE.

It shall be unlawful for an owner of an animal or any person responsible for the animal to allow that animal to defecate in public or on public property without removing the animal waste.

(Prior Code, § 6-2-8) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

TREATMENT OF ANIMALS

§ 91.40 CONFINEMENT OF ANIMALS IN VEHICLES.

(A) No person having charge, custody, or ownership of an animal and a motor vehicle shall place or confine the animal or allow the animal to be placed, confined, or remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well being of the animal due to heat, lack of food or drink, or other such circumstances as may reasonably be expected to cause suffering, disability, or death of the animal.

(B) When in the judgement of a peace officer, enforcement officer, or firefighter an animal has been placed in danger as described herein, they may take such steps as are reasonable and necessary to enter the vehicle and impound the animal in the manner provided by this chapter.

(Prior Code, § 6-3-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.41 CRUELTY TO ANIMALS.

A person commits the offense of cruelty to animals if the person:

(A) Intentionally kills or attempts to kill any animal without first obtaining legal authority, or without necessary public privilege;

(B) Overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats, or mutilates an animal or exposes a poison with an intent that it be ingested by an animal;

(C) Ties, tethers, chains, or restrains an animal, either a pet or livestock, in a manner that is inhumane or detrimental to its welfare. Livestock and animal husbandry practices are specifically exempted;

(D) Deprives an animal which a person owns, possesses, or acts as an agent for, of adequate food, water, shelter, ventilation, rest, sanitation, grooming, necessary medical attention, and protection from extremes of temperature, all in sufficient quantity and quality so as to meet the needs of the animal;

(E) Abandoning any animal over whom the person has ownership, charged care, custody, or possession. Abandonment shall mean a person's intent not to supply all of the elements listed in division (D) above;

(F) Owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;

(G) Acts as judge or participates as a spectator at events of animal fighting or bets or wagers on the outcome of the fight;

(H) Intentionally torments or harasses an animal owned by or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(I) Uses a live animal as bait or a lure in a race, game, or contest, or in training animals in a manner inconsistent with state law;

(J) Keeping, using, owning, or possessing any property, paraphernalia, or animals for the purpose of animal fighting or baiting, giving, or receiving money or wagering money in relation to any animal fighting or baiting or causing an animal to fight, or training an animal to fight other animals;

(K) Commits theft, conversion, taking, leading away, or secreting of any animal;

(L) Concealing the identity of any animal for the purpose of making the return of the animal to their owner more difficult, including but not limited to the obscuring, altering, or removing of any collar, tag, license, tattoo, or other identifying device or mark;

(M) Tripping, felling, or dragging an animal by the legs or tail;

(N) Causes a risk to the health, peace, or life of an animal for the purposes of entertainment, amusement, sport, or monetary gain; and/or

(O) Uses any animal as a lure or bait, except for the purposes of fishing or trapping, pursuant to state license.

(Prior Code, § 6-3-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.42 "SIDEWALK SALES"; UNLICENSED SALES OF ANIMALS.

(A) It shall be unlawful for any person to sell any brood or litter of animals within the confines of the city if the person does not possess a valid business license, the purpose of which declares the licensee's primary occupation to be that of selling animals in the ordinary course of business.

(B) Nothing in this code shall prevent the lawful owner of a brood or litter of animals from transferring ownership of the litter or brood by gift, or by a transaction where there exists no consideration.

(Prior Code, § 6-3-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person found guilty of violating any provision of this chapter is subject to non-waivable penalties of up to $2,500 and may be guilty of a Class 1 misdemeanor, and shall be prosecuted for the violation in the manner as provided by law.

(B) Any violation of this chapter is hereby declared to be a nuisance. In addition to any other relief provided by this code, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. The application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

(C) (1) A violation of § 91.03(A) is a Class 1 misdemeanor, and shall be accompanied by a non-waivable fine of $2,500.

(2) A violation of § 91.03(B) is a Class 1 misdemeanor and shall carry a non-waivable fine of $2,500.

(D) Violation of § 91.04 is a petty offense and shall result in a non-waivable fine of $100.

(E) Violation of § 91.05 shall be a Class 3 misdemeanor and shall carry a non-waivable fine of $500.

(F) Violation of § 91.06(B) shall be a Class 1 misdemeanor and shall carry a non-waivable fine of $2,500.

(G) Violation of § 91.21 shall be a petty offense and carry a non-waivable fine of $100.

(H) A person who knowingly fails within 30 days after written notification from the enforcement agent to obtain a kennel permit is guilty of a Class 2 misdemeanor which shall carry a non-waivable fine of $750. The Court shall order the person to obtain the kennel permit, zoning clearance, and business license and pay all applicable fees as a condition of sentencing.

(I) Violation of § 91.27 shall be a petty offense and shall carry a non-waivable fine of $50.

(J) Violation of § 91.40(A) shall be a Class 2 misdemeanor and shall carry a non-waivable fine in the amount of $750.

(K) A violation of § 91.41 shall be charged either as a misdemeanor or a felony under the provisions of A.R.S. § 13-2910 within the discretion of the City Prosecutor.

(1) *Misdemeanor provision*. Any violation of § 91.41(A), (B), (D), (F), (G), (H), (J), (M) and/or (N) shall be a Class 1 misdemeanor that carries a non-waivable fine in the amount of $2,500 and/or a term of imprisonment not to exceed six months. Violations of § 91.41 (C), (E), (I), (K), (L) and/or (O) shall be a Class 1 misdemeanor that carries a non-waivable fine in the amount of $1,000 and/or a term of imprisonment not to exceed six months.

(2) *Recidivist provision*. Any offender who is charged with a second and independent occurrence of offense within the meaning of § 91.41 shall at the election of the prosecutor have the charges prosecuted against them as a felony within the meaning of A.R.S. § 13-2910.

(L) Violation of § 91.42(A) shall be a Class 3 misdemeanor and shall carry a non-waivable fine in the amount of $500.

(Prior Code, §§ 6-1-3(B), 6-1-4, 6-1-5(F), 6-2-2(C), 6-2-3(C), 6-2-8, 6-3-2(P), 6-3-4) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

CHAPTER 92: PARKS

Section

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GENERAL PROVISIONS

§ 92.01 ADMINISTRATION.

(A) The Community Services Director, through the City Manager, shall have general administrative authority for the management and regulations of the park facilities in the city. The Council has the responsibility for establishing policy for the park facilities.

(B) The Community Services Director is hereby authorized to close or limit access to parks to any and all persons not properly authorized to use the facilities. This emergency authority shall not exceed three days without Council approval.

(Prior Code, Art. 12-1)

RULES AND REGULATIONS

§ 92.15 USE AND PREFERENCE FOR PARK FACILITIES.

(A) All individuals and groups may use any park facility for recreational purposes not prohibited by this code or contrary to public policy.

(B) Preference for use of any park facility shall be as follows:

(1) City-sponsored and regularly scheduled activities;

(2) Permit holders; and

(3) Other.

(Prior Code, § 12-2-1)

§ 92.16 PERMIT REQUIRED.

(A) A permit, in written form, must be obtained from the Community Services Department whenever any person or group not sponsored by the city desires to reserve a recreation area or facility.

(B) All organized groups and/or leagues must obtain a permit.

(C) The permit shall be kept in possession of permittee during the use of the facility.

(D) Applications shall be filed with the Community Services Department at least two weeks prior to the date use is requested.

(Prior Code, § 12-2-2)

§ 92.17 RESPONSIBILITY AND RESTRICTIONS OF PERMIT HOLDERS.

(A) All group use of park facilities must be under competent adult supervision with the persons or groups using the facility or equipment.

(B) Any permittee using park facilities shall be required to indemnify and save the city harmless from any and all liabilities for damages, personal or property, which may arise out of or in connection with the use of the park facilities by the permittee. Responsibility for loss, breakage, or need for repair of any piece of furniture, equipment, or portion of the facility rests solely with the person in charge, the one signing the agreement who shall report same to the Community Services Department.

(C) All permittees shall be responsible for returning the facilities and grounds used to the same condition in which they existed upon issuance of the permit.

(D) Any permit issued which will cost the city additional funds shall be subject to a rental fee established by the Community Services Department.

(E) When a permit has been approved for the use of the facilities by the Community Services Department, notification shall be made immediately to the Police Department. The notification shall contain the date, hours of use, age group, type of activity, and the

number of participants.

(F) Concession rights shall be reserved to the city unless specifically stated otherwise.

(G) The permit holder shall be responsible for all expenses incurred by the city relating to the request, if notice of cancellation of a request is not received by the city at least 48 hours prior to the date of the event.

(H) No apparatus, furniture, or equipment shall be moved into a park or facility unless special permission is granted in advance. Such apparatus, furniture, or equipment, provided by the permittee, shall be removed from the park area promptly after use and before 7:00 a.m. the following morning so there is no interference with normal park and recreation programs. Failure to comply shall prohibit the person or group from using facilities in the future.

(I) When security, personnel, or special services are necessary, such personnel shall be supplied by the permittee or shall be procured by the Community Services Department and charged to the permittee. The Community Services Department and Police Department shall specify when security personnel are necessary.

(Prior Code, § 12-2-3)

§ 92.18 TERM AGREEMENTS.

Term agreements for use of facilities by clubs or enterprises shall be permitted through signed contracts, which may be reissued as necessary at the direction of the issuing authority.

(Prior Code, § 12-2-4)

§ 92.19 REVOCATION OF PERMITS.

All permits shall be revocable at any time by the Community Services Department upon finding of a violation of any rule, code section, or state statute.

(Prior Code, § 12-2-5)

§ 92.20 PRESENCE IN PARKS AFTER CLOSING.

It is unlawful for any person to trespass upon or be upon the grounds of any municipal park or playground between the hours of 10:00 p.m. and 6:00 am. without first obtaining authorization from the Community Services Department.

(Prior Code, § 12-2-6) Penalty, see § 10.99

§ 92.21 GLASS CONTAINERS PROHIBITED.

No person while in any municipal park shall have a glass beverage container in his or her possession.

(Prior Code, § 12-2-7) Penalty, see § 10.99

§ 92.22 DRUG AND TOBACCO FREE ZONE.

All areas on or within 300 feet of a city park, recreation area, or accompanying grounds are declared drug and tobacco free zones.

(Prior Code, § 12-2-8)

§ 92.23 PROPERTY DAMAGE.

No person shall willfully mark, deface, disfigure, injure, displace, or remove, any buildings, tables, benches, fireplaces, plants or

landscaping, paving, public utilities, or parts thereof, or other structures or equipment facilities or property.

(Prior Code, § 12-2-9) Penalty, see § 10.99

§ 92.24 LITTER.

No person shall bring in or dump, deposit, or leave any trash, ashes, rubbish, waste, garbage, or refuse. All waste shall be place in proper receptacles. If receptacles are not provided, the waste shall be carried away by the persons responsible for its presence.

(Prior Code, § 12-2-10) Penalty, see § 10.99

§ 92.25 BOATS, MODEL AIRCRAFT OR ROCKETS, ARCHERY, GOLF.

No person shall do any of the following without the written consent of the Community Services Department:

(A) Operate a boat, raft, model watercraft, or model aircraft;

(B) Launch a rocket;

(C) Engage in archery; and/or

(D) Drive golf balls.

(Prior Code, § 12-2-11) Penalty, see § 10.99

§ 92.26 FIRES.

No person shall start or sustain a fire in any city park, except for the use of charcoal in grills designed for such use. No person shall build any fire in violation of any fire restrictions imposed by the city.

(Prior Code, § 12-2-12) Penalty, see § 10.99

§ 92.27 WEAPONS.

No person shall bring into any city park any weapon or firearm, including any handguns, rifles, shotguns, BB guns, CO_2 pellet guns, explosives, fireworks, slingshots, bows and arrows, or knives with blades longer that three and one-half inches. A knife longer than three and one-half inches may be possessed in a park provided the knife is used solely in connection with serving or preparing food.

(Prior Code, § 12-2-13) Penalty, see § 10.99

§ 92.28 PERSON UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.

No person shall be in any city park while under the influence of drugs and/or alcohol if the person is impaired to the slightest degree.

(Prior Code, § 12-2-14) Penalty, see § 10.99

§ 92.29 CAMPING, LODGING OUT-OF-DOORS IN PARKS, ON PUBLIC PROPERTY PROHIBITED.

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

CAMPING. To use real property of the city for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings, or making a fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities.

LIVING ACCOMMODATION PURPOSES. To use publicly owned property as a temporary or permanent place of lodging or residence.

LODGING OUT-OF-DOORS. Using publicly owned property for living accommodation purposes by the erection, use, or occupation of any tent, hut, lean-to, shack, temporary shelter, or the like, for sleeping purposes or the laying down of bedding, such as a blanket, sleeping bag, bed roll, newspapers, cardboard, or similar material for the purpose of sleeping.

(B) It shall be unlawful for any person to use publicly owned property in the city, including parks, for living accommodation purposes, camping, and/or lodging out-of-doors, except as may be specifically authorized by the appropriate governmental authority.

(C) No person shall be charged under this section unless the person continues to engage in conduct prohibited by this section after having been:

(1) Notified by a law enforcement officer that the conduct is prohibited; and

(2) Provided an opportunity to relocate.

(D) *First violation of division (B).*

(1) Any person who after being notified by a law enforcement officer and provided the opportunity to relocate, fails to do so shall be subject to arrest for violation of division (B).

(2) The first violation of division (B) shall be designated a Class 3 misdemeanor.

(E) *Second and subsequent violations of division (B).*

(1) Any person who having previously violated division (B), and having received notification from a law enforcement officer and provided the opportunity to relocate, shall be subject to arrest and increased penalties.

(2) The second violation of division (B) within a 12 consecutive month period shall be designated a Class 2 misdemeanor.

(3) The third and subsequent violations of division (B) within a 12 consecutive month period shall be designated a Class 1 misdemeanor.

(Ord. O12-11-12, passed 11-8-2012)

§ 92.30 PASSIVE PARK RECREATION AREA.

(A) *Definition*. For the purpose of this section, a ***PASSIVE PARK*** is an outdoor city-owned recreational facility intended for passive recreational activities, such as walking, hiking, jogging, and roller-skating. A ***PASSIVE PARK*** does not include organized or competitive activities and no permits for non-city related activities will be considered. Generally, a ***PASSIVE PARK*** is maintained in its existing state, with exception of public improvements made by the city or other government agency for the purpose of protecting the public's health, safety, and welfare.

(B) Apassive park will be so designated by the City Council and park rules and regulations will be in keeping with this chapter of the City Code.

(Ord. O14-01-01, passed 1-7-2014) Penalty, see § 10.99

CHAPTER 93: ABANDONED PROPERTY

Section

93.01 Definitions

93.02 Notice of official possession

93.03 Claim and proof of ownership

93.04 Disposal

93.05 Disposition of proceeds

93.06 Exemptions from provisions

§ 93.01 DEFINITIONS.

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

ABANDONED. Personal property shall be deemed ***ABANDONED*** if the owner thereof fails to make satisfactory claim and proof of ownership within 30 days after the giving of notice as provided in § 93.02.

EXEMPTED ITEMS. Any vehicle, trailer, or semi-trailer of a type subject to registration under A.R.S. Title 28; livestock; intangible personal property.

OFFICER. Any officer, agent, or employee of the city acting within the scope of his or her employment.

PERSONAL PROPERTY. All personal property of whatever nature where the owner thereof or his or her whereabouts is unknown, or which is unclaimed for more than seven days, but the term shall be interpreted to mean and shall specifically exclude exempted items.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

§ 93.02 NOTICE OF OFFICIAL POSSESSION.

(A) Any officer having in his or her possession personal property shall publish at least once a notice in a newspaper distributed within the city containing the following information:

(1) The name, designation, and address of the officer giving the notice;

(2) The description of the personal property that has come into the possession of the officer since the giving of the last periodic notice;

(3) A demand that all owners of the property described in the notice make claim and proof of ownership satisfactory to the officer named in the notice within 30 days from the date of the notice;

(4) A statement that any of the described personal property not so claimed within the 30-day period shall be deemed to be abandoned, and that the same may be disposed of by the city; and

(5) The date of the notice.

(B) A copy of the notice shall be mailed to the owner, if known, at his or her last known place of residence.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

§ 93.03 CLAIM AND PROOF OF OWNERSHIP.

(A) Except as provided in division (C) of this section, if the personal property described in the notice required by § 93.02 remains in the possession of the officer without any person making satisfactory claim and proof of ownership therefore for a period of 30 days from the date of the notice describing it, the personal property shall be deemed to be abandoned, and title thereof shall be deemed to be in the city and become "city personal property" by reason of abandonment by the owner and possession by the city.

(B) The conversion of unclaimed personal property for personal use is prohibited.

(C) When dealing with property which is lost, found by a person not the owner (hereinafter referred to as the "finder"), and then turned over to an officer, the finder shall be deemed to have made satisfactory claim and proof of ownership to be entitled to possession of the personal property at the end of 30 days from the date of the notice. However, the finder's claim and proof of ownership under this section shall be inferior to and subject to a satisfactory claim and proof of ownership by any owner of the personal property. Upon delivery of the property to the finder as provided in this section, the city shall have no further interest in or

obligations with respect to the property. The city shall, however, provide the name and address of the finder and the location of the property, if known, to any person making a satisfactory claim and proof of ownership subsequent to the delivery of the property to the finder.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

§ 93.04 DISPOSAL.

(A) The city shall have the right to sell, lease, exchange, trade, or otherwise dispose of abandoned personal property for the best interest of the city. No disposal of property shall be made until 30 days after the public notice required by § 93.02 has been given.

(B) The officer conducting the sale shall maintain a complete and accurate record of the sale, which shall include the description of the personal property sold, the name and address of the purchasers, the sale price of each item sold and the cost of the sale.

(C) Fair market value of materials to be disposed of by exchange or trade shall be determined by an appraisal. The appraisal shall be contained in the records in the materials management office and shall be solicited from an expert in the commodity field who is not a city employee or agent of a responding enterprise.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

§ 93.05 DISPOSITION OF PROCEEDS.

(A) All monies received from disposal of abandoned personal property, or an amount equal to the fair market value of the property if disposed by exchange or trade, as provided for in this chapter, less the cost of advertising and selling, shall be immediately paid over to the City Treasurer and retained in a separate fund for at least six months.

(B) Should any person within six months from the date of disposal of any item of abandoned personal property make claim thereto and establish ownership, the sum of money paid over to the City Treasurer as provided herein shall be paid over to that person. In no event shall any claim be considered unless it shall be presented to the City Treasurer in writing under oath and before the expiration of six months from the date of the disposal of the item claim.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

§ 93.06 EXEMPTIONS FROM PROVISIONS.

The provisions contained in this chapter shall not apply to the following categories of abandoned personal property:

(A) Firearms, weapons, and other devices or instruments designed for inflicting bodily injury. The city may elect to dispose of or retain the same;

(B) Items for which no bids are received or bids received are less than the cost of advertising or selling. Such items may be deemed to be of no intrinsic or monetary value and may be disposed of in any manner deemed appropriate by the city;

(C) Items useful or necessary to the city. Such items may be retained by the city for its use; and

(D) At the discretion of the City Manager or his or her designee, the city may elect to donate any abandoned personal property or exempted item in its custody for at least 90 days to a governmental or nonprofit or charitable organization.

(Ord. O07-12-11, passed 12-13-2007; Res. R07-12-32, passed 12-13-2007)

CHAPTER 94: AIR POLLUTION REGULATIONS; DUST CONTROL

Section

94.01 Purpose

94.02 Definitions

94.03 Unpaved roads, shoulders, and alleys

94.04 Parking areas

94.05 Open areas and vacant lots

94.06 Leaf blowers

94.07 Off-highway vehicles

94.99 Penalty

§ 94.01 PURPOSE.

The purpose of this chapter is to comply with the Arizona House Bill 1552 which stipulates that each jurisdiction provides in the city code measures to control dust pollution which may be enforceable by the jurisdiction. The intent is to limit particulate matter emissions into the ambient air from any property, operation, or activity that may serve as a fugitive dust source.

(Prior Code, § 23-1-1) (Ord. O08-03-03, passed 3-13-2008)

§ 94.02 DEFINITIONS.

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

DISTURBED SURFACE AREA. A portion of the earth's surface (or material placed thereupon) which has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition.

DUST CONTROL IMPLEMENT. A tool, machine, equipment, accessory, structure, enclosure, cover, material, or supply, including an adequate readily available supply of water and its associated distribution/delivery system, used to control fugitive dust emissions.

DUST CONTROL PLAN. A written plan describing all control measures.

DUST GENERATING OPERATION. Any activity capable of generating fugitive dust, including but not limited to, land clearing, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment, or unpaved parking lots. For the purpose of this code, basic (not including trenching, grading, or any other mechanized activity) landscaping maintenance and/or playing on a ball field shall not be considered a ***DUST GENERATING OPERATION***.

DUST SUPPRESSANT. Water, hygroscopic material, solution of water and chemical surfactant, foam. Non-toxic chemical stabilizer or any other dust palliative, which is not prohibited for ground surface application by the U.S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ) or any applicable law, rule, or regulation as a treatment material for reducing fugitive dust emissions.

FUGITIVE DUST. The particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soil, vehicles, equipment, blasting, and wind.

INTERMITTENT SOURCE. A fugitive dust generating operation and/or activity that lasts for a duration of less than six consecutive minutes.

MOTOR VEHICLE. A self-propelled vehicle for use on the public roads and highways of the City of El Mirage and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.

OFF-ROAD VEHICLE. Any self propelled conveyance specifically designed for off-road use, including but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motor buggies.

OPEN AREAS AND VACANT LOTS. Any of the following:

(1) An unsubdivided or undeveloped tract of land adjoining a developed or a partially developed residential, industrial, institutional, governmental, or a commercial area;

(2) A subdivided residential, industrial, institutional, governmental, or commercial lot, which contains no approved or permitted buildings or structures of a temporary or permanent nature;

(3) A partially developed residential, industrial, institutional, governmental, or commercial lot;

(4) A tract of land, in the non-attainment area, adjoining agricultural property;

(5) Vacant portions of residential or commercial lots that are immediately adjacent and owned and/or operated by the same individual or entity are considered one vacant open area or vacant lot; and/or

(6) Does not include any site that has been issued a county dust control permit.

OWNER AND/OR OPERATOR. Any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this chapter.

PAVE. To apply and maintain asphalt, concrete, or other similar material to a roadway surface (i.e. asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt).

PUBLIC ROADWAYS. Any roadways that are open to public travel.

SILT. Any aggregate material with a particle size of less than 75 micrometers in diameter which passes through a No. 200 sieve.

UNPAVED HAUL/ACCESS ROAD. Any on-site unpaved road used by commercial, industrial, institutional, or governmental travel.

UNPAVED PARKING LOT. Any area (other than residential with four or fewer units) larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or the storing of motor vehicles and residential areas of 3,000 square feet or more with four or fewer units.

UNPAVED ROAD. Any road or equipment path that is not paved and used exclusively for the purpose of travel by motor vehicle.

(Prior Code, § 23-1-2) (Ord. O08-03-03, passed 3-13-2008)

§ 94.03 UNPAVED ROADS, SHOULDERS, AND ALLEYS.

(A) The City's Public Works Department shall implement and maintain a plan for the stabilization of city-owned unpaved roads, alleys, and the unpaved shoulders on all arterial roads with the use of approved dust suppressants. An inventory shall be taken and routinely updated to identify unpaved rights-of-way, haul/access roads, roadways (designated or otherwise), shoulders, and alleys for treatment.

(B) The following criteria shall be considered for prioritizing the dust control measures:

(1) *Traffic volume*. Roads with greater traffic volume have a higher potential for dust emissions from the road surface and shoulders based upon direct tire action as well as vehicular wake effects. Consistent with A.R.S. § 9-500.04, priority shall be given to unpaved roads with 100 average daily trips. Traffic volumes shall also be considered in prioritizing shoulders. Alley traffic volumes are generally low, but should be considered for treatment.

(2) *Shoulders on arterial roads or other road segments with vehicular use*. Shoulders shall be prioritized for stabilization based upon the location of the shoulder segments along arterial streets and evidence of vehicular use. Shoulders which appear to be used for unauthorized turn lanes, parking, or traffic bypass shall have a higher priority. In addition, shoulders in areas where vehicular use is anticipated due to projected traffic volume have a higher potential for generating dust emissions.

(3) *Traffic speed*. Roadways with a higher vehicular speed also have a higher potential for generating dust from direct vehicular tire action and the vehicular wake effect.

(4) *Heavy-duty truck traffic*. Roadways with higher heavy-duty truck traffic have a higher potential for dust from the larger tires, greater weight, and larger vehicle profile, which cause a greater wake effect.

(5) *Silt content in underlying soil*. Natural soils with clay and silty clay have a severe erosion potential rating. This rating indicates a high potential for generating fine particle of dust, which stay suspended as PM-10 pollution. Areas of high silt content within

the City of El Mirage limits shall be identified and targeted for routine observation and treatment.

(6) *Target areas*. Priority shall be given to the Agua Fria river basin and the areas adjacent to the river. In addition, the areas contained within the Dysart Ranchette community shall be given priority as these areas reflect the highest opportunity to reduce PM-10 through the treatment of unpaved roads.

(7) *Safety, drainage, and other issues*. Safety and drainage issues are an important factor in prioritizing treatment areas. Roads and paving shoulders in areas without a storm drain system are susceptible to discharge onto the roadway. Selection of roads for treatment must also include consideration of connectivity to other roads, as well as the location, relative to other paving and stabilization projects.

(C) The City of El Mirage will maintain records of implementation of city-owned road, shoulder, and alley treatments and will submit annual or periodic reports as requested by Maricopa County or other responsible agencies.

(D) (1) Private roadways used for haul/access or any on-site unpaved road used by commercial, industrial, institutional, or governmental travel shall be targeted by Code Enforcement for compliance with the dust control measures included within this chapter unless all of the following measures are continuously observed:

(a) Speed limits are posted at 15 mph;

(b) Trips on the roadway are limited to not more than 20 trips per day; and

(c) Water is applied so the surface is visibly moist or the surface is treated with other dust suppressant materials or methods.

(2) In the even a violation this division (D) is discovered, the following fines and procedures shall apply:

(a) *First offense*. A notice of compliance (NOC) shall be issued requiring compliance with this section no later than 30 days from the issuance date of the NOC. The purpose of the NOC is to provide the public information on PM-10 issues and educational material regarding compliance with dust control regulations.

(b) *Second offense or failure to comply with a NOC*. A civil fine of $250 shall be imposed and the violator shall be given a notice of violation (NOV) requiring compliance within two weeks. Failure to comply with the NOV within two weeks shall also constitute a third offense.

(c) *Third and subsequent offenses*. A civil fine of $500 shall be imposed. Each day the violation is permitted to exist may be treated as a new offense for which a new NOV may be issued.

(d) *Additional fines*. Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(Prior Code, § 23-1-3) (Ord. O08-03-03, passed 3-13-2008; Ord. O08-10-17, passed 10-9-2008)

§ 94.04 PARKING AREAS.

(A) Parking, maneuvering, ingress and egress areas at any development (industrial, institutional, commercial, multi-family residential, etc.) other than residential buildings with four or fewer units shall be maintained with a dustproof paving method approved by the city.

(B) Parking, maneuvering, ingress and egress areas that are 3,000 square feet or more in size at residential buildings with four or fewer units shall be maintained with a dustproof paving method approved by the city.

(C) In the event a violation of this section is discovered, the following fines and procedures shall apply:

(1) *First offense*. A notice of compliance shall be issued requiring compliance with this section no later than 30 days from the issuance date of the NOC. The purpose of the NOC is to provide the public information on PM-10 issues and educational material regarding compliance with dust control regulations.

(2) *Second offense or failure to comply with a NOC*. A civil fine of $500 shall be imposed and the violator shall be given a notice of violation (NOV) requiring compliance within two weeks. Failure to comply with the NOV within two weeks shall also constitute a third offense.

(3) *Third and subsequent offenses*. A civil fine of $1,000 shall be imposed. Each day the violation is permitted to exist may be treated as a new offense for which a new NOV may be issued.

(4) *Additional fines.* Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(D) Reasonable written notice shall be given to the property owner that the unpaved disturbed surface is required to be stabilized. The City of El Mirage has the authority to enter onto the lot to stabilize the disturbed surface at the expense of the owner if stabilization has not been met by the day set for compliance. The city shall have the right to lien the property for the expenses if not paid by the owner within 14 days of request for payment.

(Prior Code, § 23-1-4) (Ord. O08-03-03, passed 3-13-2008; Ord. O08-10-17, passed 10-9-2008)

§ 94.05 OPEN AREAS AND VACANT LOTS.

(A) Open areas and vacant lots as described in § 94.02 shall comply with all dust control regulations requiring stabilization of the disturbed surface as specified in Rule 310 of the Maricopa County Air Pollution Control Regulations.

(B) The parking or access of any vehicle on the site is restricted to stabilized surfaces only. The owner of any vacant property is responsible for restricting access to the property by either:

(1) The posting of and maintenance of signage stating "NO TRESPASSING BY MOTOR VEHICLES AND OFF-ROAD VEHICLES". Signs must be posted on all sides of the property accessible to/by the public and spaced at an interval minimum of 150 feet; or

(2) Installing physical barriers such as curbs, fences, gates, posts, shrubs, and/or trees to prevent access.

(C) Any surface area which exceeds one-tenth of an acre or 4,356 square feet of area where a dust generating operation, as described in § 94.02, is taking place the owner/operator is required to have in their possession a dust permit from the Maricopa Air Quality Department (MCAQD) which contains an approved dust control plan. Owner/operators blading and discing properties less than one-tenth of an acre are responsible for utilizing a Rule 310 dust control implement/method for controlling fugitive dust emissions.

(D) In the event a violation of this section is discovered, the following fines and procedures shall apply:

(1) *First offense.* A notice of compliance (NOC) shall be issued requiring compliance with this section no later than 30 days from the issuance date of the NOC. The purpose of the NOC is to provide the public information on PM-10 issues and educational material regarding compliance with dust control regulations.

(2) *Second offense or failure to comply with a NOC.* A civil fine of $500 shall be imposed and the violator shall be given a notice of violation (NOV) requiring compliance within two weeks. Failure to comply with the NOV within two weeks shall also constitute a third offense.

(3) *Third and subsequent offenses.* A civil fine of $1,000 shall be imposed. Each day the violation is permitted to exist may be treated as a new offense for which a new NOV may be issued.

(4) *Additional fines.* Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(E) Reasonable written notice to the property owner that the unpaved disturbed surface is required to be stabilized shall be given. The City of El Mirage has the authority to enter onto any vacant lot or open area to stabilize the disturbed surface, fence, or otherwise restrict access to the site at the expense of the owner if compliance has not been met by the time specified. The city shall have the right to lien the property for the expenses if not paid by the owner within 14 days of request for payment.

(Prior Code, § 23-1-5) (Ord. O08-03-03, passed 3-13-2008; Ord. O08-10-17, passed 10-9-2008)

§ 94.06 LEAF BLOWERS.

Any contractor, employee, or landowner operating a leaf blower within the city limits is prohibited under the following conditions:

(A) The use on high pollution advisory days other than in vacuum mode.

(B) The blowing of debris onto public/public access roadways is prohibited at all times.

(C) Use on any non-stabilized surface.

(Prior Code, § 23-1-6) (Ord. O08-03-03, passed 3-13-2008)

§ 94.07 OFF-HIGHWAY VEHICLES.

(A) No person shall operate a motor vehicle, all-terrain vehicle, or off-road recreational vehicle, including motorcycles, go carts, and scooters, on an unpaved surface that is not a public or private road, street or lawful easement and that is closed or posted as no trespassing by the landowner.

(B) Exceptions.

(1) The operation of vehicles in the normal course of business or government operations. Vehicle identification must be visible and readable by the public by way of a marked company vehicle, signage on the vehicle, or a posted sign in the window of the vehicle.

(2) An event that is intended for off highway operation of motor vehicles and that is endorsed, authorized, permitted, or sponsored by a public agency, occurs on a designated route or area and includes dust abatement measures at all staging areas, parking areas, and entrances.

(3) An event that occurs at a facility where admission or use fee is charged and includes dust control measures.

(4) A closed course that is maintained with dust abatement measures.

(5) Golf carts used as a part of a private or public golf course.

(C) A person who violates this section is guilty of a Class 3 misdemeanor. A judge may order, in addition to or in lieu of a fine, the person to perform 8-24 hours of community restitution or complete an approved safety course related to the off-highway operation of motor vehicles.

(Prior Code, § 23-1-7) (Ord. O08-03-03, passed 3-13-2008; Ord. O08-10-17, passed 10-9-2008) Penalty, see § 94.99

§ 94.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Enforcement, effective October 1, 2008, shall encourage the application and maintenance of paving material, gravel, recycled asphalt, or other suitable dust suppressant, as per § 94.04.

(1) A notice of violation will be issued at the first offense which includes a fine of $500 and/or compliance within 30 days.

(2) Second offenses within any six-month period will result in a fine of $1,000 and/or compliance within two weeks.

(3) Third offense (no time limitation) will result in a civil citation.

(4) Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(5) Prior to the effective date, code enforcement officers may issue notices of compliance with no associated fines for the purpose of educating the public on dust control regulations. This NOC will specify immediate compliance and information on PM-10 or other (updated) regulatory measures.

(C) Enforcement, effective October 1, 2008, shall encourage the owner's responsibility to comply with the dust prevention measures, as per § 94.05.

(1) A notice of violation will be issued at the first offense which includes a fine of $250 and/or compliance within 30 days.

(2) Second offenses within any six-month period will result in a fine of $500 and/or compliance within two weeks.

(3) Third offense (no time limitation) will result in a civil citation.

(4) Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(5) Prior to the effective date, code enforcement officers may issue notices of compliance with no associated fines, for the purpose of educating the public on dust control regulations. This NOC will specify immediate compliance and information on PM-10 or other (updated) regulatory measures.

(6) Citations, with a penalty of $250, may also be issued to the person(s) responsible for committing the trespass by Code Enforcement and/or Police.

(D) Enforcement, effective March 31, 2008, shall encourage responsibility to comply with the dust prevention measures, as per § 94.06.

(1) A notice of violation will be issued at the first citation which includes a fine of $250.

(2) Second citations within any six-month period will result in a fine of $500.

(3) Third offense (no time limitation) will result in a civil citation.

(4) Additional fines may be issued by Maricopa County Air Quality for repeat offenders.

(E) A person who violates § 94.07 is guilty of a Class 3 misdemeanor. A judge may order the person to perform eight to 24 hours of community restitution, or complete an OHV safety course, or both in lieu of a fine. Fines are set per Arizona Bill 1522 as follows:

(1) A warning for the first violation;

(2) A civil penalty of $50 for the second violation;

(3) A civil penalty of $100 for the third violation; and

(4) A civil penalty of $250 for the fourth and subsequent violations.

(Ord. O08-03-03, passed 3-13-2008)

CHAPTER 95: PUBLIC SAFETY

Section

Fire

95.01 Adoption of International Fire Code

95.02 Fireworks

Police

95.15 Applicability

95.16 Warning notice

95.17 Police review of false alarms

95.18 Appeal procedures

FIRE

§ 95.01 ADOPTION OF INTERNATIONAL FIRE CODE.

The certain code entitled "International Fire Code", 2006 edition, published by the International Code Council, is hereby adopted as the Fire Code of the City of El Mirage. The fire code and its adopted addendums are made a part of this chapter the same as though the code was specifically set forth in full herein. From time to time, as deemed necessary, new editions of the fire code may be adopted by the City Council. At least three copies of the fire code shall be filed in the office of the Clerk and kept available for public use and inspection in accordance with A.R.S. § 9-802.

(Prior Code, Art. 4-3) (Ord. O05-04-05, passed 5-12-2005; Ord. O09-04-04, passed 4-23-2009; Ord. O10-10-17, passed 10-28-2010)

§ 95.02 FIREWORKS.

(A) *Definitions.* For the purpose of this section, 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.

DISPLAY FIREWORK. Those fireworks defined by A.R.S. § 36-1601.

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.

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 as defined in A.R.S. § 36-1601.

PERMISSIBLE CONSUMER FIREWORKS. Those fireworks as defined by A.R.S. § 36-1601 that may be sold within the City of El Mirage 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 issued by the Fire Chief or his or her designee.

(B) *Use of fireworks prohibited; exceptions.*

(1) Except as otherwise provided herein, the use, discharge or ignition of fireworks within the City of El Mirage is prohibited.

(2) Nothing in this section or subchapter 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 Fire Chief or designee for conducting a supervised public display of fireworks. Every supervised 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. The Fire Chief has authority to impose conditions on any permits granted. When a high fire danger is declared, the Fire Chief shall not issue a permit, or shall revoke a permit previously issued, for supervised public display of fireworks.

(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.

(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 within the City of El Mirage, including permissible consumer fireworks, as defined by City of El Mirage Code, 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 Chief 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 City of El Mirage's website and filed with the Clerk's office.

(4) Failure to comply with divisions (D)(1) or (D)(2) above is a civil offense punishable by a minimum fine of not less than $500 or more than $1,000.

(E) *Authority to enforce violations of this article; means of enforcement.*

(1) The Fire Chief or designee, a City of El Mirage police officer, a City of El Mirage Code Enforcement Officer, or the City Attorney may issue civil complaints to enforce violations of this section.

(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) A City of El Mirage police officer or the Fire Chief or his or her designee 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, prohibited novelty items, 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, parent or legal guardian if a minor, liable for those expenses pursuant to division (F)(1) of this section. 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 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, 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. 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 respond to the incident.

(G) *Penalty.* A violation of any provision of § 95.02(B) or (C) may be cited as either a civil infraction or class one misdemeanor offense. Each day that a violation continues after due notice has been served, with reasonable opportunity to abate the violation, shall be deemed a separate offense.

(Ord. O10-10-17, passed 10-28-2010)

POLICE

§ 95.15 APPLICABILITY.

This subchapter is intended to regulate the activities and responsibilities of persons who purchase, rent, or use alarm systems, devices, or services.

(Prior Code, § 4-4-1)

§ 95.16 WARNING NOTICE.

When an alarm system generates two false alarms within a consecutive 365-day period, the Police Department shall send a warning notice to both the alarm subscriber and the alarm business or the proprietor alarm owner that one subsequent false alarm within the period will subject the notified parties to the sanctions as provided herein.

(Prior Code, § 4-4-2)

§ 95.17 POLICE REVIEW OF FALSE ALARMS.

(A) Any alarm system which has three or more false alarms within a consecutive 365-day period shall be subject to assessment as provided herein.

(B) If the Police Department records three or more false alarms within a consecutive 365-day period:

(1) The Police Department shall notify both the subscriber and alarm business or the proprietor alarm owner by mail of the Police Department's initial notice of assessment of false alarm service fees and the amount of the assessed service fees. The alarm subscriber and alarm business or the proprietor alarm owner may, within 20 days of the date of the mailing of the notice, appeal to the Police Chief by filing a petition with the Police Chief or his or her designee. The petition shall contain specific defenses to the assessment. Affirmative defenses to a false alarm service fee assessment alarm may include evidence that a false alarm was caused by an act of God, common cause, action of the telephone company, telephone line outage, power outage lasting longer than the life of a fully charged battery, and other extraordinary circumstances not reasonably subject to control by the alarm business, alarm subscriber, or proprietor alarm owner;

(2) Any petition submitted pursuant to division (B)(1) above shall be received by the Police Chief or his or her designee within the time specified. If the petition is not timely submitted, any notified party shall be deemed to have waived his or her right to any further review or hearing as provided herein and the initial assessment shall be final;

(3) If a petition is timely submitted pursuant to division (B)(1) above, the Police Chief or his or her designee shall review the defenses, if any, set forth in the petition. If it is determined that a valid defense to the initial determination of false alarm assessment has been set forth, a notice shall specifically set forth the findings and conclusions of the Police Chief or his or her designee with respect to the review of the initial assessment;

(4) If the Police Chief or his or her designee determines that a defense to the initial notice of assessment has not been set forth, a notice of decision shall be sent by mail to both the alarm subscriber and the alarm business or the proprietor alarm owner that they will be assessed pursuant to division (B)(5) below. The notice of decision shall contain the specific findings and conclusions of the Police Chief with respect to the review of the initial assessment; and

(5) Service fees assessed pursuant to divisions (B)(2) and (4) shall be in an amount of $74 per false alarm upon the third and any subsequent false alarm to recover the cost of the response by the Police to the false alarm. The alarm subscriber, alarm business or the owner of a proprietor alarm system shall, except as provided in § 95.15, be jointly and severally responsible for the payment of the service fees imposed upon the alarm system. No service fee shall be imposed under this section for any false alarm for which a service fee has been imposed against the alarm subscriber or proprietor alarm owner pursuant to § 95.15.

(Prior Code, § 4-4-3.5)

(Prior Code, § 4-4-3)

§ 95.18 APPEAL PROCEDURES.

(A) Any party aggrieved by a decision of the Police Chief or his or her designee made pursuant to § 95.16 or § 95.17 may, within ten days of receipt of the notice of decision, appeal by filing a notice of appeal with the Hearing Officer so designated by the City Manager.

(B) The notice of appeal shall set forth the specific objections to the decision of the Police Chief which forms the bases of the appeal.

(C) The Hearing Officer shall set a time and place for the hearing as soon as practicable.

(D) The hearing proceeding shall be conducted in an informal process to determine whether there is a sufficient factual and legal basis to support the assessment of the conduct of such hearings, provided that the decision of the Hearing Officer shall in all cases be based upon substantial and reliable evidence. All parties to the hearing shall have the right to present evidence. In a hearing on an appeal filed pursuant to § 95.16, the evidence may relate to the specific defenses listed under § 95.17 and a claim that another party is solely responsible for the false alarms.

(E) The decision of the Hearing Officer shall be based upon the evidence presented and it shall:

(1) Affirm the assessment, in which case any service fees imposed pursuant to § 95.16 or § 95.17 shall be sustained; or

(2) Reverse the assessment, in whole or in part, in which case no service fee or a lesser service fee shall be imposed.

(F) When any part of the assessment is affirmed in appeals which are filed pursuant to § 95.16 and which involve an alarm subscriber and an alarm business permittee, the Hearing Officer may designate the alarm subscriber or the alarm business permittee as solely responsible for the payment of the service fees. When any part of the assessment is affirmed in appeals which are filed pursuant to § 95.17 and which involve a proprietor alarm owner, the Hearing Officer shall designate the proprietor alarm owner as solely responsible for payment of the service fees.

(G) The decision of the Hearing Officer is final.

(Prior Code, § 4-4-4)

CHAPTER 96: ADMINISTRATIVE APPEALS

Section

96.01 Administrative appeal to hearing officer

§ 96.01 ADMINISTRATIVE APPEAL TO HEARING OFFICER.

(A) Notwithstanding other remedies allowed within this code, in order to allow the most efficient and cost-effective service to city residents, businesses and land owners, there is hereinafter established a process of administrative appeal from the provisions of any portion of this code to a hearing officer.

(B) The City Manager, by the authority granted by the City Council, is hereby authorized to act as a hearing officer or to delegate such authority to other city staff members as deemed appropriate to hear and act on any administrative appeal of the decision of any city officials in the enactment of their duties to interpret, administer, or enforce the provisions of the City Code upon any person or entity.

(C) Any party aggrieved by a decision of any city official acting in his or her authority to interpret, administer, or enforce the provisions of the City Code may, within ten days of receipt of the notice of decision, appeal by filing a notice of appeal with the City Manager.

(D) The notice of appeal shall set forth the specific objections to the decision of the code official which form the bases of the appeal.

(E) The hearing officer shall set a time and place for the hearing as soon as practicable.

(F) The hearing proceeding shall be conducted in an informal manner to determine whether there is a sufficient factual and legal basis to support the appeal. The decision of the hearing officer shall in all cases be based upon substantial and reliable evidence. All parties to the hearing shall have the right to present evidence. In a hearing on an appeal, the evidence may relate to specific codes and the physical hardship of meeting such standards on the property in question.

(G) The decision of the hearing officer shall be based upon the evidence presented and shall either:

(1) Affirm the assessment of the city official, in which case the pertinent provisions of this code shall be enforced; or

(2) Reverse the assessment, in whole or in part, of the city official, and provide appropriate direction to the city official regarding the enforcement of the code.

(H) When any part of the assessment is affirmed in appeals which are filed, the hearing officer may designate the aggrieved party as responsible for the penalties assessed by the appropriate sections of this code.

(I) An aggrieved party may still pursue an appeal to the City Council, if provided for by the City Code, acting as the Board of Appeals or the Board of Adjustment as provided for under the provisions found in other sections of this code or pursue any other legal action afforded under state law.

(Ord. O10-10-14, passed 10-28-2010)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSES

111. PEDDLERS AND SOLICITORS

CHAPTER 110: LICENSES

Section

Business Licenses Generally

110.01 License required

110.02 Issuance of license

110.03 Proration of licenses

110.04 Separate licenses

110.05 Exhibition of license required

110.06 Business license fees

110.07 Exemptions

110.08 Delinquent fees

110.09 Business licenses; background investigation

Liquor Licenses

110.20 Liquor license background investigation

110.99 Penalty

BUSINESS LICENSES GENERALLY

§ 110.01 LICENSE REQUIRED.

Any person, partnership, syndicate, firm, association, or corporation, before engaging in any of the businesses, callings, or professions, hereinafter collectively called "business" or "businesses", within the corporate limits of the city or who conducts a business outside the corporate limits of the city and who solicits, canvasses, advertises, or delivers products or performs services within the city limits for a fee shall procure from the Finance Department a license for the carrying on of the business, upon payment of the license tax, as hereinafter provided.

(Prior Code, § 8-3-1) (Ord. O12-05-03, passed 5-22-2012)

§ 110.02 ISSUANCE OF LICENSE.

(A) The Finance Department or an authorized agent for the city shall issue a license for each prospective licensee required to pay a license fee hereunder.

(B) The license shall state the amount of the license fee, the period of time covered, the name of the licensee, and location or place of business, if any.

(C) The issuance of a business license shall, in no way, be construed as permission to operate a business activity in violation of any other law or regulation to which the activity may be subject.

(D) All applications for a business license for a mobile vendor or a business located within the city shall be reviewed by city staff to ensure that it complies with all applicable city, county, state, or federal regulations.

(E) If the proposed business is found to violate any regulations, the city or its agent may deny the business license unless and until the use of the property comes into compliance with all applicable regulations.

(Prior Code, § 8-3-2) (Ord. O12-05-03, passed 5-22-2012)

§ 110.03 PRORATION OF LICENSES.

There shall be proration only the first year of business with the city. After the first year, there shall be no proration of any business license fee. A business license cannot be transferred from one owner to another. Proration is based on calendar year.

(Prior Code, § 8-3-3) (Ord. O12-05-03, passed 5-22-2012)

§ 110.04 SEPARATE LICENSES.

A person engaged in more than one activity subject to city privilege and use taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time the person makes application for a license, he or she list on the application each category of activity in which the business is engaged. The licensee shall inform the Finance Department of any changes in the business activities, location, or mailing address within 30 days. A person who is conducting one or more businesses at two or more locations or under two or more business names shall procure a license for each location, or business name. A "location" is a place of a separate business establishment. Each license issued shall authorize the licensee to practice, transact, and carry on only that business set forth on the license and only at the location or place of business described thereon.

(Prior Code, § 8-3-4) (Ord. O12-05-03, passed 5-22-2012)

§ 110.05 EXHIBITION OF LICENSE REQUIRED.

Every licensee shall display the license or licenses conspicuously at the applicable place of business and shall, upon demand, display the same to the City Police, City Manager, or designee. In the event that the licensee does not have a place of business within the city limits, the license shall be kept on the person conducting the licensee's business.

(Prior Code, § 8-3-5) (Ord. O12-05-03, passed 5-22-2012)

§ 110.06 BUSINESS LICENSE FEES.

License fees shall be established from time to time by resolution.

Regular business	$100 per year
Mining	$2,000 per year
Special event license (seven or less consecutive days)	$65 per event
Sexually oriented businesses	$2,000 per year
Massage therapist	$2,000 per year
Peddlers and solicitors	$25 per quarter; $100 per year
Liquor licenses	As per Arizona Department of Liquor License

(Prior Code, § 8-3-6) (Ord. O11-04-08, passed 4-14-2011; Ord. O12-05-03, passed 5-22-2012)

§ 110.07 EXEMPTIONS.

There shall be exempt from the provisions of this chapter the following businesses:

(A) Businesses conducted as an agency or department of the United States of America, the State of Arizona, County of Maricopa, or City of El Mirage; and

(B) Churches, veterans, and civic service organizations occasionally engaging in a business and which such business is for a bona fide non-profit purpose.

(C) Residential rental properties or property owners. Per A.R.S. § 9-1304 this does not prohibit the City of El Mirage, which imposes a sales tax on rent, from requiring a transaction privilege tax license for residential rental property owners.

(D) Businesses providing occasional participation in city sponsored special events upon prior approval by City Manager.

(E) *De minimis business activity*. Individuals who annually transact less than $2,000 in business activity as defined in § 110.01 above are exempt from these license requirements. No incorporated business, partnership, syndicate, firm, association, or corporation is considered to be de minimis.

(Prior Code, § 8-3-7) (Ord. O11-04-08, passed 4-14-2011; Ord. O12-02-04, passed 2-21-2012; Ord. O12-05-03, passed 5-22-2012)

§ 110.08 DELINQUENT FEES.

(A) When any license fee provided for herein shall be due and unpaid for 15 days, the same shall become delinquent.

(B) The Finance Department shall, on the day the same becomes delinquent, add thereto an amount equal to 10% of the total amount of any fee unpaid and delinquent as a penalty.

(C) No further license shall be issued by the Finance Department until the license fees that are delinquent and the penalties added thereto have been paid in full.

(Prior Code, § 8-3-8) (Ord. O12-05-03, passed 5-22-2012)

§ 110.09 BUSINESS LICENSES; BACKGROUND INVESTIGATION.

The City of El Mirage may request, receive, and review the criminal history record information, including conviction and non-conviction data, for the purpose of evaluating the fitness of licensees, controlling persons, and designated agents in connection with the issuance, renewal, suspension, or revocation of a license or the addition or change of a controlling person or designated agent. Each applicant for a license identified in this section that is issued by the city shall submit a full set of fingerprints to the El Mirage Police Department for the purpose of obtaining a state and federal criminal records background check. The El Mirage Police Department shall forward the fingerprints, appropriate information and fees to the Arizona Department of Public Safety, who is authorized to exchange fingerprint information with the Federal Bureau of Investigation. The city shall collect pertinent fees for the processing of fingerprints, obtaining criminal history information, and license registration. All background checks will be conducted in accordance with A.R.S. § 41-1750, and Pub. Law No. 92-544. Background investigations may be conducted for applicants applying for the following types of licenses from the city:

(A) After-hours establishments;

(B) Auctioneers;

(C) Auction houses;

(D) Businesses that are regulated by state and/or federal entities;

(E) Carnivals/circuses;

(F) Escorts and escort services;

(G) Exhibitors;

(H) Liquor;

(I) Massage facilities;

(J) Massage therapist;

(K) Medical marijuana distribution;

(L) Pawnbrokers;

(M) Peddlers;

(N) Second hand/junk dealers;

(O) Sexually oriented businesses;

(P) Street sales and vendors;

(Q) Solicitors; and

(R) Teletracking.

(Ord. O12-05-03, passed 5-22-2012)

LIQUOR LICENSES

§ 110.20 LIQUOR LICENSE BACKGROUND INVESTIGATION.

Each applicant for a liquor license (owner, partner, or investor regardless of percentage) shall submit a full set of fingerprints to the City of El Mirage Police Department for the purpose of obtaining a state and national criminal records check. These checks shall be done in accordance with A.R.S. § 41-1750 and Pub. Law No. 92-544. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation.

(Ord. O07-04-03, passed 4-12-2007; Ord. O12-05-03, passed 5-22-2012)

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be unlawful for any person, firm, or corporation to operate a business without first having obtained a business license as provided herein. Each person, firm, or corporation found to be in violation of §§ 110.01 through 110.09 shall be guilty of a Class 2 misdemeanor shall be subject to a fine and/or imprisonment in accordance with A.R.S. Title 13.

(Prior Code, § 8-3-9) (Ord. O12-05-03, passed 5-22-2012)

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

111.01 Definitions

111.02 Application for license

111.03 Issuance of license; refusal; hearing

111.04 Regulations

111.05 License fees

111.06 Revocation of license

111.07 Exemptions

§ 111.01 DEFINITIONS.

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

PEDDLER. Any person, whether a resident of the city or not, traveling by foot, wagon, automobile, motor truck, or any other type of conveyance, from house to house or from street to street, carrying, conveying, or transporting goods, wares, merchandise, farm products, or provisions, offering them for sale or making sales and delivering articles to purchasers. The word ***PEDDLER*** shall include the word ***HAWKER*** and ***HUCKSTER***.

SOLICITOR. A person, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery or for services, whether or not the individual has, carries, or exposes for sale a sample of the subject of the sale or whether he or she is collecting advance payment on the sales or not.

(Prior Code, § 8-1-1)

§ 111.02 APPLICATION FOR LICENSE.

(A) Applications for licenses by solicitors and peddlers shall be made to the Finance Department; then, forwarded to the Police Department for review. Applications shall be sworn and in writing and shall contain the following information:

(1) Name and physical description of applicant;

(2) Address;

(3) A brief description of the nature of the business to be conducted and the goods to be sold and, if the goods are farm products or provisions, a statement whether they are produced or grown by the applicant;

(4) If the applicant is employed, the name and address of the employer together with credentials establishing the exact relationship;

(5) The length of time for which the right to do business is desired;

(6) A statement as to whether or not the applicant has been convicted of any crime, including misdemeanors and violations of city or town ordinances; the nature of the offense; and the penalty assessed therefore; and

(7) Such other information as the city may deem necessary for the proper protection of the city.

(B) Applications shall be accompanied by not less than two photographs of the applicant, taken not more than six months prior to the date of the application. One photograph shall be attached to the application; in the event a license is issued, a photograph shall be attached to the license and made a part thereof. Photographs shall be of the head and shoulders of applicant and no less than two inches by two inches in dimension.

(C) The Police Department shall maintain a record of all applications for licenses remaining in force. In the event a license is not issued, the application shall be retained for a period of six months.

(Prior Code, § 8-1-2)

§ 111.03 ISSUANCE OF LICENSE; REFUSAL; HEARING.

(A) Upon receipt of an application, the Police Department shall examine the application and make appropriate investigation. If the Police Department determines that issuance of a license is not detrimental to the proper protection of the city, a license shall be issued for a period not exceeding two years. The license shall contain:

(1) Name of applicant;

(2) Picture of applicant;

(3) Nature of business and goods to be sold; and

(4) Date of issuance of license.

(B) In the event a license is refused, the applicant may petition the Council for a hearing regarding the action taken by the Police Department. At the hearing, the applicant shall be advised of the basis of the determination not to issue a license and may present testimony controverting the action. At the conclusion of the hearing, the Council, by a majority vote, shall determine whether or not a license shall be issued for a period not to exceed two years.

(Prior Code, § 8-1-3)

§ 111.04 REGULATIONS.

(A) No person shall engage in the business of solicitor or peddler without a license issued by the city displayed on his or her person.

(B) No solicitor or peddler shall refuse, upon demand from an authorized police officer, to exhibit a license.

(C) No person shall solicit or peddle from 8:00 p.m. to 7:00 a.m., or at any time when a sign has been posted on a building stating "No Solicitors or Peddlers" or words of like effect, except that a licensed solicitor or peddler may call upon the occupant of a residence at other times when he or she has received express prior permission from the occupant to do so.

(Prior Code, § 8-1-4) Penalty, see § 10.99

§ 111.05 LICENSE FEES.

License fees shall be established from time to time by resolution. See § 110.06 of the code of ordinances.

(Prior Code, § 8-1-5)

§ 111.06 REVOCATION OF LICENSE.

(A) *Grounds for suspension or revocation of permit.* A peddler's or solicitor's permit may be denied, suspended, or revoked for any of the following reasons:

(1) The peddling or solicitation carried on pursuant to the permit violates the requirements of this chapter;

(2) An investigation reveals that the applicant falsified or misrepresented information on the application;

(3) The applicant/permittee is found to have been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, the conviction being entered within the five years preceding the date of application or investigation;

(4) The applicant/permittee is person against whom a civil judgment based upon, or criminal conviction for, fraud, deceit, or misrepresentation has been entered within five years immediately preceding the date of application or investigation;

(5) The applicant/permittee has committed fraud, misrepresentation, or made false statements in the course of carrying on the business;

(6) There is no proof as to the authority of the applicant to serve as an agent to the principal;

(7) The applicant has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the City Manager or designee that the reasons for the earlier denial no longer exist;

(8) The applicant/permittee has violated code or the El Mirage Tax Code within the five years preceding the date of the application or investigation; and/or

(9) The applicant/permittee has conducted business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(B) *Revocation procedure.* When grounds for a license suspension or revocation exist, the City Manager shall give the permittee written notice of a license revocation or suspension hearing. The notice of hearing shall be given pursuant to this chapter and shall contain the following information:

(1) The grounds relied upon for the suspension or revocation, including citations to applicable city code provisions;

(2) The date, time, and place of the hearing, which shall be not less than ten days nor more than 15 days from the giving of notice;

(3) The permittee shall have the right to present evidence at the hearing and to be represented by legal counsel if the licensee so chooses; and

(4) The license will be suspended or revoked at the date and time of the hearing unless the permittee appears to contest the revocation or suspension.

(C) *Revocation hearing.*

(1) At the time of the revocation hearing, the City Manager will state the grounds for suspension or revocation and shall disclose any supporting evidence to the permittee. The permittee may then present evidence in rebuttal. The evidence adduced at the hearing may either be through live testimony, documentary evidence, or other materials.

(2) The City Manager may rule on the revocation at the close of the evidence and argument, but shall enter a ruling within ten days of the completion of the hearing.

(3) The ruling of the City Manager shall be in writing and signed by the City Manager and shall contain the City Manager's findings in respect to the allegations and the evidence supporting the findings. No license shall be revoked unless the City Manager finds by a preponderance of the evidence that one or more of the grounds alleged for revocation are true. The City Manager shall give notice of the ruling as provided in this chapter and any revocation of a license shall be effective when notice is given to the licensee, as applicable, and:

(a) The time permitted for filing a notice of appeal, pursuant to division (D) below has expired without a notice of appeal having been filed;

(b) The revocation has been affirmed by the City Manager following the hearing of a timely filed notice of appeal; and/or

(c) The applicant/permittee party has filed a timely notice of appeal, but has abandoned the appeal prior to any hearing and ruling by the City Manager.

(4) When a revocation becomes effective, the affected permittee shall surrender the permit to the City Manager immediately and shall no longer conduct any business pursuant to the permit.

(5) Provisions to the contrary notwithstanding, following a ruling by the City Manager as provided in division (C)(3)(b) above, the City Manager may declare that the subject permit be revoked immediately, if in the reasonable judgment of the City Manager, the continuation of activities or conduct licensed or permitted constitutes an unreasonable danger to the health or safety of any individual or the community in general. A revocation made effective under the provisions of this division shall be reactivated immediately upon the successful determination of an appeal brought by the applicant/permittee.

(D) *Appeal.*

(1) An applicant/permittee may appeal the suspension or the revocation of a permit to the City Council by filing a written notice of appeal with the City Clerk not later than ten days after the City Manager has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed.

(2) This chapter contains all the appellate relief to which an applicant/permittee is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an applicant/permittee from seeking any other remedies provided by law.

(E) *Appeal procedure.*

(1) Upon receipt of a written notice of appeal, the City Clerk shall set an appeal hearing within 21 days and shall give notice of the hearing as provided in this chapter.

(2) When required in the interest of fairness, the City Manager may grant continuances of the hearing, but all hearings on license revocations and suspensions shall be heard not later than 45 days from the date on which the notice of appeal was filed.

(3) An appellant may be represented by counsel at the hearing and the city may be represented by the City Attorney's or City Prosecutor's Office. Formal rules of evidence shall not apply. Both the appellant and the city shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The Mayor and City Council shall preside over the proceedings and shall determine the order and manner of proof.

(4) At the conclusion of the hearing, the City Council shall rule on the appeal within ten working days, unless all parties stipulate that additional time is required to render a fair decision. The City Council shall sustain the action appealed if it is supported by a preponderance of evidence. The city appellant shall be notified of the ruling in writing, by mail, whether or not the ruling is made at the conclusion of the evidence at the time of the hearing.

(5) When a permit revocation is the subject of an appeal under this section, the revocation shall not be effective unless it is sustained by the City Council. The revocation shall be effective immediately when the ruling is made by the City Council at the time of the hearing, or upon mailing of the written notice of ruling as provided in this section, when the ruling is made at a time after the hearing is concluded. The permittee shall surrender all revoked permits to the City Manager, or to such city representative as the City Manager may direct, whenever the revocation becomes effective.

(F) *Record of proceeding*. Proceedings made pursuant to division (E) above shall be recorded stenographically, on magnetic voice tape or on videotape. The resulting record shall be maintained as a public record of the city for such period of time as may be required by law, but in no event for less than one year.

(G) *Use of criminal history information*.

(1) Any use or disclosure of criminal history information in the implementation of this chapter shall be only under the terms and conditions of A.R.S. § 41-1750. All other use of the information is prohibited.

(2) Criminal history information obtained pursuant to A.R.S. § 41-1750 shall not be disclosed to the public. Should the disclosure and discussion of the information become necessary during any hearing or proceeding that is otherwise open to the public, the disclosure and discussion shall be in camera. "In camera", as used herein, means disclosure or discussion of criminal history information only to those who are authorized by law to know the disclosed information.

(H) *Reapplication*.

(1) Any person who, pursuant to this chapter, has previously been denied a permit or renewal, or who has had a license revoked, may reapply for a permit of the same character at any time after the decision affecting the applicant's permit has become final and is no longer subject to appeal pursuant to this chapter. No new permit may be issued to the applicant except upon full compliance with this chapter.

(2) Any person who, pursuant to this chapter, has previously been denied a permit or renewal, or who has had a permit revoked because false or misleading information was given in any permit application, or was submitted in support of the application, or the applicant or permittee failed or refused to make full disclosure of all information required for the completion of the application, shall not be permitted to apply for any permit to which this chapter applies until two years after the decision affecting the applicant's license has become final and is no longer subject to appeal pursuant to this chapter.

(Prior Code, § 8-1-6)

§ 111.07 EXEMPTIONS.

The following persons are exempt from the registration provisions of this chapter, but remain subject to the remaining provisions of this chapter:

(A) Persons engaging in the sale of newspaper subscriptions;

(B) Members of non-profit youth organizations, including, but not limited to, the Boy Scouts of America, the Girl Scouts of America, and the Boys and Girls Clubs of America, engaging in organization sponsored fund-raising activities;

(C) School children engaging in authorized or school sponsored fund-raising activities; and

(D) Religious organizations engaging in the act of disseminating information regarding the beliefs of their faiths.

(Prior Code, § 8-1-7)

CHAPTER 112: CABLE TELEVISION LICENSING CODE

Section

112.01 Adoption

§ 112.01 ADOPTION.

A copy of the current contract is available in the City Clerk's office. The city's Cable Licensing Code is hereby adopted by reference and incorporated as if set out in full herein.

(Prior Code, Art. 8-2)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES GENERALLY

131. GRAFFITI

CHAPTER 130: OFFENSES GENERALLY

Section

130.01 Alcoholic beverages in parks or city-owned buildings

130.02 Dangerous constructions

130.03 Excavations to be covered

130.04 Explosives

130.05 Fences, electric

130.06 Flammable, explosive, or other dangerous substances

130.07 Curfew

130.08 Noise

130.09 Obstruction of view

130.10 Offensive business

130.11 Offensive premises

130.12 Prostitution

130.13 Public urinating and defecating

130.14 Searchlights

130.15 Signs and banners

130.16 Spitting

130.17 Water; flow upon streets prohibited

130.18 Clothesline usage

130.19 Payment of costs of confinement

130.20 Emergency telephone service; misuse of

130.21 Improper disposal of flaming or glowing substances and cigarettes

130.22 Parental responsibility

130.99 Penalty

Cross-reference:

Animal Code, see Chapter 91

Nuisance and Neighborhood Preservation, see Chapter 90

§ 130.01 ALCOHOLIC BEVERAGES IN PARKS OR CITY-OWNED BUILDINGS.

The possession of any alcoholic beverage is not permitted in any park or city-owned building.

(Prior Code, § 11-1-1) Penalty, see § 130.99

§ 130.02 DANGEROUS CONSTRUCTIONS.

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, or places frequented by the public, so situated or constructed as to endanger the public safety.

(Prior Code, § 11-1-2) Penalty, see § 130.99

§ 130.03 EXCAVATIONS TO BE COVERED.

(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 city without providing a sufficient light at night and a temporary fence or suitable obstruction around the excavation to protect the public 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.

(Prior Code, § 11-1-3) Penalty, see § 130.99

§ 130.04 EXPLOSIVES.

It is unlawful for any person within the limits of the city to blast or use powder, fireworks, or other explosives without a permit from the Chief of Police in writing.

(Prior Code, § 11-1-4) Penalty, see § 130.99

§ 130.05 FENCES, ELECTRIC.

It is unlawful for any person to erect or maintain within the city any electric fence. Any such fence is hereby declared a public nuisance and subject to abatement by order of the City Court.

(Prior Code, § 11-1-5) Penalty, see § 130.99

§ 130.06 FLAMMABLE, EXPLOSIVE, OR OTHER DANGEROUS SUBSTANCES.

The parking or standing of railroad tank cars, trucks, truck-trailers, or other vehicles or portable containers containing substances which are flammable, explosive or noxious, or otherwise dangerous, or which have previously contained such substances and for which all traces thereof have not been removed, within the city limits is hereby prohibited; provided, that the necessary loading and unloading of the containers is not prohibited hereby; further provided, that the storage of fuel for recreational vehicles and domestic use by the users is not prohibited hereby.

(Prior Code, § 11-1-6) Penalty, see § 130.99

§ 130.07 CURFEW.

(A) It is unlawful for any minor under the age of 18 years old to be upon the streets or public places of the city between the hours of 10:00 p.m. and 6:00 a.m. unless that minor is accompanied by a parent, guardian, or other person of lawful age having legal custody of that minor.

(B) It is unlawful for any parent, guardian, or other adult person having the care and custody of the minor to encourage or allow the minor to be upon the streets or public places between the hours specified in this section unless accompanied by a parent or guardian.

(C) It is unlawful for a parent, guardian or other person of lawful age having legal custody of that minor to fail or refuse to take custody of the minor after such reasonable directive or request is made by a law enforcement officer who arrests the minor for a violation of this chapter.

(D) The provisions of this section shall not apply under the following circumstances:

(1) When the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor.

(2) When the minor is going to or from an employment activity without any detour or stop.

(3) When the minor is going to or from, or attending an official school, religious, or other recreational activity supervised by adults who take responsibility for the minor.

(4) When the minor is on property abutting their residence.

(Prior Code, § 11-1-7) (Ord. O09-06-04, passed - -; Ord. O06-08-17, passed 9-14-2006; Ord. O17-04-04, passed 4-4-2107) Penalty, see § 130.99

§ 130.08 NOISE.

(A) It is hereby declared to be a public nuisance, and it is unlawful for any person, firm, or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store, or any place of public amusement, entertainment, or accommodation, to play or permit to be played any music or musical instrument whether played by individuals, orchestra, radio, phonograph, music box, or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.

(B) It is unlawful to play, operate, or use any device known as a sound truck, loud speaker, or sound amplifier, radio, or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless the person in charge of the vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.

(Prior Code, § 11-1-8) Penalty, see § 130.99

§ 130.09 OBSTRUCTION OF VIEW.

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.

(Prior Code, § 11-1-9) Penalty, see § 130.99

§ 130.10 OFFENSIVE BUSINESS.

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep, or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain, or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the city.

(Prior Code, § 11-1-10) Penalty, see § 130.99

§ 130.11 OFFENSIVE PREMISES.

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him or her, or any cellar, privy, vault, pool, sewer, or private drain therein to become nauseous, foul, or offensive to the senses or prejudicial to the public health or comfort.

(Prior Code, § 11-1-11) Penalty, see § 130.99

§ 130.12 PROSTITUTION.

It is unlawful for any person to practice prostitution, to patronize a prostitute, or to solicit any person to visit or patronize a prostitute or place of prostitution.

(Prior Code, § 11-1-12) Penalty, see § 130.99

§ 130.13 PUBLIC URINATING AND DEFECATING.

It is unlawful for any person to urinate or defecate upon any of the public sidewalks or crosswalks in the city or upon any public path, by-way, or highway, or upon the floor or interior of any bus or other public conveyance, or in or on any public place or park, except where suitable facilities are provided therefore.

(Prior Code, § 11-1-13) Penalty, see § 130.99

§ 130.14 SEARCHLIGHTS.

(A) It is unlawful for any person to operate within the city 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 Council.

(B) The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

(Prior Code, § 11-1-14) Penalty, see § 130.99

§ 130.15 SIGNS AND BANNERS.

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole, or utility pole within the city without first obtaining a permit from the city.

(Prior Code, § 11-1-15) Penalty, see § 130.99

§ 130.16 SPITTING.

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the city or upon any public path, by-way, or highway, or in or on any public ground or park in the city or upon the floor or interior of any public building in the city.

(Prior Code, § 11-1-16) Penalty, see § 130.99

§ 130.17 WATER; FLOW UPON STREETS PROHIBITED.

(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 city.

(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 traffic, or to cause damage to the public streets of the city through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch in which the person has a vested right or interest, or through the willful or negligent failure of the person to accept irrigation water after it has been ordered by him or her.

(Prior Code, § 11-1-17) Penalty, see § 130.99

§ 130.18 CLOTHESLINE USAGE.

It is unlawful to erect, display, or use any clothesline or other structure on which articles of clothing are placed to dry, in the front or side yard of any residence, unless the clothesline or other structure is within a fence, wall, or other enclosure around the perimeter of the residence which completely conceals the clothesline or other structure from the view from any street adjacent to the residence.

(Prior Code, § 11-1-18) (Ord. O00-11-17, passed - -) Penalty, see § 130.99

§ 130.19 PAYMENT OF COSTS OF CONFINEMENT.

Any person who is convicted of a misdemeanor criminal offense in the City Court and who, as a consequence, is incarcerated in the Maricopa County Jail shall, as part of any sentence imposed by the City Court, be required to reimburse the city for its actual expenses incurred to the county by reason of the confinement. A judge may waive all or any part of the incarceration expense if the person is found to be indigent.

(Prior Code, § 11-1-19) (Ord. O01-01-01, passed - -; Ord. O02-03-02, passed - -)

§ 130.20 EMERGENCY TELEPHONE SERVICE; MISUSE OF.

(A) It shall be unlawful for any person to misuse the emergency telephone service.

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

EMERGENCY. A situation in which property and/or human health or life are in immediate jeopardy.

EMERGENCY TELEPHONE SERVICE. A telephone system utilizing a single three-digit number "911" for reporting police, fire, medical, or other emergencies.

MISUSE OF THE EMERGENCY TELEPHONE SERVICE. Repeatedly calling "911" for non-emergency situations or falsely reporting an emergency to "911".

REPEATEDLY. Four or more times within a 30-day period.

(Prior Code, § 11-1-20) (Ord. O02-02-04, passed - -) Penalty, see § 130.99

§ 130.21 IMPROPER DISPOSAL OF FLAMING OR GLOWING SUBSTANCES AND CIGARETTES.

(A) It shall be unlawful for any person, through intentional, careless, or negligent action, to throw or place any lighted cigarette, cigar, ashes, or other flaming or glowing substance, or any substance or thing which may cause a fire, in any place where it may directly or indirectly start a fire, or who uses or operates a welding torch, tar pot, or any other device which may cause a fire, who does not clear the flammable material surrounding the operation or take such other reasonable precautions necessary to insure against the starting and spreading of fire.

(B) It shall be unlawful for any person to throw or discharge upon any highway, right-of-way, sidewalk, or upon any public or private property any lighted or unlighted cigarette, cigar, or match, any flaming or glowing substance, or any substance or thing which may cause a fire. This division does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, throwing, or discharging of the item on the property creates a fire hazard as determined by the El Mirage Fire Chief or designee.

(Ord. O07-10-10, passed 10-25-2007) Penalty, see § 130.99

§ 130.22 PARENTAL RESPONSIBILITY.

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

DELINQUENT ACTS. Acts which violate the laws of the united states, state, county, or city, or those acts which would cause or tend to cause the minor to come under the jurisdiction of a juvenile court, but does not include traffic violations.

ILLEGAL DRUGS. Controlled substances obtained without a legal prescription.

JUVENILE DELINQUENT. A minor whose behavior interferes with the rights of others or menaces the welfare of the community.

MINOR. Any person under the age of eighteen (18) years.

PARENT. Mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the minor.

(B) It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act. Included (without limitation) in this continuous duty of reasonable parental control are the following parental duties:

(1) To keep illegal drugs or illegal firearms out of the home and legal firearms secured in places that are inaccessible to the minor;

(2) To know the city's curfew law and to require the minor to observe the curfew law;

(3) To require the minor to attend regular school sessions and to forbid the minor to be absent from class without parental or school permission;

(4) To arrange proper supervision for the minor when the parent must be absent:

(5) To forbid the minor from engaging in criminal damage, graffiti, or littering;

(6) To forbid the minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, and to seek help from appropriate governmental authorities or private agencies in handling or controlling the minor, when necessary, if it becomes known to the parent that the minor possesses stolen property, legal or illegal firearms, illegal drugs, or is associating with known juvenile delinquents.

(C) Whenever a minor is arrested or detained for the commission of any delinquent act within the city, the parent of the minor shall be immediately notified by the Police Department advising the parent of such arrest or detention and the parent's responsibility under this article. A record of such notifications shall be kept by the Police Department.

(D) If a minor commits a delinquent act, the parent shall be guilty of a violation of this article if it is proven that any act, word, or nonperformance of parental duty by the parent encouraged, contributed toward, caused, or tended to cause the commission of the delinquent act by the minor.

(E) Upon the first conviction of a violation of this section, the parent shall be subject to a fine of one $100.. The court may elect to order parenting classes or counseling in lieu of a fine.

(F) Upon the second and/or subsequent convictions of a violation of this section, the parent shall be subject to a fine of not less than $250.

(Ord. O17-04-04, passed 4-4-2017)

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of § 130.20 shall be a Class 1 misdemeanor. In addition to the penalties elsewhere provided for a Class 1 misdemeanor, the Court shall require violators to pay restitution to the political subdivision whose emergency telephone system was misused, in an amount equal to the expense incurred by that political subdivision to respond to the non-emergency calls made by the violator. The restitution payments shall not exceed $100 per call.

(Prior Code, § 11-1-20)

(C) A violation of either § 130.21(A) or (B) shall constitute a Class 1 misdemeanor offense and any person convicted of a violation of either § 130.21(A) or (B) shall be punished by a fine of not less than $350 nor more than $2,500, and mandatory community service of not less than 50 hours nor more than 100 hours.

(Ord. O02-02-04, passed - -; Ord. O07-10-10, passed 10-25-2007)

CHAPTER 131: GRAFFITI

Section

131.01 Purpose and intent

131.02 Definitions

131.03 Possession of graffiti implements prohibited

131.04 Limiting access to graffiti implements

131.05 Storage and display of graffiti implements

131.06 Graffiti prohibition and removal

131.99 Penalty

§ 131.01 PURPOSE AND INTENT.

(A) The purpose of this chapter is to provide a program for abatement of graffiti from public and private property to reduce blight and deterioration within the city, protect public safety, and to expedite removal of graffiti from structures on both public and private property.

(B) The City Council finds and determines as follows.

(1) The increase of graffiti, on both public and private property, is creating a condition within the city which results in blight and deterioration of property values and of the comfortable enjoyment of life and property for adjacent and surrounding residents and owners, and contributes to the overall detriment of the city.

(2) Graffiti constitutes a public nuisance and a threat to public safety which must be abated to alleviate the detrimental impact of the graffiti on the city, and to prevent the further spread of graffiti.

(3) Certain categories of graffiti which incite violence are especially harmful and must be removed as quickly as possible to avoid

or minimize harm to persons and the whole community.

(Prior Code, § 17-1-1)

§ 131.02 DEFINITIONS.

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

AEROSOL PAINT CONTAINER. Any aerosol container which is adapted or made for the purpose of spraying paint.

BROAD-TIP MARKER. Any marker or similar implement which has a writing surface which is one-half of an inch or greater and containing anything other than a solution which can be removed with water after the solution dries.

GRAFFITI. A drawing or inscribing a message, slogan, sign, or symbol or mark of any type that is made on any public or private building, structure, or surface, and that is made without permission of the owner.

GRAFFITI IMPLEMENT. GRAFFITI IMPLEMENT means:

(1) Aerosol spray paint containers;

(2) Broad-tipped indelible markers (one-half inch or larger) or etching solution;

(3) Slap tags (graffiti stickers/labels professionally designed);

(4) Shoe polish;

(5) White tempura paint (also known as white out or liquid paper);

(6) Pencils/pens (only if found in area that items were used in tagging);

(7) Bleeders (applicator dispenses a thin film of specially formulated liquid paint);

(8) Markers;

(9) Etching (is the process of using strong acid to cut into the unprotected parts of metal surface to create a design in intaglio in the metal.)

PAINT STICK, GRAFFITI STICK, or ***BLEEDER.*** An implement containing paint, wax, epoxy, or other similar substance.

RESPONSIBLE PARTY. An owner, occupant, lessor, lessee, manager, license, or other person having the right to control a property.

(Prior Code, § 17-1-2) (Ord. O08-07-14, passed 7-10-2008)

§ 131.03 POSSESSION OF GRAFFITI IMPLEMENTS PROHIBITED.

(A) It is unlawful for any person to possess graffiti implements with the intent to place graffiti upon any building, public or private, or any other property, real or personal, owned by any person, firm, or corporation or any public agency or instrumentality without the express permission of the owner, manager, or other person responsible for the property.

(B) Possession of any graffiti implement in any public place, including any building, park facility, or alley or on any private property, unless an invitee, gives rise to an inference of intent to use the graffiti implement in violation of this section.

(C) Violation of this section by an adult is a Class 1 misdemeanor, punishable by a term of not less than 48 hours in jail and not less than 80 hours of community service. Violation of this section by a juvenile is a Class 1 misdemeanor, punishable as provided in A.R.S. Title 8.

(Prior Code, § 17-1-3) (Ord. O08-07-14, passed 7-10-2008) Penalty, see § 131.99

§ 131.04 LIMITING ACCESS TO GRAFFITI IMPLEMENTS.

(A) No person other than a parent or legal guardian shall sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person under the age of 18 years.

(B) Evidence that a person, his or her employee, or agent demanded and was shown acceptable evidence of majority and acted upon that evidence in a transaction or sale shall be a defense to any prosecution under this section. Acceptable evidence of majority shall include, but is not limited to, driver's license, state-issued identification, or military identification.

(C) This section does not apply to the transfer of graffiti implements from parent to child, guardian to ward, employer to employee, teacher to student, or in any other similar relationship when the transfer is for a lawful purpose.

(Prior Code, § 17-1-4) Penalty, see § 131.99

§ 131.05 STORAGE AND DISPLAY OF GRAFFITI IMPLEMENTS.

(A) No person who owns, conducts, operates, or manages a business where aerosol paint containers or broad-tip markers are sold, nor any person who sells or offers for sale aerosol paint containers or broad-tipped markers, shall store or display, or cause to be stored or displayed, the aerosol spray paint containers and broad-tip markers in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(B) Nothing herein shall preclude the storage or display of aerosol paint containers and broad-tip markers in an area viewable by the public so long as the items are not accessible to the public without employee assistance.

(Prior Code, § 17-1-5) Penalty, see § 131.99

§ 131.06 GRAFFITI PROHIBITION AND REMOVAL.

(A) *Graffiti prohibited.* All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

(B) *Notice of violation*. If it is determined by the city that graffiti exists on property in violation of this chapter, the city shall, in writing, notify the responsible party with a notice of violation. The notice may be served by certified mail, personal service, posting the subject property or publishing the notice in the official city newspaper.

(C) *Contents of notice of violation*. The notice of violation shall identify the property in violation, shall generally describe the location of the graffiti, and shall direct that the graffiti be abated within 48 hours of receipt of notice. The notice shall state that in the event the responsible party fails to abate the graffiti and may bill the responsible party for the costs. The notice shall state that the responsible party may appeal the notice by filing a written notice of appeal within the same time period given to abate the graffiti. The effective date of the notice of violation shall be the date received if delivered in person or sent by certified mail, or the date of first publication, if the alternate method of service is used.

(D) *City's authority to abate*. If the responsible party fails to abate the graffiti as required by the notice of violation, the city may proceed to abate the graffiti, and may bill the responsible party for the costs thereof.

(1) The city or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section.

(2) The city's Police Department shall assist in the enforcement of this chapter.

(Prior Code, § 17-1-6) (Ord. O08-07-14, passed 7-10-2008)

§ 131.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A judge shall not suspend any part of all of the imposition of any jail time, community service, or fine required by this chapter.

(Prior Code, § 17-1-7)

(C) Violation of § 131.03 by an adult is a Class 1 misdemeanor, punishable by a term of not less than 48 hours in jail and not less

than 80 hours of community service. Violation of this section by a juvenile is a Class 1 misdemeanor, punishable as provided for in A.R.S. Title 28.

(Prior Code, § 17-1-3)

(D) Violation of § 131.04 is a Class 1 misdemeanor, punishable by a term of not less than 48 hours in jail and not less than 80 hours of community service.

(Prior Code, § 17-1-4)

(E) Violation of § 131.05 is a civil offense, subject to a fine of not less than $500.

(Prior Code, § 17-1-5)

TABLE OF SPECIAL ORDINANCES

Table

I. COUNCIL

II. EXCHANGE OF PROPERTY

III. PROPERTY TAX

IV. ZONING

TABLE I: COUNCIL

Ord. No.	*Date Passed*	*Description*
O09-04-03	4-9-2009	Adopting the 2009 calendar for regular meetings of the Mayor and City Council
O09-11-11	11-12-2010	Adopting the 2010 calendar for regular meetings of the Mayor and City Council
O10-06-09	6-24-2010	Placing a question on the ballot at the General Election regarding whether the city should be divided into six Council election districts
O10-11-18	11-4-2010	Adopting the 2011 calendar for regular meetings of the Mayor and City Council
O11-10-19	10-27-2011	Adopting the 2012 calendar for regular meetings of the Mayor and City Council
O12-10-09	10-16-2012	Adopting the 2013 calendar for regular meetings of the Mayor and City Council
O15-10-10	10-20-2015	Adopting the 2016 calendar and ratifying the 2014 and 2015 calendars for regular meetings of the Mayor and City Council
		Adopting the 2017 calendar for regular

O16-10-09	10-4-2016	meetings of the Mayor and City Council
O17-10-12	10-3-2017	Adopting the 2018 calendar for regular meetings of the Common Council fixing the dates, times and location of such meetings

TABLE II: EXCHANGE OF PROPERTY

Ord. No.	***Date Passed***	***Description***
O09-05-06	5-14-2009	Abandoning a portion of an alleyway located at the north nine feet of Lot 3, Mansfield Tract
O15-04-04	4-21-2015	Executing any and all documents necessary to facilitate the conveyance of certain real property, located in the Cactus Park Estates subdivision
R15-05-08	5-5-2015	Executing any and all documents necessary to facilitate the conveyance of certain real property, located in the Cactus Park Estates subdivision
O15-12-11	12-1-2015	Executing any and all documents necessary to facilitate the conveyance of certain real property, located in the Sundial West 3 subdivision
R15-12-21	12-1-2015	Executing any and all documents necessary to facilitate the conveyance of certain real property, located in the Sundial West 3 subdivision
O17-09-10	9-7-2017	Extending and increasing the corporate limits of the city by annexing certain county right-of-way contiguous to the city

TABLE III: PROPERTY TAX

Ord. No.	*Date Passed*	*Description*
O09-06-06	6-25-2009	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O10-07-11	- -	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O11-06-10	6-23-2011	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O12-07-07	8-7-2012	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O13-06-09	6-4-2013	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O14-06-05	6-17-2014	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O15-07-06	7-7-2015	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O16-06-05	6-21-2016	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city
O17-06-06	6-20-2017	Levying on each $100 of the assessed value of all property, both real and personal, within the corporate limits of the city

TABLE IV: ZONING

Ord. No.	*Date Passed*	*Description*
O09-01-01	2-12-2009	Establishing a planned area development overlay for manufactured and/or site built homes on parts of Pueblo of El Mirage Resort at 11201 N. El Mirage Road
O15-05-05	5-19-2015	Amending the zoning for the northeast corner of Grand Avenue and Thompson Ranch Road in the southeast quarter of Section 12, Township 3 North, Range 1 West, Gila and Salt River Base and Meridian of the city zoning map
R15-05-09	5-19-2015	Approving a general plan amendment of a portion of the 2010 general plan to be known as Thompson Ranch Partnership located at the northeast corner of Grand Avenue and Thompson Ranch Road in the southeast quarter of Section 12, Township 3 North, Range 1 West, Gila and Salt River Base and Meridian of the city zoning map

PARALLEL REFERENCES

References to Arizona Revised Statutes

References to Prior Code

References to Resolutions

References to Ordinances

REFERENCES TO ARIZONA REVISED STATUTES

A.R.S. Cites	*Code Section*
1-104	10.12
Ch. 2, Art. 3.1	53.02
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R05-04-13	4-28-2005	31.01; 31.20; 34.01; 34.02; 34.04; 34.05; 34.22; 34.23; 34.26; 34.27
R06-07-20	- -2006	53.01-53.09; 53.99
6-11-32	- -2006	35.01
R07-07-17	7-12-2007	91.01-91.09; 91.20-91.27; 91.40-91.42; 91.99
R07-12-31	12-13-2007	155.105

R07-12-32	12-13-2007	93.01-93.06
R08-03-10	3-27-2008	35.01
R09-08-28	8-27-2009	35.01
R13-07-23	7-9-2013	153.001 - 153.006
R14-08-18	8-13-2014	150.001 - 150.005; 150.095 - 150.101; 150.115; 150.999
R15-05-08	5-5-2015	T.S.O. II
R15-05-09	5-19-2015	T.S.O. IV
R15-12-21	12-1-2015	T.S.O. II
R16-06-17	6-21-2016	30.20 - 30.35
R16-09-20	9-6-2016	30.07
R17-02-04	2-7-2017	71.16

REFERENCES TO ORDINANCES

Ord. No.	***Date Passed***	***Code Section***
O00-02-05	- -	50.062
O00-11-17	- -	130.18
O01-01-01	- -	130.19
O02-02-04	- -	130.20; 130.99
O02-03-02	- -	130.19
O09-06-04	- -	130.07
O88-06-007	10-13-1988	155.001-155.005; 155.030-155.032; 155.050-155.058; 155.080-155.084; 155.100-155.105; 155.999, Ch. 155, App. A & B
O00-01-04	1-27-2000	30.07
O00-05-09	7-27-2000	71.12; Ch. 76, Sch. I
O01-12-08	12-20-2001	71.12; Ch. 76, Sch. I
O04-05-15	5-27-2004	34.31
O04-07-25	7-22-2004	32.065
O05-04-05	5-12-2005	31.01; 30.70; 31.20; 34.01; 34.02; 34.04; 34.05; 34.22; 34.23; 34.26; 34.27; 95.01
O05-08-07	8-25-2005	32.003

O06-1-20	1-11-2006	35.01
O06-05-07	5-25-2006	32.020
O06-07-12	8-31-2006	53.01-53.09; 53.99
O06-07-13	8-31-2006	71.12; Ch. 76, Sch. I
O06-08-17	9-14-2006	130.07
O06-11-21	12-14-2006	90.01-90.15
O07-04-03	4-12-2007	110.20
O07-07-06	7-12-2007	91.01-91.09; 91.20-91.27; 91.40-91.42; 91.99
O07-10-10	10-25-2007	130.21; 130.99
O07-12-11	12-13-2007	93.01-93.06
O08-03-03	3-13-2008	94.01-94.07; 94.99
O08-03-04	3-27-2008	35.01
O08-04-05	4-10-2008	72.07; 72.08; 72.99
O08-06-10	7-10-2008	Ch. 76, Sch. I
O08-07-11	7-10-2008	154.020
O08-07-12	7-10-2008	154.085-154.088
O08-07-13	7-10-2008	152.170-152.176; 152.190-152.195
O08-07-14	7-10-2008	131.02; 131.03; 131.06
O08-09-16	9-25-2008	32.003; 32.009; 32.060; 32.062; 32.063
O08-10-17	10-9-2008	94.03-94.05; 94.07
O09-01-01	2-12-2009	T.S.O. IV
O09-04-02	4-9-2009	32.020
O09-04-03	4-9-2009	32.020, T.S.O. I
O09-04-04	4-23-2009	95.01
O09-04-05	5-14-2009	Adopting Ordinance
O09-05-06	5-14-2009	T.S.O. II
O09-06-06	6-25-2009	T.S.O. III
O09-10-12	10-8-2009	154.090
O09-11-11	11-12-2009	T.S.O. I
O10-01-01	2-11-2010	154.128-154.130
O10-01-02	1-14-2010	154.052
O10-02-05	2-11-2010	Adopting Ordinance
O10-04-03	4-8-2010	154.052
O10-05-06	5-13-2010	Ch. 76, Sch. I
O10-05-07	5-27-2010	32.025
O10-06-08	6-24-2010	50.015; 50.031; 50.045; 50.062; 50.063; 50.066; 50.082; 50.153; 51.015; 51.095;

		52.04
O10-06-09	6-24-2010	T.S.O. I
O10-07-11	- -	T.S.O. II
O10-08-12	8-26-2010	33.40
O10-10-14	10-28-2010	96.01
O10-10-15	11-4-2010	Ch. 76, Sch. I
O10-10-16	10-14-2010	31.20; 31.21; 31.24
O10-10-17	10-28-2010	95.01; 95.02
O10-11-18	11-4-2010	T.S.O. I
O11-01-01	1-13-2011	Adopting Ordinance
O11-01-03	1-13-2011	51.049
O11-02-04	2-10-2011	50.015; 50.031
O11-04-06	4-14-2011	154.020
O11-03-07	3-10-2011	33.50 - 33.56
O11-04-05	4-14-2011	154.126; 154.127; 154.129
O11-04-06	4-14-2011	154.020; 154.052
O11-04-08	4-14-2011	110.06, 110.07
O11-04-09	4-28-2011	31.20; 31.21
O11-06-10	6-23-2011	T.S.O. III
O11-07-11	7-14-2011	32.025
O11-08-12	8-25-2011	Ch. 76, Sch. I
O11-08-13	8-25-2011	52.15
O11-08-14	8-25-2011	33.15; 33.17 - 33.19
O11-09-17	9-22-2011	91.05; 154.004; 154.050; 154.052; 154.053; 154.065 - 154.068; 154.098; 154.099; 154.101; 154.103; 154.109; 154.110; 154.154
O11-10-18	10-13-2011	154.130
O11-10-19	10-27-2011	T.S.O. I
O12-02-01	2-21-2012	154.129
O12-02-04	2-21-2012	110.07
O12-07-07	8-7-2012	T.S.O. III
O12-07-08	7-17-2012	Adopting Ordinance
O12-10-09	10-16-2012	T.S.O. I
O12-09-06	9-18-2012	154.081
O12-11-10	11-8-2012	154.020; 154.052
O12-11-11	11-8-2012	154.126; 154.129
O12-11-12	11-8-2012	92.29

O12-05-03	5-22-2012	110.01 - 110.09; 110.20; 110.99
O13-02-03	2-5-2013	154.086; 154.089
O13-04-07	4-16-2013	52.16
O13-06-08	6-4-2013	51.049
O13-06-09	6-4-2013	T.S.O. III
O13-07-10	7-2-2013	154.130
O13-07-11	7-9-2013	154.131
O13-07-12	7-9-2013	153.001 - 153.006
O13-08-13	8-20-2013	52.18
O14-01-01	1-7-2014	92.30
O14-05-02	5-6-2014	154.050; 154.065; 154.132
O14-05-03	5-6-2014	154.126; 154.129
O14-06-04	6-3-2014	154.101
O14-06-05	6-17-2014	T.S.O. III
O14-07-06	7-1-2014	154.052
O14-08-07	8-13-2014	150.001 - 150.005; 150.095 - 150.101; 150.115; 150.999
O15-02-03	2-17-2015	154.052
O15-04-04	4-21-2015	T.S.O. II
O15-05-05	5-19-2015	T.S.O. IV
O15-07-06	7-7-2015	T.S.O. III
O15-08-07	8-10-2015	Adopting Ordinance
O15-10-08	10-6-2015	154.020; 154.052
O15-10-10	10-20-2015	T.S.O. I
O15-12-11	12-1-2015	T.S.O. II
O15-12-12	12-1-2015	154.052
O16-01-01	1-5-2016	50.066
O16-03-03	3-1-2016	154.020; 154.107
O16-05-04	5-17-2016	154.130
O16-06-05	6-21-2016	T.S.O. III
O16-06-06	6-21-2016	30.20 - 30.35
O16-09-08	9-6-2016	30.07
O16-10-09	10-4-2016	32.020; T.S.O. I
O16-11-10	11-1-2016	71.13; 71.15
O16-11-11	11-1-2016	33.15
O16-12-12	12-6-2016	Adopting Ordinance
O17-02-01	2-7-2017	Ch. 76, Sch. I

O17-02-03	2-7-2017	71.16
O17-04-03	4-4-2017	91.01
O17-04-04	4-4-2017	130.07; 130.22
O17-06-06	6-20-2017	T.S.O. III
O17-06-07	6-20-2017	30.07
O17-08-08	8-15-2017	154.052
O17-08-09	8-15-2017	154.053
O17-09-10	9-7-2017	T.S.O. II
O17-10-11	10-3-2017	Adopting Ordinance
O17-10-12	10-3-2017	T.S.O. I

CITY OF EL MIRAGE, ARIZONA
ZONING CODE; LAND USAGE
VOLUME 2

Supplement 2017 S-9 contains:
Local legislation current through Ord. O17-10-12, passed 10-3-2017

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BUILDING CODES; AMENDMENTS

§ 150.001 ADOPTION OF BUILDING CODES.

(A) *International Building Code; Amendments.* The certain document designated and marked as the 2012 International Building Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Building Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Building Code for the city by reference as if set forth herein in full and made part and parcel of the section for regulating and controlling the installing, construction, remodeling, alteration, repair and conversion of buildings within the corporate limits of the city, and it is hereby declared to be unlawful to construct, erect, install, alter, repair, change, move, remove, maintain or use any house, building or structure in the city, or cause or permit the same to be done, contrary to or in violation of the Building Code as herewith adopted by the Council of the city.

(B) *International Residential Code; Amendments.* The certain document designated and marked as the 2012 International Residential Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Residential Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Residential Building Code for the city by reference as if set forth herein in full and made part and parcel of the section for regulating and controlling the erection, construction, enlargement, alteration, repair moving, improvement, removal, equipping, use, occupying or maintaining any residential building on premises within the city, and it is hereby declared to be unlawful to construct, erect, enlarge, alter, repair, maintain, move, improve, demolish, equip, use, occupy any one- and two-family residential building or premises within the city, or cause or permit the same to be done, contrary to or in violation of any provisions of the Residential Code as herewith adopted by the Council of the city.

(C) *National Electric Code; Amendments.* The certain document designated and marked as the 2011 National Electric Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2011 National Electric Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Electric Code for the city by reference as if set forth herein in full and made part and parcel of the section for regulating and controlling the installing, construction, remodeling, alteration, repair, conversion, maintenance, use and removal of houses, buildings, structures and premises and of electrical installations of any type whatsoever therein or thereupon within the corporate limits of the city, and it is hereby declared to be unlawful to construct, erect, install, remodel, alter, repair, change, convert, use, remove, maintain or demolish any house, building or structure or premises or any electrical installation of any type whatsoever therein or thereupon within the city, or cause or permit the same to be done, contrary to or in violation of the Electric Code as herewith adopted by the Council of the city.

(D) *International Fire Code; Amendments.* The certain document designated and marked as the 2012 International Fire Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Fire Code, three copies of which

are on file in the office of the City Clerk of the city, together are hereby adopted as the Fire Code for the city by reference as if set forth herein in full and made part and parcel of the section for establishing regulations affecting or relating to structures, processes, premises and safeguards regarding: the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; Conditions hazardous to life, property or public welfare in the occupancy of structures or premises; Fire hazards in the structure or on the premises from occupancy or operation; Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems; and conditions affecting the safety of fire fighters and emergency responders during emergency operations within the city, or cause or permit the same to be done, contrary to or in violation of any provisions of the Fire Code as herewith adopted by the Council of the city.

(E) *International Plumbing Code; Amendments.* The certain document designated and marked as the 2012 International Plumbing Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Plumbing Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Plumbing Code for the city by reference as is set forth herein in full and made part and parcel of the section for regulating and controlling the design, construction, quality of materials, erection, installation alteration, repair location, relocation, replacement, addition to, removal, use, or maintenance of any plumbing systems on premises within the city, and it is hereby declared to be unlawful to cause or permit the same to be done, contrary to or in violation of any provisions of the Plumbing Code as herewith adopted by the Council of the city.

(F) *International Mechanical Code; Amendments.* The certain document designated and marked as the 2012 International Mechanical Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Mechanical Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Mechanical Code for the city by reference as if set forth herein in full and made part and parcel of the section for regulating and controlling the design, construction, quality of materials, operation, installation, alteration, repair, relocation, replacement, addition to, removal, use, or maintenance of any heating, ventilating, comfort-cooling or refrigeration systems, incinerators, or other miscellaneous heat- producing appliances, within the city, and it is hereby declared to be unlawful to cause or permit the same to be done, contrary to or in violation of any provisions of the Mechanical Code as herewith adopted by the Council of the city.

(G) *International Fuel Gas Code; Amendments.* The certain document designated and marked as the 2012 International Fuel Gas Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Fuel Gas Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Mechanical Code for the city by reference as if set forth herein in full and made part and parcel of the section for regulating and controlling the design, construction, quality of materials, operation, installation, alteration, repair, relocation, replacement, addition to, removal, use, or maintenance of any fuel gas systems and gas-fired appliances within the city, and it is hereby declared to be unlawful to cause or permit the same to be done, contrary to or in violation of any provisions of the Fuel Gas Code as herewith adopted by the Council of the city.

(H) *International Existing Building Code; Amendments.* The certain document designated and marked as the 2012 International Existing Building Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the 2012 International Existing Building Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Existing Building Code for the city by reference as if set forth herein in full and made part and parcel of the section for the use of alternative approaches to achieve compliance with minimum requirements to safeguard the public health, safety and welfare insofar as they are affected by the repair, alteration, change of occupancy, addition and relocation of existing buildings and it is hereby declared to be unlawful to cause or permit the same to be done, contrary to or in violation of the Existing Building Code as herewith adopted by the Council of the city.

(I) *International Property Maintenance Code.* The certain document designated and marked as the International Property Maintenance Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the International Property Maintenance Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Property Maintenance Code for the city.

(1) *Enforcement; Violations; Penalties; Inspections.* Any Code Enforcement official, building official, police officer or other person designated by the City Manager may inspect buildings or land to determine compliance with the International Property Maintenance Code, as herewith adopted by the Council of the city.

(2) *Violations; Civil or criminal infractions.* A violation of any provision of the International Property Maintenance Code, as adopted herein, may be prosecuted by the city, in its sole discretion, as either a civil infraction or a class 1 misdemeanor offense. Each day a violation exists may be deemed a separate offense. A citation for a civil infraction of an alleged violation of the International

Property Maintenance Code, as adopted herein, may be issued by any city code enforcement official, building official, police officer or any other person authorized by the City Manager.

(3) *Penalty; Civil infraction.* A civil infraction shall be heard by either the city court or a hearing officer appointed by the Mayor and Council of the City of El Mirage. Any person found responsible by the city court or a hearing officer for a civil infraction of the International Property Maintenance Code as adopted herein, shall be subject to a fine of not less than $50 or more than $1,000 per violation.

(4) *Penalty; Class 1 misdemeanor.* Any person found guilty of a criminal violation (class 1 misdemeanor) of the Property Maintenance Code as adopted herein, shall be subject to imprisonment not to exceed 180 days per violation and/or a fine not to exceed $2,500 per violation, unless the violator is an enterprise in which case the fine shall not exceed $20,000 per violation.

(5) *Costs and expenses.* In addition to any penalty, fine, and/or jail time imposed for a violation of the Property Maintenance Code as adopted herein, a person found to be in violation shall also be ordered to reimburse the city all costs and expenses incurred by the city in prosecuting the violation and abating the violation.

(J) *International Energy Conservation Code; Amendments.* The certain document designated and marked as the International Energy Conservation Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city and that portion of the certain document entitled El Mirage Amendments applicable to the International Energy Conservation Code, three copies of which are on file in the office of the City Clerk of the city, together are hereby adopted as the Energy Code for the city by reference as if set forth herein in full and made part and parcel of the section to regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective. This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances and it is hereby declared to be unlawful to cause or permit the same to be done, contrary to or in violation of the Energy Code as herewith adopted by the Council of the city.

(K) *International Green Construction Code.* The certain document designated and marked as the International Green Construction Code and all appendices contained therein, three copies of which are on file electronically in the office of the City Clerk of the city are hereby adopted as the Green Construction Code for the city as is set forth herein in full and made part and parcel of the section as an overlay document to be used voluntarily in conjunction with the other codes and standards adopted by the city. The provisions of this code shall apply to the design, construction, addition, alteration, change of occupancy, relocation, replacement, repair, equipment, building site, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures and to the site on which the building is located. This code is intended to safeguard the environment, public health, safety and general welfare through the establishment of requirements to reduce the negative impacts and increase the positive impacts of the built environment on the natural environment and building occupants. This code is not intended to abridge or supersede safety, health or environmental requirements under other applicable codes or ordinances.

(L) *The Uniform Code For the Abatement of Dangerous Buildings, 1997 edition.* The certain code entitled Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, is hereby adopted as the Uniform Code for the Abatement of Dangerous Buildings of the city and made part of this chapter the same as though the code was specifically set forth in full herein, and at least three copies of the code shall be filed in the office of the City Clerk and kept available for the public use and inspection.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.002 CONFORMANCE TO ZONING ORDINANCE.

Whenever a building permit is issued and a building inspection performed, the building must conform to the provisions of Chapter 154 of this code in addition to the provision of this chapter.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.003 MOVING OF BUILDINGS.

(A) In addition to any other requirements of law or city ordinances, the moving of any building into the city shall be governed by all international codes and standards set forth in this chapter.

(B) Requirements of the International Building Code shall apply for moving buildings into the city limits.

(C) In addition to the provisions provided in the International Building Code, any building shall not be moved into the corporate limits until which time as the Building Inspector, Building Official or City Manager has issued a building permit. The application for permit must fully comply with the provisions of § 105 of the International Building Code, unless otherwise exempted or waived by the responsible city official. Prior to receiving a building permit for moving any building into or within the city which does not comply with §§ 150.095 et seq., the applicant shall post a bond in favor of the city in a sum determined by the Building Official, which shall be in an amount no less than $10,000. The bond shall be conditioned that a certificate of occupancy be issued for the building in no less than 180 days from the issuance of a building permit or within any extension period granted pursuant to division (D) of this section or the bond shall be forfeited.

(D) Every permit issued by the Building Department under the provisions of this section shall expire by limitations and shall be void if the building or work authorized by the permit is not completed within 180 days from the date of permit. An applicant may apply for an extension in writing which may be granted by the City Council in its discretion, which may or may not waive forfeiture of any bond. When granted an extension of expired permits, all permits shall be renewed by paying one-half the amount required for a permit within seven days after approval by the Council.

(E) Military barracks and apartment structures will not be allowed to be moved into the city.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.004 PROFESSIONAL CERTIFICATION REQUIREMENTS FOR BUILDING INSPECTOR.

(A) All building inspectors employed by the city shall, within six months of commencing such employment and thereafter maintain certification as a building inspector from the International Code Council (ICC).

(B) The City Manager may require building inspectors to obtain and thereafter maintain such additional ICC certifications as (s)he determines are necessary job qualifications. Any building inspector employed by the city at the time the additional requirement is imposed shall have six months thereafter to obtain the additional certification.

(C) Building inspectors employed by the city on the effective date of this chapter shall have six months to obtain building inspector certification from the ICC.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.005 BUILDING INSPECTOR.

The Building Inspector and administrative authority, as such may be referenced in any section of the chapter for all matters pertaining to any building, plumbing, mechanical, electrical or any other inspections, shall be vested in the office of City Manager or such other person the Manager may designate.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

MOBILE AND MANUFACTURED HOUSING STANDARDS

§ 150.095 ADOPTION OF STANDARDS.

The certain set of standards, composing A.R.S. Title 41, Chapter 16, Articles 1 and 2 of the Department of Fire, Building and Life Safety, Statutes and Rules, adopted by the Secretary of State and revised June 13, 2013 of the Office of Manufactured Housing, and as the same may be amended from time to time, is hereby adopted as the Mobile and Manufactured Housing Standards of the city and made a part of this chapter the same as though the standards were specifically set forth in full herein. Copies of the standards are on file electronically.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.096 UTILITY CONNECTIONS.

All utility connections shall be pursuant to:

(A) Currently adopted International Plumbing Code;

(B) Currently adopted National Electric Code; and

(C) Currently adopted International Fuel Gas Code.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.097 ACCESSORY STRUCTURES.

Unless otherwise specified in this chapter, the installation, assembly, connections or construction of any accessory structure shall be pursuant to the applicable requirements of:

(A) The currently adopted International Building Code;

(B) The currently adopted International Residential Code;

(C) The currently adopted International Plumbing Code;

(D) The currently adopted International Mechanical Code; and

(E) The currently adopted National Electric Code.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.098 SKIRTING.

Skirting shall be installed in accordance with the Manufactured Housing Installation Requirements of the Arizona Department of Fire, Building and Life Safety, Office of Manufactured Housing with an effective date of 9-13-2013.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.099 ATTACHED PATIO, CARPORT, PORCH, GARAGE OR STORAGE ROOM.

The following specifications shall apply to the construction or assembly of an attached patio, carport, porch, garage or storage room:

(A) *Materials.*

(1) Roof coverings may be metal, plastic, wood, or other approved material.

(2) Floor decking may be wood, concrete or other approved material.

(B) All roofs shall be constructed so as to withstand 20 pounds per square foot live load, 20 pounds per square foot uplift load.

(C) Construction and assembly specifications shall be certified to comply with this chapter by:

(1) Structural reports;

(2) Certified engineering calculations; or

(3) Approval of the City Building Department.

(Ord. O14-08-07, passed 8-13-2014, Res. R14-08-18, passed 8-13-2014)

§ 150.100 DRAINAGE.

Drainage of at least one-half inch per foot shall be provided for the first ten feet adjacent to all sides of a mobile home. Where property lines, walls, slopes, or other physical conditions prohibit this slope, the site must be provided with drains or swales or otherwise

graded to drain water away from the structure.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.101 GROUND ANCHORING.

When a unit is anchored, the anchoring shall be consistent with the Manufactured Housing Installation Requirements of the Arizona Department of Fire, Building and Life Safety, Office of Manufactured Housing with an effective date of 9-13-2013.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

CONSTRUCTION SOUND TRANSMISSION CONTROL (NOISE)

§ 150.115 BUILDING OPERATIONS.

(A) *Building Operations; Permits from the Building Official.* The erection (including excavation), demolition, alteration, or repair of any building in any residential district or section, other than between the hours of 6:00 a.m. and 7:00 p.m. from the first day of May to and including the 30th day of September and between the hours of 7:00 a.m. and 7:00 p.m. beginning the first day of October to and including the 30th day of April on Monday through Saturday with year round hours of 8:00 a.m. to 7:00 p.m. on Sundays, except in the case of urgent necessity in the interest of public health, safety, and welfare, and then only with a permit from the Building Official, which permit may be granted for a period not to exceed 30 days, while the emergency continues. If the Building Official should determine that the public health, safety and welfare will not be impaired by the building within the hours specified herein, and if (s)he shall further determine that loss or inconvenience would not result to any party in interest, (s)he may grant permission for the work to be done at times other than specified herein, upon application being made at the time the permit for the work is awarded or during progress of the work.

(B) *Excavation of streets; Permits from the Public Works Director.* The excavation of streets, highways in any residential district or section, other than the hours specified in division (A) above, except in the case of urgent necessity to the interest of public health, safety and welfare then only with a permit from the Public Works Director, which permit may be granted for a period not to exceed 30 days, while the emergency continues. If the Public Works Director should determine that the public health, safety and welfare will not be impaired by the excavation of streets and highways within the hours specified in division (A) above, and if (s)he shall further determine that loss or inconvenience should not result to any party in interest, (s)he may grant permission for he work to be done other than the specified division (A) above, upon application being made at the time the permit for work is awarded or during the progress of work.

(C) *Exception.* No work shall be conducted on any legal federal, state or city holiday unless urgent necessity exists as described in division (A) above and until full compliance with those regulations set forth therein.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

§ 150.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person found guilty of violating any provision of the Technical Codes shall be guilty of a class 1 misdemeanor, punishable by a fine not to exceed $500 or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day the violation continues shall be a separate offense.

(C) In addition to any criminal penalties provided in this code, a violation of § 150.003 shall be punishable by imposition of a civil fine in an amount up to $500 for each day the violation continues.

(Ord. O14-08-07, passed 8-13-2014; Res. R14-08-18, passed 8-13-2014)

CHAPTER 151: PUBLIC RIGHTS-OF-WAY; ENCROACHMENTS

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Appendix A: Public Works Encroachment and Inspection

§ 151.001 DEFINITIONS.

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

CABLE SERVICES. The one-way transmission to subscribers of video programming and other programming services, together with subscriber interaction, if any, which is required for the selection of the programming and programming services.

COMMERCIAL MOBILE RADIO SERVICES. Two-way voice commercial mobile radio services as defined by the federal Communications Commission in 47 U.S.C. § 157.

DEPARTMENT. The department, division, or city employee to whom responsibility for the administration of this chapter has been delegated by the City Manager. Generally, the ***DEPARTMENT*** will be the City Public Works Department and persons seeking permits pursuant to this chapter may obtain necessary forms and information from the permit counter in the Public Works Department.

ENCROACH or ***ENCROACHMENT.*** Includes, but is not limited to, the performance of any of the following acts:

(1) Excavating, filling, or disturbing the surface;

(2) Erecting or maintaining any flag, banner, decoration, post, sign, pole, fence, guardrail, wall, loading platform, newsstand, mailbox, pipe, conduit, wire, or other structure on, over, or under the surface of any public place, highway, or watercourse;

(3) Planting any tree, shrub, grass, or other growing thing;

(4) Placing or leaving any rubbish, brush, earth, or other material of any nature whatsoever;

(5) Constructing, placing, maintaining on, over, or under the surface of any public place, right-of-way, street, pathway, sidewalk, driveway, curb, gutter, paving, or other surface or subsurface drainage structure or facility, any pipe, conduit, wire, cable, or telecommunication facility;

(6) Traveling by any vehicle or combination of vehicles or object of dimension, weight, or other characteristic prohibited by law without a permit;

(7) Lighting or building a fire;

(8) Constructing, placing, planting, or maintaining any structure, embankment, excavation, or other objects adjacent to a right-of-way or watercourse which causes or will cause an encroachment; and/or

(9) The application of paint or other marking materials to any pavement or curb.

FACILITIES. The plant, equipment, and property, including but not limited to boxes, poles, wires, pipe, conduits, pedestals, antenna, and other appurtenances placed in, on, or under highways.

FCC. The Federal Communications Commission or a designated representative.

FRANCHISE. The same as defined under Article XIII of the Arizona Constitution.

HIGHWAY. The full width of the right-of-way of any road, street, highway, alley, land, or pedestrian walkway used by or for the general public, whether or not the road, street, highway, alley, land, or pedestrian right-of-way has been improved or accepted for maintenance by the city. ***HIGHWAY*** also means and includes land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes.

LICENSE. Any authorization granted under these licensing requirements or other sections of this code, in terms of a privilege, permit, license, or otherwise to construct, install, operate, and/or maintain telecommunications facilities to provide telecommunications services, a fiber optic cable system, a cable television system, or any other use in the city.

PUBLIC PLACE. Any property owned, maintained, or controlled by the city.

RIGHT-OF-WAY. The same as ***HIGHWAY*** as defined hereinabove.

STREET. The same as ***HIGHWAY*** as defined hereinabove.

TELECOMMUNICATION PROVIDER. A telecommunications corporation who constructs, installs, operates, and maintains telecommunications facilities in the city.

TELECOMMUNICATIONS. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. The term does not include commercial mobile radio services, pay phone services, interstate services or cable services.

TELECOMMUNICATIONS CORPORATION. Any public service corporation to the extent that it provides telecommunications services in the state.

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public or to such users as to be effectively available directly to the public, regardless of the facilities used.

(Prior Code, Art. 18-1)

§ 151.002 ENCROACHMENT PERMIT REQUIRED.

(A) No person shall encroach nor place any encroachment upon, over, or under the surface of any public place, highway, right-of-way, pathway, street, sidewalk, driveway, curb, gutter, paving, or other surface or subsurface drainage structure or facility for any purpose whatsoever, without first obtaining a permit from the city in accordance with the provisions set forth herein.

(B) No person shall excavate, erect, construct, place, or maintain any pipe, conduit, wire, cable, or other structure on, over, or under the surface of any public place, highway, right-of-way, pathway, street, sidewalk, driveway, curb, gutter, paving, or other surface or subsurface drainage structure or facility for any purpose whatsoever, without first obtaining a permit from the city in accordance with the provisions set forth herein.

(C) No person shall erect, place, display, maintain, or use any obstruction, booth, stand, counter, furniture, sign, flag, or temporary or permanent fixture upon any public place, highway, street, sidewalk, alley, or other public right-of-way for any purpose whatsoever, without first obtaining a permit from the city in accordance with the provisions set forth herein.

(D) No work or activity of any nature shall be performed in a public place or right-of-way without first obtaining a permit from the city in accordance with the provisions set forth herein. The Department shall provide the forms for and set forth the rules, regulations, and procedures governing the issuance of permits.

(E) No person shall discharge or cause or allow to flow or run, any water or other liquid upon any highway, alley, public place, or right-of-way within the city unless authorized, in writing, by the Department consistent with this chapter.

(Prior Code, Art. 18-2) Penalty, see § 151.999

§ 151.003 EXCEPTIONS TO PERMIT REQUIREMENT.

(A) The placement of traffic-control markings on pavements and curbs by the city and the marking of pavements, curbs, and sidewalks by utility companies, engineers, and surveyors to indicate the location of underground utility lines and monuments in connection with surveying, design, construction, and maintenance work pursuant to a franchise, license, or other agreement with or permission from the city may be done without a permit; however, all other pavement, curb, and sidewalk markings require a permit.

(B) An encroachment permit for public utilities and other continuing uses may contain provisions allowing continuing maintenance of the permittee's facilities in the public rights-of-way and highways without securing a new and separate permit for each maintenance activity.

(C) This chapter does not prevent any person from maintaining any pipe or conduit lawfully on or under any public highway, or from making excavations necessary for the preservation of life or property when an urgent necessity therefore arises while city offices are closed. A person making an emergency use or encroachment on a public street shall apply for a permit therefore within one calendar day after the offices of the city are opened and shall pay all applicable fees, perform required pavement restoration, and comply with all other applicable requirements of this chapter.

(D) The city is not required to obtain permits from itself pursuant to this chapter, however, contractors or other persons performing

work under contract with the city or on behalf of the city in the city highway must obtain appropriate permits and comply with all the regulations set forth in this chapter, notwithstanding the provisions of § 151.008(G).

(E) There are some public utilities who have ownership or easement interests in property obtained prior to the city obtaining ownership interest in that same property. Nothing in this chapter shall extinguish those prior interests in the property.

(Prior Code, § 18-2-1)

§ 151.004 APPLICATION.

(A) The city shall prescribe and provide a regular form of application for the use of applicants for permits required by this chapter. The application shall show such information and details as the city deems necessary to establish the exact location, nature, dimensions, duration, and purpose of the proposed use or encroachment, and shall be submitted to the Department together with the non-refundable application fee and other applicable fees established by Council resolution.

(B) The applications shall be accompanied by construction plans, engineered designs, maps, sketches, diagrams, or similar exhibits. The same shall be of the size and in the quantity prescribed by the city and of sufficient clarity to illustrate the method of construction, design, location, dimensions, nature, and purpose of the proposed encroachment and its relation to existing and proposed facilities in the right-of-way.

(C) The applicant shall also enclose with or attach to the application a certified statement that the applicant will obtain any and all other licenses, permits, or approvals required by the city or any other governmental agency or other private party except as required under § 151.084(F).

(D) No substantial changes shall be made in the plans, design, location, dimensions, character, or duration of the encroachment or use as granted by the permit except upon authorization of the city. Any changes made without prior authorization are made at the applicant's risk.

(Prior Code, § 18-2-2)

§ 151.005 OTHER LICENSES.

An encroachment permit shall not be issued until any such other required licenses, permits, or approvals are first obtained and certification thereof filed with the city, provided, however, some very complex encroachment permits for proposals also needing a license from the city may, at the discretion of the Department, be processed simultaneously with the application for the license.

(Prior Code, § 18-2-3)

§ 151.006 DETERMINATION OF APPROPRIATE PERMIT, NEED FOR A LICENSE, AND APPROPRIATE ENCROACHMENT FEES.

(A) Upon review of the application and other required documents, unless otherwise determined by City Council action, the Department shall determine which class of encroachment permit is appropriate, whether the use sought to be made of the city's highways requires a license or use agreement, which of the fees adopted by Council resolution apply to this permit, whether other fees, charges, or taxes apply to the use, and which approval process must be followed for that application. Additional licenses or fees may be required pursuant to other provisions of this code or other state or federal laws.

(B) If a person files applications for more than one type of encroachment permit or one or more licenses together with an application for an encroachment permit, the Department may combine the applications and issue one encroachment permit authorizing encroachments to be used for more than one license or franchise. In no event, however, may required licenses be combined, and applicants shall be required to apply for and obtain a separate license or franchise for each activity as required herein.

(C) The City Council will establish a base application processing fee to be paid for each type of encroachment permit, however, for complex applications the non-refundable application processing fee shall be in an amount established by the Department as necessary to recover all reasonably related costs, including outside consultants, incurred by the city to review and process the application.

(D) Applications for encroachment permits and all documents and other information required to be submitted will be reviewed by such city staff or retained consultants as deemed necessary by the Department. Based on the review, the encroachment permit

application may be approved, conditionally approved, or denied by the Department. If the city finds that the application is in accordance with the requirements of this chapter, it may issue a permit for the use of encroachment, attaching such conditions as are necessary for the health, safety, and welfare of the public, including but not limited to aesthetic considerations. If the city finds the application is in conflict with the provisions of this chapter or any state or federal law, the permit shall be denied and the applicant given written reasons for the denial. No permit is valid unless signed by an authorized representative of the city.

(Prior Code, § 18-2-4)

§ 151.007 NON-INTERFERENCE WITH PUBLIC WORKS.

No permit shall be granted for a use which would unduly interfere with the public works of the city, endanger the public, or permanently restrict, block, or interfere with traffic.

(Prior Code, § 18-2-5)

§ 151.008 TERMS AND CONDITIONS OF ALL ENCROACHMENT PERMITS.

(A) *Indemnification*. No encroachment permit shall be issued until the permittee has executed and filed with the city an indemnity agreement satisfactory to the City Attorney. However, in the event that an encroachment permit is issued and the permittee has not executed and filed the indemnity agreement, the commencement of work thereunder shall be the permittee's agreement to indemnify the city as further set forth herein. The permittee shall be responsible for and indemnify the city from all claims, demands, expenses, or liability including but not limited to personal injury and property damage arising out of or related to work performed by the permittee under the permit, arising out of the failure on the permittee's part to perform work under the permit, and arising from or caused by the structures or encroachments placed in, on, or under the city's right-of-way. If any claim of such liability is made against the city, its officers, or employees, the permittee shall defend, indemnify, and hold the city harmless from the claim, including claims alleging the negligence of the city, its officers, and employees.

(B) *Insurance.*

(1) No applicant shall be entitled to an encroachment permit unless he or she shall have filed and maintained on file with the city a certificate certifying that he or she and/or his or her company or business firm carried public liability and property damage insurance issued by an insurance carrier authorized to do business in the state, insuring the applicant and the city 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 employees while performing any work under the permit. The insurance shall be primary and provide coverage for all liability assumed by the applicant under division (A) of this section, and shall be provided by the permittee in the following minimum amounts:

(a) One million dollars for death of, or injury to, any one person in any one accident;

(b) One million dollars for death of, or injuries to, more than one person in any one accident; and

(c) One million dollars for damages to property. The city may require higher insurance coverage when appropriate.

(2) Failure by the applicant to provide the city with such a certificate, and failure by the city 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. The insurance certificate shall remain in effect and be kept on file with the city until all work to be performed by the permittee under the permit has been completed. When an encroachment involves a permanent obstruction, the insurance certificate requirements shall remain in effect until the construction is removed. The insurance certificate shall provide that coverage cannot be canceled or expire without providing ten days' written notice of the action to the city.

(C) *Performance bonds or other financial security*. The Department may require as a condition of issuing any encroachment permit, the applicant to post performance bonds or other approved financial security to ensure satisfactory completion of any work to be performed in, on, or under any public place, highway, or right-of-way and to ensure adequate maintenance of encroachments.

(D) *Commencement of work*. The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within 180 days from date of issuance, unless a different period is stated in the permit. If the work or use is not so begun, then the permit shall become void. The permittee shall complete the work or use authorized by the permit within the time specified in the permit. Where an encroachment involves a permanent installation or obstruction, conditions so specified in the permit, license, or other agreement with the city shall remain in effect until the construction or obstruction is removed.

(E) *Term.* All permits shall specify the time, not longer than one year, within which work or construction in the highway must be completed. Permits for continued use of the highway shall be issued for a specified period of time. All permits may be renewed or extended upon such terms as are consistent with the provisions of this chapter.

(F) *Relocation*. Any encroachment including but limited to pipes, conduit, wire, cable, appurtenances, or other structures or facilities installed or maintained in, on, or under any public place, right-of-way, or highway, shall be relocated, at the sole expense of the permittee, as may be necessary to facilitate a public purpose or any city project. The pavement restoration fee shall be waived by the Public Works Director for any relocation required by the city and is not an improvement for the owner of the facility. The relocations shall be under the same terms and conditions as the initial installation allowed pursuant to permit. The Department will not exercise the right to require the relocation in an unreasonable or arbitrary manner.

(G) *Assignment*. Encroachment permits shall be applied for by and issued to the person or company who will make use of the permit and not to the contractor who has been employed to construct the improvements, provided, however, all contractors and subcontractors who will be performing work in the highway shall be named and identified in the encroachment permit application. The rights granted by the permit shall not be assignable without the express prior written consent of the Department.

(H) *Supplemental.* The Department may require additional conditions for the issuance of a permit as are applicable and necessary to meet specific situations, for public safety, and to ensure compliance with this chapter and all other city, state, or federal regulations.

(I) *Acceptance*. Acceptance of any permit granted under the provisions of this chapter shall not become effective until written acceptance thereof shall have been filed by the permittee with the Department. By accepting this permit, the permittee covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by the city, and the permit.

(J) *Conflict*. In the event there is a conflict between the provisions of this chapter and the provisions contained in a franchise or license granted by the city to an applicant, the provisions of the franchise or license shall prevail.

(Prior Code, § 18-2-6)

§ 151.009 TERMS OF CONSTRUCTION.

(A) All work done or uses made under the permits shall be to the satisfaction of the city and shall be in accordance with the terms and conditions of the encroachment permit and all adopted regulations, standards, and specifications of the city including the regulations and specifications for pavement restoration. Installation of all facilities shall meet the standard specifications, details, and requirements of the Department. The Department may require a permittee to retain an approved utility line identification or locator service such as Arizona Blue Stake.

(B) The permittee shall, to the satisfaction of the city, repair all water and sanitary service lines, streets, sidewalks, curbs, gutters, or other property, structures, improvements, or facilities damaged by construction or operation pursuant to the permit. All such repairs shall be done in accordance with city standard specifications, details, and requirements of the Department.

(C) No pavement cuts in new streets.

(1) Permission to excavate in new streets shall not be granted for two years after completion of street construction, reconstruction, or renovation (major rehabilitation). Utilities shall determine alternate methods of making necessary repairs to avoid excavating in new streets. Exceptions to the above are as follows:

(a) Emergency which endangers life or property;

(b) Interruption of essential utility service;

(c) Work that is mandated by city, county, state, or federal legislation;

(d) Service for buildings where no other feasible means of providing service exists; and

(e) The Public Works Director may authorize street cuts at his or her discretion if unplanned/unknown conditions occur resulting in the city's best interest to authorize a street cut.

(2) For the purposes of this section, a street is considered "new" when it is first constructed, when it is reconstructed, or when it is renovated. Renovation shall mean a major rehabilitation which may include mill and overlay or other similar roadway improvement work that physically modifies the surface of the roadway prior to applying new roadway surface or other similar work as determined by the City Public Works Director/designee. Reconstruction shall mean completely rebuilding all the lanes of the street by removing all

the pavement and aggregate base course material, re-compacting the sub-base, and restoring the base material and then completely re-paving for a distance approved by the City Public Works Director. The Public Works Director/designee shall determine the date of completion for new streets and the date each street was last reconstructed or renovated, based on the date the street was opened or reopened for traffic.

(3) In addition to the payment of the pavement restoration fee (as defined herein), a condition of any street cut permit for cutting the pavement of a street within one year of construction, reconstruction, or renovation, shall be that the permittee renovate such street for a minimum of the full width of all lanes directly impacted by the cut(s) (outside lane includes to the curb) and for arterial streets and for collector streets as more specifically directed by the City Public Works Director/designee. Slurry seal, micro seal, or other methods of sealing may be required as directed by the Public Works Director/designee. All permits which are issued under divisions (A) through (C) above shall be in accordance with the city approved Standard Details and Specifications.

(D) Pavement restoration fee.

(1) Whenever any encroachment permit is required to cut into, open, bore, attach to, or make any break or disturbance to the street pavement of any arterial or collector street within the city, the permittee shall, in addition to the repairs required by this city code, pay to the city the pavement restoration fee established by Council resolution in the City Fee Schedule. The pavement restoration fee adopted by Council resolution shall be reviewed annually with the budget for street repair.

(2) The pavement restoration fee shall be paid prior to or at the time a street cut permit is issued. In the event changes or amendments to the street cut permit are required which would result in a change in the amount of the pavement restoration fee, an adjusted fee shall be assessed. Utilities that possess a franchise or license agreement for service within the city and have demonstrated reliable on time payment may request billing on a monthly basis for pavement restoration fee.

(3) The Public Works Director may authorize or waive payment of the fee by the city upon finding that a street cut was made on an emergency basis to avoid a threat to public health, life, or safety, or in an extraordinary circumstance the fee may be paid by the city upon approval of the City Council.

(E) Construction signs required for work. Whenever any work which requires a pavement cut is being done in the city streets, easements, or right-of-way for which approval by the city of a traffic control plan is required, the person or persons performing the work shall maintain at the site of such work at all times during which any such work is being done, signage meeting the requirements set forth below and providing information to the public as follows:

(1) If the work will take one week or longer to perform, the signage shall:

(a) Be installed so that the bottom of the sign is at lease seven feet above grade, or as otherwise approved by the City Public Works Director/designee;

(b) Be at least three feet by five feet in size or large enough to contain all the information required below whichever is larger;

(c) Be placed in such positions that they can be read by traffic from each direction;

(d) Be colored "construction orange" with block letters;

(e) Have block letters at least six inches in height; and

(f) Contain the following information: the name of the company for whom the work is being performed, the name of the contractor actually performing the work, a general description of the work to be done, the time frame within which the work will be performed, i.e. the date work will commence and the date all work will be completed, and a 24-hour contact phone number where persons may speak with a representative of the company for whom the work is being performed or may leave a request to speak with such a representative and for which all calls will be returned by such a representative within 24 hours.

(2) If the work will take less than one week to perform the signage shall:

(a) Be installed on temporary supports at an approved location;

(b) Be placed in such positions that they can be read by traffic from each direction;

(c) Be colored "construction orange" with black letters;

(d) Have block letters at least six inches in height; and

(e) Contain the following information: the name of the company for whom the work is being performed and a 24-hour contact phone number where persons may speak with a representative of the company for whom the work is being performed or may leave a

request to speak with such a representative and for which all calls will be returned by such a representative within 24 hours.

(Prior Code, § 18-2-7)

§ 151.010 SUPERVISION AND INSPECTION WORK.

(A) The city may make any inspections deemed necessary in connection with permits issued under this subchapter. During the construction, the city will inspect all trenching, backfilling, street or pavement cuts, and other work as deemed necessary by the Department. Bus shelters and other construction utilizing electrical connections must obtain an electrical inspection from the city.

(B) In addition to obtaining an encroachment permit pursuant to this chapter, before beginning any excavation in any city right-of-way, construction of or on any highway, sidewalk, curb, gutter, or driveway approach, planting, trimming, or removing trees, making, placing, or causing an obstruction in any city right-of-way, the permittee shall notify the city at least 24 hours in advance of the exact date and time work will commence unless, in the case of a continuing maintenance permit this requirement is not imposed. Upon completion of all work authorized in the permit, the permittee shall notify the city.

(C) No work shall be deemed to be completed until notification of completion is given and the work is approved by the city.

(Prior Code, § 18-2-8)

§ 151.011 ABANDONMENT OR REMOVAL.

(A) Upon the expiration of any encroachment permit, if the permittee shall not have acquired an extension or renewal thereof and accepted the same, it may remove its structures, cable, equipment, or other facilities and appurtenances. The Public Works Director may allow abandonment in place if the structures, cable, equipment, or other facilities do not conflict with future projects.

(B) If the permittee abandons use of structures, cable, equipment, or other facilities placed in the right-of-way pursuant to the permit, then at city's option, city may require the permittee to remove all such structures, cable, equipment, or facilities or may elect to accept ownership, in which case, title to the structure, cable equipment, or other facilities shall vest in the city. Abandonment shall be presumed if the permittee does not remove its property, equipment, structures, facilities, or other property placed in the highway, within 180 days after expiration or termination of the permit. The permit may specify a different time period after which abandonment may be presumed.

(Prior Code, § 18-2-9)

§ 151.012 CONDEMNATION BY CITY.

Nothing in the permit shall be construed to deny the city the right to acquire the property of the permittee by the exercise of the right of eminent domain in accordance with the Arizona Revised Statutes.

(Prior Code, § 18-2-10)

§ 151.013 ENCROACHMENT PERMIT IS REVOCABLE.

(A) All encroachment permits may be revoked by the Department when the right-of-way, highway, or any portion thereof, occupied and used by the permittee is needed or required for a public use, and upon notice from the city, the permittee shall promptly remove all property belonging to the permittee from the right-of-way.

(B) If at any time the Department finds that the delay in the completion of the work or use authorized by an encroachment permit is due to lack of diligence on the part of the permittee, it may cancel the permit and restore the right-of-way to its former condition unless the restoration is completed by the permittee. The permittee shall reimburse the city upon demand for all expenses incurred by the city in restoring the public place or right-of-way.

(Prior Code, § 18-2-11)

§ 151.014 TERMINATION.

All permits granted hereunder are subject to termination by the Department if:

(A) The permittee fails to comply with the requirements of the permit or this chapter or any other rule or regulation validly adopted by the City Council applicable to the permit granted hereunder; or

(B) The permittee fails to pay when due, any fee as required by the permit or this chapter.

(Prior Code, § 18-2-12)

§ 151.015 APPEAL.

Any person aggrieved by a decision of the Department acting under this chapter may appeal the decision to the City Council. The aggrieved person shall file notice, in writing, with the City Clerk within seven days after final action of the Department. The City Council may affirm, modify, or reverse the action of the Department. The decision of the City Council shall be final.

(Prior Code, § 18-2-13)

§ 151.016 CEASE AND DESIST ORDERS.

Whenever any work is being done contrary to the provisions of this code, the Director of Public Works and/or designee may order the unauthorized work stopped by notice in writing served on any person engaged in the doing or causing the unauthorized work to be done, and any such person shall forthwith stop the unauthorized work. Any person performing work in the highway shall have a copy of a valid encroachment permit issued by the city at the site and make the permit available for inspection by the city at all times work is being performed or property or equipment is located in the highway.

(Prior Code, § 18-2-14)

MINOR AND OTHER MISCELLANEOUS ENCROACHMENT PERMITS

§ 151.030 MINOR ENCROACHMENT PERMIT, CLASS 1 PERMIT.

Upon review of the application, the Department shall determine whether a minor encroachment permit is suitable for the encroachment requested in the application. A minor encroachment permit may be issued for temporary, short term, small, or inconsequential encroachments. Some examples of encroachments that may be suitable for a minor encroachment permit are: public telephones; news racks; placing temporary traffic barricades in the street; and placing merchandise on the sidewalk for a temporary sale. The determination by the Department regarding whether a minor encroachment is appropriate shall be final.

(Prior Code, Art. 18-3)

§ 151.031 CRITERIA FOR MINOR ENCROACHMENT PERMIT.

(A) The intent of these standards and requirements is to ensure safe access and movement for pedestrians and motorists alike, and to ensure uniform placement, aesthetics, and maintenance, while protecting city liability when the items are placed within public right-of-way. It is not the purpose of this section to prevent those encroachments which serve a public purpose, such as public telephones and news racks, from using the public highway but only to regulate the uses to the extent necessary to protect the public safety.

(B) For those commercial uses such as sidewalk sales, the purpose is to ensure not only the public safety but also that public property is not allowed to be used by the permittee to gain an unfair economic advantage over competitors. For that reason time and use restrictions will be imposed.

(Prior Code, § 18-3-1)

§ 151.032 CLASS 1 PERMIT PROCESS.

Persons desiring a minor encroachment permit (Class1), shall make application to the Department together with a signed indemnification agreement in the form prescribed by the city and proof of insurance in the amounts established by the city's Public Works Director for the use. The application shall be accompanied by a non-refundable application processing fee in an amount established by Council resolution as necessary to recover the costs incurred by the city to review and process the application. The Department shall review the application to ensure the indemnification and insurance requirements have been met and the proposed placement of the encroachment for public safety considerations and approve, conditionally approve, or deny the permit.

(Prior Code, § 18-3-2)

§ 151.033 STREET CLOSURES FOR NEIGHBORHOOD BLOCK PARTY.

(A) Persons desiring to temporarily close a neighborhood street for a block party shall obtain a permit from the city's Police Department pursuant to this section. There is no fee for this permit.

(B) The applicant must comply with the following additional requirements:

(1) Obtain, complete, and sign an agreement to adhere and comply with the requirements as set forth herein;

(2) Obtain the signatures of every property owner within the area/block, on the form provided, consenting to the traffic closure;

(3) Submit agreement with attachments to the city five working days in advance of the date of closure;

(4) Sign for and provide for the pick-up and return of street barricades. All barricades shall be returned to the City Street Division the next normal business day following the closure date;

(5) Erect the necessary portable barricades for street closure;

(6) Remove all barricades with one hour of the closure time;

(7) Under no circumstances will the block party extend beyond 11:00 p.m.;

(8) Assume all liability and agree not to hold the city responsible for any accidents, bodily injury, or damage to private property resulting from street closure as stated on the attached agreement;

(9) The applicant/responsible person will be billed and shall reimburse the city for all actual costs for the repair or replacement of any damaged or missing barricades and any city property that may be damaged or destroyed during the block party (i.e., stop signs, speed signs, and the like); and

(10) The applicant/responsible person will be responsible for cleaning the street of debris and other garbage.

(C) The city will do the following:

(1) The city will provide the applicant/responsible person with a copy of these regulations at the time the applicant obtains a street closure permit and agreement to ensure understanding and compliance of these regulations;

(2) The Public Works Department will verify addresses listed on the street closure permit and agreement submitted by the applicant;

(3) The Director of Public Works will approve/disapprove all applications for street closure/block party. Note: approval will not be granted for closure of collector streets nor the first block of any street where it intersects with a major street;

(4) The city will provide the necessary street barricades to the applicant upon receipt of notification from the Police Department. The Public Works Department will notify the Street Division 24 hours in advance of the applicant securing necessary barricades; and

(5) The Police Department will notify the Fire and Public Works Departments of times, date, and location by sending a copy of the approved street closure agreement.

(Prior Code, § 18-3-3)

§ 151.034 PAVEMENT RESTORATION AND FEES.

If the proposed encroachment includes cutting into, attachment to, or any break in the sidewalk or street pavement, the permittee shall be required to pay the pavement damage fee established by Council and to restore the pavement when the encroachment is removed in accordance with the pavement restoration regulations and specifications adopted by the city.

(Prior Code, § 18-3-4)

§ 151.035 SPECIAL CONDITION.

Class 1 encroachment permits shall comply with the special conditions set forth in divisions (D) and (E) of § 151.052 herein.

ENCROACHMENT PERMIT FOR SIDEWALK FURNITURE, CLASS 2 PERMIT

§ 151.050 GENERAL PROVISIONS.

Upon review of the application, the Department shall determine whether a sidewalk furniture encroachment permit is suitable for the encroachment requested in the application. Examples of the type of encroachments which may be approved by this permit are as follows:

(A) Sidewalk furniture such as tables, umbrella, chairs, benches, planters, and flower pots, all of which must be moveable;

(B) Ornamentations such as clocks, statues, totem poles, barber shop poles, flags, and seasonal decorations, none of which may constitute outdoor merchandise display. In cases where the ornamentation is a symbol of the business activity, e.g., a barber pole for a barber shop, a clock for a watch shop, and the like, the ornamentation shall be considered as a sign element, subject to the total allowable sign face area as measured in a front elevation view, in accordance with the standards set forth herein;

(C) Awnings, canopies, porte-cocheres; and

(D) Bus shelters, bicycle racks, and lockers.

(Prior Code, Art. 18-4)

§ 151.051 CRITERIA FOR SIDEWALK FURNITURE ENCROACHMENT PERMIT, CLASS 2.

Sidewalk furniture in the central downtown area is allowed due to the unique characteristics of that neighborhood, to encourage economic development in the downtown area and because of the constraints caused by the older style of development. The intent of these standards and requirements is to ensure safe access and movement for pedestrians and motorists alike, and to ensure uniform placement, aesthetics, and maintenance, while protecting city liability when the items are placed within public right-of-way.

(Prior Code, § 18-4-1)

§ 151.052 SPECIAL TERMS AND CONDITIONS FOR THE PERMIT DESCRIBED IN THIS SUBCHAPTER.

(A) Business signs on sidewalks and colonnades are subject to the provisions and restrictions of §§ 154.125 through 154.136. A-frame signs are prohibited in the public right-of-way, and on private property if readily visible from the public right-of-way. Merchandise display within sidewalks and colonnades are prohibited other than for special events. None of the permitted elements may be for the purpose of serving or consuming alcoholic beverages within the public right-of-way.

(B) Permits for sidewalk furniture may only be granted for sidewalks adjoining property classified as Neighborhood Commercial (C-1), Community Commercial (C-2), Regional Commercial (C-3), or Planned Area Development (P.A.D.) for commercial retail use, provided, however, bus shelters, bicycle racks, and lockers may be granted in all zones.

(C) Furniture may only be placed on the sidewalk or colonnade adjoining a building owned or occupied by the permittee except for bus shelters, bicycle racks, and lockers.

(D) Any and all elements placed on the sidewalk or within the colonnade shall be maintained in a state of cleanliness and good

repair, and shall not cause conditions of trash, litter, debris, noise, glare, dust, or other nuisance. Responsibility for the maintenance shall rest with the owner of the permitted elements, or with the person(s) responsible for the placement if different from the owner.

(E) Permits shall be conditioned to ensure that placement of furniture and the like on the public right-of-way does not interfere with, impede, or inconvenience the use of the sidewalk or public way by the public.

(1) A minimum five-foot unobstructed sidewalk width parallel to storefronts and free from any parking overhang shall be maintained at all times, and in addition, a minimum five-foot wide unobstructed access way shall be maintained to the street and parking area(s), directly aligned with the storefront entry.

(2) A minimum seven-foot vertical clearance shall be maintained for any element such as flags, flower pots, or other ornamentations that project more than 12 inches horizontally, mounted on exterior walls or columns, or hung from canopy ceilings. In addition, all installations and mountings shall provide clearances in conformance with the Americans with Disabilities Act (ADA), and successor amendments. The method of any installation or mounting on any part of the city-owned colonnade may not interfere with the city's ability to maintain the colonnade.

(3) No placement(s) shall encroach upon any required parking space(s), landscape area, fire lane, handicapped access ramp, or handicapped access route.

(4) All placements shall maintain safe visibility of vehicular traffic and pedestrians, in accordance with standards prescribed by the city's *Street Design Manual and Standard Details*.

(5) All placements shall maintain clear visibility and access to all traffic signs, control devices, and other safety installations.

(6) All modification(s) to the exterior color, building material, or other architectural feature shall be consistent with any development plan previously approved by the city.

(Prior Code, § 18-4-2)

§ 151.053 CLASS 2 PERMIT PROCESS.

(A) Persons desiring a sidewalk furniture encroachment permit, Class 2, shall make application to the Department together with a signed indemnification agreement in the form prescribed by the city and proof of insurance in the amounts established by the City Risk Manager for the use. The application shall be accompanied by a non-refundable application processing fee in an amount established by Council resolution as necessary to recover the costs incurred by the city to review and process the applications.

(B) The Department shall review the application to ensure the indemnification and insurance requirements have been met and the proposed placement of the encroachment complies with the requirements set forth herein and for public safety considerations and approve, conditionally approve, or deny the permit.

(Prior Code, § 18-4-3)

§ 151.054 PAVEMENT RESTORATION AND FEES.

If the proposed encroachment includes cutting into, attachment to, or any break in the sidewalk or street pavement, the permittee shall be required to pay the pavement damage fee established by Council and to restore the pavement when the encroachment is removed in accordance with the pavement restoration regulations and specifications adopted by the city. Other fees, charges, or taxes may be imposed depending on the use made of the city highways.

(Prior Code, § 18-4-4)

LANDSCAPE MAINTENANCE ENCROACHMENT PERMIT, CLASS 3 PERMIT

§ 151.065 GENERAL PROVISIONS.

Licensed landscape contractors and utility companies, upon written application to and approval by the Department, may be granted continuing encroachment permits to perform landscaping, planting, trimming of trees, and landscaping maintenance in public rights-of-

way and highways without securing a new encroachment permit for each separate job. Homeowners associations doing or causing landscaping work to be done must obtain a permit in accordance with this chapter. Individual and private residents doing work adjacent to their own residences need not obtain a permit but must not interfere with traffic and create any dangerous condition. Any work performed in public rights-of-way or highways shall comply with city standard specifications for planting and landscaping. Permission granted to a homeowner's association, licensed contractor, or utility company shall continue until revoked. The Department may revoke any permit issued under this section for non-conformance with the provisions of this chapter or any other applicable regulation.

(Prior Code, Art. 18-5)

§ 151.066 CLASS 3 PERMIT PROCESS.

(A) Persons desiring a landscape maintenance encroachment permit, (Class 3), shall make application to the Department together with a signed indemnification agreement in the form prescribed by the city and proof of insurance in the amounts established by the city for such use. The application shall be accompanied by a non-refundable application processing fee in an amount established by Council resolution as necessary to recover the costs incurred by the city to review and process the application.

(B) The Department shall review the application to ensure the indemnification and insurance requirements have been met, and approve, conditionally approve, or deny the permit.

(Prior Code, § 18-5-1)

TELECOMMUNICATIONS SERVICES, CLASS 4 ENCROACHMENT PERMIT

§ 151.080 GENERAL PROVISIONS.

The Department shall determine, through the application process, whether an applicant meets the definition of a telecommunications services provider.

(Prior Code, Art. 18-6)

§ 151.081 PURPOSE AND FINDINGS.

(A) The purpose of this subchapter is to establish policy governing the management of highways for the provision of telecommunications services to enable the city to:

(1) Issue licenses and franchises on a competitively neutral and non-discriminatory basis, to telecommunications corporations who use the highways to provide telecommunications services, except in cases where state law forbids establishment of a license or franchise requirement;

(2) Manage the highways in order to minimize the impact and cost to the city citizens of the placement of telecommunications facilities within highways;

(3) Manage the highways so as to maximize their efficient use, thereby minimizing the foreclosure of future additional uses of each rights-of-way; and

(4) Minimize congestion, inconvenience, visual impact, and other adverse effects from the use on the city's highways.

(B) The City Council finds that the city's highways constitute a valuable public asset:

(1) Having been acquired and maintained by the city over many years at great taxpayer expense;

(2) Providing uniquely valuable property that private telecommunications providers may wish to use for profit-making purposes that may not necessarily benefit all the residents of the city; and

(3) Comprising significant assets which the city must manage as a public fiduciary trust to enhance the public health, safety, and welfare.

(C) Therefore, in this subchapter, the City Council intends:

(1) To ensure that locally elected officials manage local highways consistent with their fiduciary trust obligations;

(2) To ensure compliance with public health, safety, and welfare measures for highways;

(3) To encourage public-private partnerships to provide telecommunications facilities needed for the most cost-effective delivery of public services, including schools, libraries, police and fire protection, as well as private services;

(4) To conserve the limited physical capacity of the highways held in public trust by the city; and

(5) To assure that the city's current and ongoing costs of granting and regulating private access to and use of the highways are fully paid by the persons seeking the access and causing the costs.

(Prior Code, § 18-6-1)

§ 151.082 TELECOMMUNICATION LICENSE.

(A) No person shall place, install, construct, operate, or maintain any telecommunications equipment, facilities, or system for telecommunications services in, upon, or under the surface of any highway, public place, street, or right-of-way, unless a telecommunications license, franchise, or state grant has first been obtained in accordance with the provisions of this chapter. In addition to obtaining the telecommunications license as provided herein, the person must also obtain a telecommunications encroachment permit, Class 4, as required herein.

(B) A telecommunications provider may obtain a telecommunications license by application filed with the City Manager, pursuant to the provisions of this chapter or at the applicant's choice, may obtain a telecommunications franchise from the electorate at the provider's expense, pursuant to Article XIII of the Arizona Constitution and the provisions of this chapter. Any telecommunications corporation that was providing telecommunications service within the State of Arizona as of October 31, 1997 pursuant to a grant made to it or its lawful predecessors prior to the effective date of the Arizona Constitution may continue to provide telecommunications services pursuant to that state grant, until the State grant is lawfully repealed, revoked, or amended, and need not obtain any further authorization from the city to provide telecommunications services; provided, however, that the entity must in all other respects comply with the requirements applicable to telecommunications corporations, as provided in A.R.S. Title 9, Chapter 5, Article 7.

(C) A telecommunications license pursuant to this chapter shall not authorize the use of the highways to provide any other service; nor shall the issuance of the same invalidate any franchise, license, or permit that authorizes the use of the highways for such other services; nor shall the fact that a telecommunication corporations hold a franchise, license, or permit to make any other use of the highway or to provide any other service, authorize installation, maintenance, construction, or operation of telecommunications facilities in any highway in the city, or permit the license to provide telecommunications services by means of the facilities without obtaining a telecommunications license or franchise hereunder.

(D) Any telecommunications license or franchise granted shall not be exclusive.

(Prior Code, § 18-6-2)

§ 151.083 APPLICATION FOR TELECOMMUNICATIONS LICENSE OR FRANCHISE.

A telecommunications provider desiring a telecommunications license or franchise shall file an application with the City Manager requesting, at the applicant's election, either a franchise or license, in the form prescribed by the City Manager, together with that part of the non-refundable application processing fee in the amount of $75. The full fee shall be paid on demand from the city and shall be in an amount established by the City Manager as necessary to recover all related costs directly incurred by the city to review and process the application. At the discretion of the Department, an application for a telecommunications license may be processed simultaneously with the same applicant's application for an encroachment permit for the installation of the telecommunication system facilities. The city may retain outside experts to assist in the review and processing of complex telecommunications license and encroachment permit applications and all related costs incurred by the city for the experts shall be recovered through the application processing fee.

(Prior Code, § 18-6-3)

§ 151.084 TERMS AND CONDITIONS APPLICABLE TO TELECOMMUNICATION LICENSES.

(A) The applicant shall maintain insurance of the types and in the amounts specified by the city, and provide proof of insurance as required by the city; post performance bonds and security funds required; shall agree to fully indemnify the city, its officers, agents, boards, and commissions, in a form satisfactory to the city; and shall agree that it shall have no recourse whatsoever against the city, its officers, agents, boards, commissions agents, or employees for any loss, costs, expense, or damages arising out of any provision or requirement of the city because of the enforcement of the license or franchise, or because of defects in this chapter; or the license or franchise issued or as a result of any damage that may result from the city's exercise of its rights under the license, or applicable provisions of law.

(B) The initial license term shall be for a period of five years and may be renewed for five-year terms.

(C) A telecommunication license is personal to the licensee. In the event of a transfer, the transferee shall submit a binding agreement to the city stating that it has read, accepts, and agrees to be bound by the license, and assumes all obligations, liabilities, and responsibility under the license for the acts and omissions of the licensee, known and unknown, for all purposes and the licensee gives written notice of the transfer or change of control to the city.

(D) The licensee shall produce books and records for the city's inspection and copying, prepare reports, respond to questions, and permit the city to have access to its facilities as the city may request in order to determine whether the licensee has complied with its obligations under the license or other applicable law or regulation.

(E) The applicant shall agree to maintain accurate maps showing the location of all its facilities including all the facilities it will use in the highways within the city, and to comply with such other mapping requirements that the city may establish from time to time. The applicant shall provide map information upon request by the city at no cost.

(F) The applicant shall provide proof to the city that the applicant has received a certificate of public convenience and necessity from the Arizona Corporation Commission which authorizes the applicant to provide telecommunications services within the city.

(G) The applicant shall agree to comply with highway use requirements that the city may establish from time to time.

(H) The applicant shall agree to comply with and be bound by the administrative and enforcement provisions as may be prescribed from time to time by the city.

(I) The licensee and the city shall meet at periods not exceeding three years or upon request of either to discuss changes in the telecommunications laws, regulations, technology, competing services, the needs of the community, and other factors impacting telecommunications. As a result of these discussions, this subchapter or any license granted hereunder may be modified by the city and the licensee to respond to the change in laws, regulations, technology, competing services, the right-of-way management needs of the community, or other factions impacting telecommunications.

(J) In the event there is a conflict between the provisions of this subchapter and the provisions contained in a franchise or license granted by the city to an applicant, the provisions of the franchise or license shall prevail.

(Prior Code, § 18-6-4)

§ 151.085 APPLICATION PROCESS FOR TELECOMMUNICATION LICENSE.

Applications for a telecommunications license shall be reviewed by such outside expert consultants as deemed necessary by the City Manager, who shall set the application for hearing by the City Council and make recommendations to the Council who shall approve, deny, or conditionally approve the application. Notwithstanding the foregoing, the city need not issue or renew a telecommunications license, or schedule a franchise election if the applicant has previously had its telecommunications license or franchise revoked.

(Prior Code, § 18-6-5)

§ 151.086 REVOCATION.

(A) Every license shall be subject to revocation, subject to notice and hearing as set forth herein, for the following reasons.

(1) The license fails to comply with the terms and conditions of the license or other applicable law.

(2) The licensed fails to make the payments in the amounts and at the times specified in the license agreement or in this

subchapter.

(3) The licensee ceases to be a telecommunications services provider in the city.

(4) The licensee fails to maintain current, accurate as-built plans and maps showing the location of all facilities installed or constructed in the city.

(B) Provided, however, a license shall not be revoked unless the licensee is given written notice of the defect in performance and fails to cure the defect within 60 days of the notice, except where the city finds that the defect in performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the licensee has already had notice and opportunity to cure.

(Prior Code, § 18-6-6)

§ 151.087 APPLICATION FOR A TELECOMMUNICATIONS ENCROACHMENT PERMIT.

A person desiring a telecommunications encroachment permit shall file an application with the Department, in the form prescribed by the Department, together with that part of the non-refundable application processing fee established by Council resolution. The full fee shall be paid on demand from the city and shall be in an amount established by the City Manager as necessary to recover all actual costs incurred by the city to review and process the application.

(Prior Code, § 18-6-7)

§ 151.088 REQUIRED INFORMATION FOR LICENSE AND PERMIT.

Applications for a telecommunications encroachment permit or for a telecommunications license or franchise shall contain the information listed below unless waived by the Department as not applicable to the application being filed. For example, when only a permit is necessary, the information listed in division (B) would not be required and, when only a license is being applied for, the information listed in divisions (C), (D), (E), and (F) would not be required:

(A) The names, addresses, and telephone numbers of the applicant, including those for responsible parties during the application, construction, and implementation process. This includes a 24-hour emergency telephone contact;

(B) A copy of the applicant's valid certificate of public convenience and necessity which has been issued by the Arizona Corporation Commission;

(C) A detailed description and map indicating all areas proposed to be served and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire service area together with a chart comparing the schedule with the city's proposed street maintenance schedule;

(D) A detailed, site-specific description and map indicating each place where the applicant desires to encroach, every street, right-of-way, or easement which may be affected and what equipment, cable, conduit, structure, or other facility applicant desires to construct;

(E) The name and license number of the contractor who will be performing the work; and

(F) A copy or abstract of any agreement covering the permit area, if existing between the applicant and the local telephone and/or other utilities providing for the use of any facilities of the utility including but not limited to poles, lines, or conduits.

(Prior Code, § 18-6-8)

§ 151.089 APPLICATION PROCESS FOR TELECOMMUNICATION ENCROACHMENT PERMIT.

Applications for telecommunication encroachment permits shall be reviewed by such outside expert consultants and other city staff, as deemed necessary by the Department, who shall approve, deny, or conditionally approve the applications unless the encroachment permit application was combined with an application for a telecommunication license, in which event the City Council shall approve, deny, or conditionally approve the two applications together.

(Prior Code, § 18-6-9)

§ 151.090 COMPENSATION AND OTHER FEES.

(A) Entities subject to this permit shall pay:

(1) The encroachment permit application processing fee which covers the actual cost of reviewing and processing the encroachment permit application;

(2) The inspection fee which covers the actual cost of inspection of the construction, work, or installation to ensure it meets all city requirements;

(3) A fee to recover all of the actual costs associated with construction, maintenance, and operation of the permittee's facilities in the highway, including but not limited to all reasonable costs associated with damage caused to the highway; and

(4) In addition to the encroachment permit fees, the permittee is also required to obtain a telecommunications license and will be required to pay application processing fees for the license and the license or franchise fees as set forth in its license agreement with the city.

(B) (1) Each of these fees will be established by Council resolution, provided however the application processing fee may be established based on cost as set forth hereinabove. All application fees, permits, and charges shall be levied on a competitively neutral and non-discriminatory basis and directly related to the costs incurred in providing services relating to the granting or administration of applications or permits.

(2) These fees and charges also shall be reasonably related in time to the occurrence of the costs.

(Prior Code, § 18-6-10)

FIBER OPTIC CABLE, INTERSTATE SERVICES, AND OTHER COMMUNICATION FACILITIES EXCLUDED FROM THE DEFINITION OF "TELECOMMUNICATION", CLASS 5

§ 151.105 GENERAL PROVISIONS.

A fiber optics communication system is an interstate network of fiber optic cables and all related property including conduit, carrier pipe, cable fibers, repeaters, power sources, and other attachments and appurtenances necessary for fiber optics communication but which is excluded from telecommunications and telecommunication services as defined in A.R.S. § 9-581. The Department shall determine through the application process whether this permit is appropriate for an applicant's activities. Providers of local cable services are exempted from the requirement to obtain a license or permit in this section.

(Prior Code, Art. 18-7)

§ 151.106 PURPOSE AND FINDINGS.

The City Council recognizes the findings set forth hereinabove in § 151.081 and finds them relevant and applicable to licenses and encroachment permits for fiber optic cable and other services regulated by this section of the code.

(Prior Code, § 18-7-1)

§ 151.107 FIBER OPTIC CABLE LICENSE.

(A) No person shall place, install, construct, operate, or maintain any fiber optic equipment, facilities, or system for fiber optic communication services, an interstate services or other communication, conduction, or transmission facilities excluded from the definition of telecommunications and telecommunication services as defined by Arizona State Statute, in, upon, or under the surface of any highway, public place, street, or right-of-way, unless a fiber optic cable license has first been obtained in accordance with the provisions of this subchapter. In addition to obtaining the fiber optic cable license as provided herein, any person desiring to place, install, construct, operate, or maintain such facilities in, upon, or under any highway must also obtain a fiber optic cable, (Class 5), encroachment permit, as required herein.

(B) The requirement to obtain a fiber optic cable license set forth in this section does not apply to those activities or operations of a telecommunications corporation which meets the requirements set forth in A.R.S. § 9-581.

(C) A fiber optic cable license pursuant to this subchapter shall not authorize the use of the highways to provide any other service; nor shall the issuance of the same invalidate any franchise, license, or permit that authorizes the use of the highways for such other services; nor shall the fact that a person holds a franchise, license, or permit to make any other use of the highway or to provide or operate any other service, authorize installation, maintenance, construction, or operation of fiber optic cable, interstate services, or other facilities required to be licensed by this section in any highway in the city, or permit the licensee to provide fiber optic cable services by means of the facilities without obtaining a fiber optic cable license hereunder.

(D) A fiber optic cable license is personal to the licensee. Except as provided in the license, no transfer or change of control over the licensee, (including but limited to, forced or voluntary sale, merger, consolidation, receivership, or any other means) shall occur unless prior application is made to the city and the city's prior written consent is obtained, which consent will not be unreasonably withheld or delayed.

(E) The licensee shall produce books and records for the city's inspection and copying, prepare reports, respond to questions, and permit the city to have access to its facilities as the city may request in order to determine whether the licensee has complied with its obligations under the license or other applicable law or regulation.

(F) The applicant shall agree to provide and maintain accurate maps showing the location of all its facilities including all the facilities it will use in the highways within the city, and to comply with such other mapping requirements that the city may establish from time to time.

(G) The applicant shall agree to comply with highway use requirements that the city may establish from time to time.

(H) The applicant shall agree to comply with and be bound by the administrative and enforcement provisions as may be prescribed from time to time by the city.

(I) The applicant must agree to abide by such other conditions and terms as required by the City Council upon consideration of the application.

(J) In the event there is a conflict between the provisions of this subchapter and the provisions contained in a franchise or license granted by the city to an applicant, the provisions of the franchise or license shall prevail.

(Prior Code, § 18-7-2)

§ 151.108 REVOCATION.

(A) A fiber optic cable license shall be subject to revocation for the same reasons and upon the same notice and hearing provisions as set forth in § 151.086, except division (A)(3) therein is not a basis for revocation of the license regulated in this subchapter.

(1) The licensee fails to comply with the terms and conditions of the license or other applicable law.

(2) The licensee fails to make the payments in the amounts and at the times specified in the license agreement or in this subchapter.

(3) The licensee fails to provide current, accurate, as-built plans and maps showing the location of all facilities installed or constructed in the city.

(B) Provided, however, a license shall not be revoked unless the licensee is given written notice of the defect in performance and fails to cure the defect within 60 days of the notice, except where the city finds that the defection performance is due to intentional misconduct, is a violation of criminal law, or is part of a pattern of violations where the licensee has already had notice and opportunity to cure.

(Prior Code, § 18-7-5)

§ 151.109 PERMIT APPLICATION PROCESS.

(A) Any person desiring an encroachment permit pursuant to this section shall file an application with the Department, in the form prescribed by the city, together with that part of the non-refundable application processing fee established by Council resolution. The

full fee shall be paid on demand from the city and shall be in an amount established by the Department as necessary to recover all reasonably related costs incurred by the city to review and process the application.

(B) This encroachment permit shall not be construed to be a franchise or a license as that term is used in the Constitution of the State of Arizona and the city code of the city and is required in addition to the fiber optic license required herein.

(Prior Code, § 18-7-6)

§ 151.110 REQUIRED INFORMATION FOR BOTH LICENSE AND PERMIT.

Applicants shall submit all of the applicable information listed hereinabove in § 151.088.

(Prior Code, § 18-7-7)

§ 151.111 SPECIAL TERMS AND CONDITIONS FOR THE PERMIT DESCRIBED IN THIS SUBCHAPTER.

In addition to the general terms and conditions for all encroachment permits listed above, permits issued pursuant to this section shall also comply with the following conditions.

(A) (1) At the option of the Department, the permittee may be required to construct conduits, ducts, and associated appurtenances such as pull boxes, which will become the property of the city upon completion of construction, in lieu of payment of annual and/or permit fees.

(2) It is intended that fees be computed as described in the fee resolution adopted by Council and waived only to the extent of equal value received by construction in kind. The city may, as its option, rent or sell to others the conduits, duct(s), and other appurtenances which are determined to be in excess of its needs.

(B) The permittee shall, without cost to the city, allow the use by the city of space in the then existing conduits and subways for wires, fire alarms, police, traffic control, and all other applicable municipal purposes as determined by the license agreement with the city.

(C) In addition to the indemnification required in the general encroachment permit terms hereinabove, the permittee shall agree to indemnify, defend, and save the city harmless from any losses, expenses, or lost revenues incurred by the permittee other than the reasonable cost of repair to the permittee's cable and appurtenances damaged as the result of negligence by employees of the city.

(Prior Code, § 18-7-8)

§ 151.112 APPLICATION APPROVAL.

Applications for an encroachment permit pursuant to this section shall be reviewed by such outside expert consultants and city staff as deemed necessary by the Department who shall approve, deny, or conditionally approve the applications unless the encroachment permit application was combined with an application for a fiber optic cable license, in which event the City Council may approve, deny, or conditionally approve the two applications together.

(Prior Code, § 18-7-9)

§ 151.113 FEES.

(A) In addition to the non-refundable encroachment permit application processing fee which covers the cost of reviewing and processing the applications; the inspection fees which cover the cost of inspection of the construction, work, or installation to ensure it meets all city requirements; a fee to recover all of the reasonable costs associated with construction, maintenance, and operation of a permittee's facilities in the highway, including but not limited to all reasonable costs associated with damage caused to the highway; persons subject to this permit are also required to obtain a fiber optic cable license and thus will be required to pay the license application processing fee and shall also pay an annual license fee established by resolution of the City Council. This fee shall be based on one of the following:

(1) On the gross income from the business;

(2) On the fair market value of the property to be used; or

(3) Any other basis which the Council determines is appropriate and in the best interests of the city.

(B) The fee shall be paid annually in advance at the issuance of the permit and within 30 days of the anniversary date of the issuance of the permit.

(Prior Code, § 18-7-10)

CABLE TELEVISION, CLASS 6

§ 151.125 CABLE SERVICES/TELEVISION AND RELATED SERVICES.

An example of cable services/television and related services to which the following sections apply is cable services. The City Council shall determine through the application process whether an applicant meets the definition of a cable services/television services provider.

(Prior Code, Art. 18-8)

§ 151.126 PURPOSE AND FINDINGS.

The City Council recognizes the findings set forth hereinabove in § 151.081 and finds them relevant and applicable to licenses and encroachment permits for cable services/television and other services regulated by this section of the code.

(Prior Code, § 18-8-1)

§ 151.127 CABLE SERVICES/TELEVISION LICENSE.

In addition to obtaining the encroachment permit required herein, any applicant desiring to place, install, construct, operate, or maintain any cable services/television equipment, facilities, or system for television services in, upon, or under the surface of any public place, street, or right-of-way, must also obtain or already have a cable services/television license in accordance with the provisions the non-codified cable services/television licensing Ord. 2539.

(Prior Code, § 18-8-2)

§ 151.128 ENCROACHMENT PERMIT APPLICATION PROCESS.

Any person desiring an encroachment permit pursuant to this section shall file an application with the Department, in the form prescribed by the city, together with that part of the non-refundable application processing fee established by Council resolution. The full fee shall be paid on demand from the City and shall be in an amount established by the City Manager as necessary to recover all reasonably related costs incurred by the city to review and process the application.

(Prior Code, § 18-8-3)

§ 151.129 FEES.

In addition to the non-refundable encroachment permit application processing fee which covers the cost of reviewing and processing the application, the inspection fees which cover the cost of inspection of the construction, work, or installation to ensure it meets all city requirements and a fee to recover all of the reasonable costs associated with construction, maintenance, and operation of a permittee's facilities in the highway, including but not limited to all reasonable costs associated with damage that is directly or indirectly caused to the highway; persons subject to this permit shall also pay the license application processing fees and other fees pursuant to the cable television license issued by the city which shall represent a fair return to the public for use of public property.

(Prior Code, § 18-8-4)

UTILITIES, CLASS 7

§ 151.140 UTILITIES ENCROACHMENT PERMIT.

(A) *Application process.* Any person desiring an encroachment permit pursuant to this section shall file an application with the Department in the form prescribed by the city, together with that part of the non-refundable application processing fee established by Council resolution. The full fee shall be paid on demand from th city and shall be in an amount established by the City Manager as necessary to recover all reasonably related costs incurred by the city to review and process the application.

(B) *Special terms and conditions for the encroachment permit described in this section.* In addition to the general terms and conditions for all encroachment permits listed above, permits issued pursuant to this section shall also comply with the following conditions: All utility lines pipes, conduits and facilities and appurtenances thereto shall be placed underground except stations and high voltage lines, 69 kv and greater and except in exceptional circumstances where the Department finds there is no feasible method to accomplish the purpose of the item for which the request is made underground.

(C) *Fees.*

(1) Entities subject to this permit shall pay:

(a) The encroachment permit application processing fee which covers the cost of reviewing and processing the application provided, however, public utility corporations, counties, state agencies and adjacent cities, for conformity, will not be required to pay the permit application processing fee;

(b) The inspection fee which covers the cost of inspection of the construction, work, or installation to insure it meets all city requirements;

(c) A fee to recover all of the reasonable costs associated with construction, maintenance and operation of permittee's facilities in the highway, including but not limited to all reasonable and supportable costs associated with the damage caused to the highway; and

(d) In addition to the permit fees, the permittee shall also pay such use fees as spelled out in their use agreement with the city.

(2) Each of these fees will be established by Council resolution provided however that application processing fee may be established based on cost as set forth hereinabove.

(D) *Examples.* Examples of utilities for which this permit would be applicable would be non-city owned or operated water, sewer, irrigation, effluent, electric, and gas lines.

(Prior Code, Art. 18-9)

OTHER STREET EXCAVATION PERMITS

§ 151.150 STREET EXCAVATION ENCROACHMENT PERMIT, CLASS 8.

This permit provided for by this section applies to any person desiring to place, in stall construct, operate or maintain any pipe, equipment, lines, cable or other facilities in, upon or under the surface of any highway, public place, street or right-of-way but for which use not of the other classes of encroachment permit is deemed applicable.

(A) *Purpose and findings.* The City Council recognizes the findings set forth hereinabove in § 151.081 and finds them relevant and applicable to licenses and encroachment permits for all street excavation encroachment permits regulated by this section of the code.

(B) *Application process.* Applications for permits pursuant to this section shall be processed, conditioned, and approved in the same manner as any one of the above listed encroachment permits as determined by the Department.

(C) *Fees.*

(1) Entities subject to this permit shall pay:

(a) The encroachment permit application processing fee which covers the cost of reviewing and processing the application;

(b) The inspection fee which covers the cost of inspection of the construction, work or installation to insure it meets all city requirements;

(c) A fee to recover all of the reasonable costs associated with construction, maintenance, and operation of permittee's facilities in the highway, including but not limited to all reasonable costs associated with damage caused to the highway; and

(d) In addition to the permit fees, the permittee shall also pay use fees as set forth in the encroachment permit or in any use agreement with the city required as a condition of this encroachment permit.

(2) Each of these fees will be established by Council resolution, provided however the application processing fee may be established based on cost as set forth hereinabove.

(Prior Code, § 18-10)

§ 151.999 PENALTY.

Any person violating any of the provisions of this chapter shall severally, for each and every such violation and non-compliance, be punished as provided in City Code Ord. O87-07-004.

(Prior Code, § 18-2-15)

APPENDIX A: PUBLIC WORKS ENCROACHMENT AND INSPECTION

1. Encroachment permit

a. Class 1 encroachment permit application base fee [§§ 151.030 to 151.035]: $75.

b. Class 2 encroachment permit application base fee [§§ 151.050 to 151.054]: $75.

c. Class 3 encroachment permit application base fee [§§ 151.065, 151.066]: $75.

d. Class 4 encroachment permit application base fee [§§ 151.080 to 151.090]: $75.

e. Class 5 encroachment permit application base fee [§§ 151.105 to 151.113]: $75.

f. Class 6 encroachment permit application base fee [§§ 151.125 to 151.129]: $75.

g. Class 7 encroachment permit fee [§ 151.140]: $75.

h. Class 8 encroachment permit fee [§ 151.140]: $75.

2. Cable television license application base fee [§§ 151.125 to 151.129]: $5,000.

3. License applications base fee for all encroachment licenses, except cable: $2,000.

4. Penalty assessment for failure to obtain encroachment or street cut permit: $1,000.

5. Pavement damage restoration fee: (reserved).

6. Within two years of construction of new streets, renovation or reconstruction of a street:

For each cut: (per square yard of cut): $30.

For cuts within the first two years, the fee is in addition to the requirement for street sealing in accordance with City Code § 151.009 (per sq. yd. of cut).

7. After construction of new streets, renovation or reconstruction of a street:

For Each Cut: (per square yard of cut): $30.

8. From three to five years after construction of new streets or renovation of a street: $25.50.

9. From five to ten years after construction of new streets or renovation of reconstruction of a street: $20.

10. Within one year prior to a city street renovation or reconstruction project approved in the capital improvement program of the city's annual budget: No charge.

The minimum fee shall be based on one square yard. If a pavement cut is so extensive, or the cuts in one area are so numerous that the permittee prefers to perform a renovation (major rehabilitation) of the street in accordance with the Public Works Department requirements, or the full width of any impacted lane and the full length of any cuts plus pavement seal as required to reconstruct the street to the satisfaction of the Public Works Department.

11. If a pothole cut is done in advance of construction that will remove that portion of the pavement within a reasonable time as specified by the Public Works Department, no fee will be charged.

12. Plan review fees:

a. Fees for review of plans and specifications for parcels of ground to be fully developed with this submittal shall be as follows:

ACRES	***FEE***	***ADDITIONAL FEE/ACRE***
Up to 10 acres	$250	+ $75 per acre
10-25 acres	$1,000	+ $65 per acre
25-50 acres	$2,000	+$40 per acre
50 acres	$3,000	+ $30 per acre

b. Fees for review of plans and specifications for parcels of ground which are to be subdivided into large sections for future development and for which the major infrastructure only is to be developed with this submittal shall be as follows:

ACRES	***PLAN REVIEW FEE***	***ADDITIONAL FEE/ACRE***
Up to 10 acres	$62.50	$18.75
10-25 acres	$250	$16.25
25 to 50 acres	$500	$10
50 acres	$750	$7.50

c. Fees for review of plans and specifications for the individual developments within the parcels shall be charged in accordance with division 12.a. above, except the acreage used for fee computation shall not include perimeter rights-of-way which have been previously dedicated and approved.

d. Fees for review of the plan revisions which are initiated by the developer or required due to an error or oversight of the developer after plans have been approved by the Public Works Department, shall be charged the flat rate for each revision or set of revisions reviewed: $100.

13. Street clean up fee [§ 152.078] non-refundable: $100.

14. Application for disposition of roadway or easement [§ 152.232]

a. ROW vacation application fee (developed residential): $400.

b. ROW vacation application fee (non-residential): $500.

c. ROW appraisal fee (deposit of $200 required): actual cost.

15. Reimbursement agreement transaction fee [§ 152.142]: 5% of agreement amount.

16. Median and street light construction buy-in assessment [§§ 152.155 to 152.158 and §§ 152.215 to 152.217]

1/2 FRONT FOOT	***PER FOOT***
a. Median construction	$10.50 LF
b. Street lighting in median	$100 LF
c. Landscaping in median	$1.75 SF
d. Street lighting behind curb	$9 LF

17. Inspection and testing fees [§ 152.077]

PAVEMENT	***UNIT***	***FEE/UNIT ($/UNIT)***
Paving public right of way/private streets & drives	SY	$0.26
Parking areas	SY	$0.07
Overlay (all)	SY	$0.09
Alley surface	SY	$0.26
Street sign bases	EA	$10
Street sign (city)	EA	$80
Mill & overlay	SY	$0.18

CONCRETE	***UNIT***	***FEE/UNIT ($/UNIT)***
Driveway or alley entrance	EA	$19.57
Valley gutter	LF	$0.26
Apron	EA	$8
Curb and gutter	LF	$0.14
Sidewalk	SF	$0.05
Catch basin	EA	$22.25
Sidewalk ramp	EA	$17

WATER	***UNIT***	***FEE/UNIT ($/UNIT)***

Water pipe (4" or larger)	LF	$0.41
Water services	LF	$0.35
Pavement cut	SY	$17.40
Tapping sleeve and valve	EA	$60
Landscape irrigation system with backflow device	EA	$35
Fire line	LF	$0.41

SEWER	***UNIT***	***FEE/UNIT ($/UNIT)***
Sewer pipe (8" or larger)	LF	$0.42
Sewer service	LF	$0.31
Manhole	EA	$31.50
Pavement cut	SY	$17.40
Cleanout/drop connection	EA	$31

DRAINAGE	***UNIT***	***FEE/UNIT ($/UNIT)***
Retention basin (grading)	ACRE	$50
Irrigation pipe	LF	$0.78
Stormwater pipe (including box culverts)	LF	$0.84
Headwalls	EA	$31
Pavement cut	SY	$17.40
Drywells	EA	$56
Stormwater retention pipe	LF	$0.84

UTILITIES	***UNIT***	***FEE/UNIT ($/UNIT)***
Utility trenching in ROW/easement	LF	$0.16
Boring	EA	$15
Pavement cut	SY	$20
Service drops	EA	$15
Offsite after hours inspection	HR	$73

PERMITS	***UNIT***	***FEE/UNIT ($/UNIT)***

~~Permit application fee (non-refundable)~~	~~EA~~	~~$75~~

CHAPTER 152: PROPERTY DEVELOPMENT; OFF-SITE CONSTRUCTION IMPROVEMENT REQUIREMENTS

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GENERAL PROVISIONS

§ 152.001 DEFINITIONS.

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

DEVELOPER. The individual, firm, corporation, association, syndicate, trust, or other legal entity that files the application and initiates proceedings for the development of land, including but not limited to a subdivision, minor division of land, site development plan, and/or a zone change in accordance with this code. The ***DEVELOPER*** need not be the owner of record of the land.

MEDIAN. A raised or flush area designed to separate and control vehicular movement.

OFF-SITE CONSTRUCTION. Construction, erection, or installation or any change or addition to lands, structures, equipment, facilities, or materials located above or below ground within any street, alley, easement, or rights-of-way in the city. ***OFF-SITE CONSTRUCTION*** includes construction of improvements on private property which will later be dedicated to the city or which will serve as community infrastructure even though remaining private property.

OFF-SITE IMPROVEMENT. Those improvements, infrastructure, or facilities a developer is required to or does construct or install in conjunction with the development or redevelopment of any property and any off-site construction, including common infrastructure, adjacent to or related to property for which a city permit is being sought for purposes of development, redevelopment, or construction. On-site retention basins and other drainage facilities, overhead utility lines, water lines, or pipes four or more inches in diameter, sewer lines or pipes eight or more inches in diameter, together with water and sewer services and their appurtenances, shall be deemed ***OFF-SITE IMPROVEMENTS*** as regulated by this chapter of the code.

OVERHEAD UTILITY LINES. Those historically conveyed by a series of conductors mounted on poles or other above ground structures. Included are electric service lines, electric distribution lines (under 69 kilovolt), telephone cables and lines, and lines for other communications systems such as cable-transmitted television.

PRIVATE STREET. A street not owned or maintained by the city.

RIGHT-OF-WAY. Any land which by deed, conveyance, agreement, easement, dedication, usage, zoning condition, process of law,

or other means is reserved for or dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes and accepted by the city.

UNDERGROUND or ***UNDERGROUNDING.*** The placement of utilities at or below ground with the attendant removal of aboveground poles, conductors, and appurtenances as applicable.

(Prior Code, Art. 19-1)

§ 152.002 DESIGN REQUIREMENTS.

(A) All off-site improvements shall be designed, engineered, constructed, and installed in accordance with the regulations adopted in § 150.001 of the city code and with all other applicable regulations adopted by the city, state or federal government.

(B) Right-of-way width and street cross section shall be as specified in the City Code and the Planning and Zoning Regulations.

(C) The Public Works Director shall determine street classifications.

(Prior Code, Art. 19-2)

REQUIRED IMPROVEMENTS

§ 152.015 GENERAL PROVISIONS.

As a condition of approval of any subdivision, minor division of land, or site development plan, the developer shall be required to design, engineer, construct, and install all off-site improvements on and adjacent to the site to be developed, in accordance with the requirements set forth in the city code and the zoning code and regulations, the encroachment permit code, and this chapter. This requirement applies to all land developed or redeveloped under the provisions of any of the above listed chapters.

(Prior Code, Art. 19-3)

§ 152.016 IMPROVEMENT EXTENSIONS.

Improvements shall, as a minimum, extend to the center of abutting streets or rights-of-way and may extend beyond the center when median islands and two-way traffic requirements necessitate an extension. When the property to be redeveloped abuts a canal, drain, wash, irrigation ditch, or similar facility, the off-site construction shall include full improvements to the facility.

(Prior Code, § 19-3-1)

§ 152.017 IMPROVEMENT INCLUSIONS.

Improvements shall also include tapers or transitional areas on either side of the project site necessary to provide a safe, smooth traffic flow between existing and newly constructed street sections. Any additional right-of-way necessary for the construction, including applicable legal fees, shall be the responsibility of the developer.

(Prior Code, § 19-3-2)

UNDERGROUNDING OF OVERHEAD UTILITY LINES.

§ 152.030 GENERAL PROVISIONS.

(A) The developer shall place underground all overhead utility lines, either within a proposed development or redevelopment project or within public rights-of-way or easements adjacent to the project, prior to issuance of a certificate of occupancy. This requirement

shall apply to all projects submitted for approval or re-approval under the provisions of the site development in the zoning code. Utility poles and lines are defined herein as the poles, structures, wire, aerial cables, and related facilities used in the distribution of electricity or in the transmission of telecommunications, telegraph, data, radio, or television communications. This requirement includes both new and existing utility lines on and adjacent to the project, including lines which extend across public streets, alleys, and/or easements adjacent to the property being developed or redeveloped. Existing utility lines adjacent to a project shall be under-grounded up to the first existing pole beyond the limits of the property. This requirement includes the undergrounding of all existing overhead service lines attached to the lines to be removed along with necessary conduit, supports, restoration and the like, necessary to convert the service line from overhead to underground. The requirement shall apply regardless of the existence of easements for overhead lines. When high-voltage power lines (above 12 KV or similar) are present, all lines other than the high-voltage lines shall be placed underground.

(B) Equipment appurtenant to the underground facilities, such as surface-mounted transformers, pull boxes, pedestal cabinets, service terminals, telephone splice closures, concealed ducts, or other similar on-the-ground facilities normally used with or as design approved by the Public Works Director, may be maintained above ground with the written permission of the Public Works Director for the specific facility to be left above ground.

(C) The developer or owner of a development or redevelopment project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including the payment of any cost therefore as a condition of plan approval. Nothing contained herein is intended to obligate a providing utility company to install the underground facilities without reimbursement.

(D) In those instances where poles to be removed include street lights, the street lights will be replaced with freestanding poles by the developer in accordance with current street light standards.

(E) Relief from undergrounding requirements may be considered under the following conditions.

(1) Deferment of undergrounding may be requested by a developer in cases where the utility frontage is small (generally less than 1,000 feet in length). When deferment is approved, the developer shall obtain an estimate of undergrounding costs from all affected utility companies. The developer shall then be required to provide a cash deposit, letter of credit, certificate of deposit, or other security acceptable to the City Attorney, in an amount equal to the estimated under-grounding costs, as provided by the utility company, associated with the utility frontage of the project. The developer shall also be required to install the ductwork (conduit) required by the utility companies for the future undergrounding prior to issuance of certificate of occupancy. Phasing of projects will be considered based on the particular situation. On projects for which plans are approved in phases, the developer may request delay in payment of estimated costs until approval of plans for the largest phase involving undergrounding, at which time payment for the entire project shall be required. The obligation to pay at the time of a subsequent phase shall be secured by an agreement which shall bind the owner and subsequent buyers for undergrounding costs along the entire applicable frontage. Monies received will be held in an account by the city to be used at whatever time the applicable area is converted by the city, utility companies, or other parties to underground utilities.

(2) Exemption may be considered where the developer can show that undergrounding will be an unusual economic hardship and the costs of the undergrounding are disproportionate in terms of the utility frontage and the proportionate frontage of the project under consideration. Examples are cases where development occurs in an area where adjacent land on both sides is already developed (infill situation), and in cases involving additions or modifications to existing sites which represent a minor portion of the total site.

(3) All requests for relief must be presented in writing to the Planning and Development Director prior to plan approval. Consideration for approval shall be in accordance with the purpose, intent, and objective of this section. The Planning and Development Director shall approve or disapprove all formal requests for relief. High-voltage lines which remain after the undergrounding are not considered as grounds for relief. Aesthetics is only one of many reasons for undergrounding of which public safety is paramount. Completion of undergrounding and/or payment of costs shall be required prior to granting of a certificate of occupancy. All new service lines installed shall be underground even though relief may be granted for adjacent existing lines.

(F) The requirements set forth above shall not apply to new utility poles and wires erected for purely temporary purposes such as providing temporary building construction power, emergency power, telephone service, or the furnishing of power to temporary outdoor activities. A permit for the temporary use shall be obtained from the Public Works Director. The length of the temporary use shall be specified in the permit and may not exceed six months. An additional six-month permit may be issued upon a finding of necessity by the Public Works Director.

(Prior Code, Art. 19-4)

OFF-SITE CONSTRUCTION; PERMITS, PLANS, AND SPECIFICATIONS

§ 152.045 GENERAL PROVISIONS.

(A) The developer must obtain an encroachment permit in accordance with Chapter 151, prior to commencing any work in or on the city highway, street, public property, or right-of-way. In addition, plans and specifications for and construction of all off-site construction must be reviewed and approval obtained pursuant to this chapter.

(B) Approval of off-site construction plans and specifications is required by the Public Works Department prior to issuance of an encroachment permit for off-site construction.

(Prior Code, Art. 19-5)

§ 152.046 PLAN AND SPECIFICATION CONTENTS; PROCEDURE FOR APPROVAL.

(A) Plans and specifications shall be submitted indicating that off-site improvements are planned for the project in conformance with city code, standards, regulations, and requirements. These off-site improvement plans and specifications shall be submitted in triplicate with all other building plans and applications together with the plan review fee established by Council resolution. The developer must obtain written approval from the Public Works Director for all off-site improvement plans and specifications prior to issuance of a building permit, encroachment permit, or other permit necessary to commence work.

(B) The off-site construction plans and specifications shall be prepared and signed by a professional engineer who is qualified and registered by the State of Arizona to practice in the particular field of competency required by the type of improvements.

(C) Engineering plans and specifications shall be in conformance with accepted engineering practice and shall conform to the City Code, regulations, and requirements, and be prepared to the satisfaction of the Public Works Director. Vertical and horizontal control surveys shall be tied and referenced or two existing city-approved benchmarks and two section corners or quarter corners. Incomplete or partial submittals will not be accepted.

(Prior Code, § 19-5-1)

§ 152.047 SUBSEQUENT PLAN REVIEW.

Plans submitted more than three times to gain acceptance shall not be further reviewed until an additional plan review fee of one-third the amount of the first plan review fee is paid to the city for each subsequent review.

(Prior Code, § 19-5-2)

§ 152.048 APPROVAL.

(A) Approval of off-site construction plans and specifications shall be valid as basis to issue construction permits for a period not to exceed one year after date of approval. Approval of off-site plans and specifications shall continue to be valid provided construction has commenced and that no suspension or abandonment of the work has occurred. Plans for which construction is not started within one year shall be resubmitted and shall be deemed a new submittal and all fees and charges shall apply.

(B) Approval of plans and specifications by the Public Works Director does not relieve the design professional of responsibility for errors or omissions and for the correction of them and liability caused by their occurrence unless they were required to be added or omitted by the Public Works Director.

(Prior Code, § 19-5-3)

FEE FOR REVIEW OF OFF-SITE IMPROVEMENT PLANS AND SPECIFICATIONS.

§ 152.060 GENERAL PROVISIONS.

(A) Plan review fees in an amount established by Council resolution shall be paid at the time plans are submitted. The plan review process shall be deemed started at the time first submission of preliminary or final subdivision or site plans are accepted for review by

the Public Works Director or his or her designee, and the plan review fee shall be paid before any review action is undertaken.

(B) Fees shall be based on acreage being developed, and acreage shall be computed and certified by the developer's engineer to include all lands being developed including adjacent rights-of-way improved and the computation shall be submitted together with the off-site improvement plans.

(Prior Code, Art. 19-6)

§ 152.061 PREVIOUSLY DEVELOPED LAND.

Fees for lands previously developed or included in a previously approved development shall be computed based on the net acreage of the site (not including previously dedicated and improved rights-of-way and easements).

(Prior Code, § 19-6-1)

§ 152.062 DOUBLE FEE.

Failure to secure a permit for off-site construction prior to commencing work will result in a charge of double the amount of the regular fee.

(Prior Code, § 19-6-2)

§ 152.063 WAIVING OF FEE.

Fees associated with city projects may be waived by the Public Works Director if the project is required by the city and in the city's best interest. In certain demonstrated hardship cases fees may be waived at the discretion of the Public Works Director.

(Prior Code, § 19-6-3)

INSPECTION AND TESTING OF OFF-SITE CONSTRUCTION

§ 152.075 GENERAL PROVISIONS.

During off-site construction the city shall provide construction review, including testing of materials, to assess conformity to current city standard specifications and drawings.

(A) Inspection of the work by the Public Works Director or his or her designee shall not be considered as direct control of the individual worker and the work. The direct control shall be solely the responsibility of the contractor.

(B) Any work done or materials used without inspection and testing or test results approved by an authorized representative of the city may be ordered removed and replaced. Failure to reject any defective work or materials shall not in any way prevent later rejection when the defect is discovered nor obligate the Public Works Director to final acceptance.

(C) The Public Works Director, for the purpose of expediting and facilitating the progress of the work, shall not inspect all materials, and each part or detail of the work. The Public Works Director shall be furnished at any time with such information and assistance by the contractor as is required to make a complete and detailed inspection.

(D) No work will be accepted which is installed prior to dedication of rights-of-way.

(Prior Code, Art. 19-7)

§ 152.076 TIME LIMIT.

Completion of off-site construction within the public rights-of-way under permit shall be accomplished within one year after issuance

of the permit unless otherwise specifically stated in the permit. This period may be extended if a hardship is acknowledged by the Public Works Director for economic reasons, strikes, unavailability of materials, unseasonable weather, or other good and sufficient cause. If an extension of time is not granted, the plans shall be resubmitted for review and a new permit covering the remaining work to be completed shall be required. Fees required under the review and new permit shall be charged according to the fee schedule in effect at the time the new review is requested or new permit is issued.

(Prior Code, § 19-7-1)

§ 152.077 FEES FOR INSPECTION AND TESTING.

(A) Fees for inspection and testing shall be paid to the city at the time a permit is issued for construction work. The fee shall be computed on the basis of costs per unit of the various construction items and shall be outlined in the current fee schedule adopted by Council resolution. Quantity estimates of the various items involved shall be calculated and certified by the engineer who prepared the plans and specifications for the improvements and shall be submitted to the Public Works Director or his or her designee on forms supplied by the city at the time application for a permit for the work is made.

(B) Any repetition of tests or inspection required because of inferior materials or workmanship, as determined by the city-approved test, shall be performed at the developer's expense and shall be paid to the city by the developer when notified by the Public Works Director or his or her designee. This service does not relieve the contractor for the discovery of errors, and the correction of them, nor of the responsibility of properly performing the work.

(Prior Code, § 19-7-2)

§ 152.078 STREET CLEANUP FEE.

A refundable street cleanup fee will be charged to the developer at the time of plan submittal review. The fee will be in an amount established by separate resolution. It shall be the developer's to ensure that cit streets are maintained free of construction debris.

(A) City Inspectors will provide the developer with written notice when violations are observed. The developer shall have four hours, from the time of written notice receipt, to remove the debris. Failure to respond shall result in the levying of an assessment against the fee in the amount of the city's cost for street cleanup, including an initial administrative charge as set by resolution.

(B) Upon subdivision/site build-out and the filing of a notice of termination with the environmental protection agency, the cleanup fee will be refunded less any charges, including the administrative charge. If the fee was depleted and additional cleanup was required, the outstanding balance will be collected prior to final inspection.

(Prior Code, § 19-7-3)

APPROVAL, ACCEPTANCE, AND ASSURANCES OF CONSTRUCTION

§ 152.090 GENERAL PROVISIONS.

Upon completion of all improvements in accordance with the city standards, the Public Works Director or his or her designee shall acknowledge in writing acceptance of the off-site improvements. Acceptance shall be conditioned upon a one-year warranty for workmanship, materials, and equipment by the developer. After the lapse of the one-year period dated from the letter of acceptance, the improvements shall be considered the maintenance responsibility of the city. If, during the one-year period, the developer is required to replace or repair any improvements, the developer shall secure a new encroachment permit without payment of fee to cover the necessary work. Plans and specifications together with the plan review fee for the replacement or repair shall be submitted for review and approval unless waived by the Public Works Director or his or her designee.

(Prior Code, Art. 19-8)

§ 152.091 PARTIAL ACCEPTANCE.

If, at any time during the prosecution of the project, the contractor substantially completes a unit or portion of the project, such as a structure, utility service, or a section of the road pavement, the developer may request the Public Works Director or his or her designee to make final inspection of that work. If the Public Works Director or his or her designee finds, upon inspection, that the work has been satisfactorily completed in compliance with plans and specifications, he or she may conditionally accept the work as being completed. Acceptance in such cases is conditional on the remaining work being completed without damage and including any final grading adjustments or other minor work. The partial acceptance shall in no way void or alter any plans and specifications.

(Prior Code, § 19-8-1)

§ 152.092 FINAL ACCEPTANCE.

(A) Upon due notice from the contractor of presumptive completion of the entire project, the Public Works Director or his or her designee will make an inspection. If all construction provided for and contemplated by the plans and specifications is found completed to the satisfaction of the Public Works Director or his or her designee, that inspection shall constitute the final inspection and the Public Works Director or his or her designee will make the final acceptance. The contractor will be notified in writing of this acceptance as of the day of the final inspection.

(B) If, however, the inspection disclosed any work, in whole or in part, as being unsatisfactory, the Public Works Director or his or her designee will give the contractor the necessary instructions for correction of same, and the contractor shall immediately comply with and execute the instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In that event, the Public Works Director or his or her designee will make the final acceptance and notify the contractor in writing of the final acceptance as of the date of the last and final inspection.

(Prior Code, § 19-8-2)

PERFORMANCE BOND OR CASH DEPOSIT; OFF-SITE IMPROVEMENTS

§ 152.105 GENERAL PROVISIONS.

(A) The Community Development Department, building inspection division, shall deny final approval and certificate of occupancy of any building until the required off-site improvements are completed and have been inspected and approved by the Public Works Director, unless performance of the off-site improvements is guaranteed by a performance bond, approved by the City Attorney and the Public Works Director, or a cash deposit is made with the city in an amount fixed by the city. Under such circumstances, the Public Works Director will grant a conditional acceptance. Warranty period will not begin until the date of final (unconditional) acceptance.

(B) The city may require an occupancy clearance agreement to document the requirements of this section. Model homes may be occupied for sales purposes only subject to the occupancy clearance agreement and satisfactory off-sites to service the models as approved by the city.

(Prior Code, Art. 19-9)

§ 152.106 TIME TO COMPLETE WORK.

The developer shall complete work required in the approved off-site improvement plans within 30 calendar days after issuance of the conditional acceptance by the Public Works Director.

(Prior Code, § 19-9-1)

§ 152.107 BOND RETURN.

(A) The performance bond or cash deposit or a portion thereof shall be retained by the city to provide completion of the work should the developer fail or refuse to do so as in § 152.091.

(B) The performance bond or cash deposit or unused portion thereof shall be returned to the depositor upon the approval of the Public Works Director after completion and acceptance of the off-site improvements. Acceptance in such cases is conditional upon the remaining work being completed without damage to the off-site improvement so accepted and including any final grade adjustments or other minor work.

(Prior Code, § 19-9-2)

VALIDITY OF PERMIT

§ 152.120 GENERAL PROVISIONS.

(A) The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which is authorized is lawful.

(B) The issuance of a permit based upon plans and specifications shall not prevent the Public Works Director from requiring correction of errors in the plans and specifications or from preventing construction operations from being carried on there under when in violation of this code or of any other ordinance of the city.

(Prior Code, Art. 19-10)

DEFERRAL OF OFF-SITE IMPROVEMENTS

§ 152.135 GENERAL PROVISIONS.

The Public Works Director may direct that construction of off-site improvements, or portions thereof, be deferred when the improvements are impractical or premature because of traffic conditions, unavailability of necessary right-of-way, the potential for creation of scalloped streets, or other conditions detrimental to orderly development, and/or because of the known and acknowledged formation or pending formation of an improvement district. Engineering plans for all off-site improvements shall be prepared, submitted, and approved in accordance with § 152.030, whether or not construction is deferred. Common infrastructure plans will not be required unless determined by the Public Works Director to have a direct impact on the abutting off-sites, such as a bridge or railroad crossing on or adjacent to the parcel to be developed. Plans will include an analysis of drainage and establishment of grades on both sides of the roadway for a minimum of one-fourth mile beyond the project limits in each direction unless waived or reduced by the Public Works Director. The developer of the property for which a deferral has been issued shall enter into an agreement with the city which shall be recorded to run with the land, and shall post an assurance as set forth below to guarantee the required improvements will be constructed when directed by the Public Works Director.

(Prior Code, Art. 19-11)

§ 152.136 NOTICE TO PROCEED.

The Public Works Director will give written notice to proceed with the construction of the improvements previously deferred when necessitated by road condition, current or projected traffic, adjacent construction, or other conditions which require additional access. The developer shall start construction of the improvements within 90 calendar days from the date of the notice and shall conclude the construction within a reasonable time, but in no event longer than 180 days from the beginning of construction, in accordance with plans approved by the city. If the developer fails to construct any of the off-site improvements when directed, or fails to timely complete construction of the off-site improvements, the city may construct the improvements, or may complete construction of the improvements, and obtain payment therefore from the surety issuing the assurance. The developer's obligation will be satisfied when all required improvements have been constructed by the developer or another party, or when all required improvements have been constructed by an improvement district formed at the discretion of the city.

(Prior Code, § 19-11-1)

§ 152.137 PERFORMANCE BOND.

The Public Works Director shall require the posting of performance bonds, letters of credit, assurances, or such other security as may be appropriate and necessary to assure the installation of all off-site improvements whenever a deferral of construction has been issued or project phasing will permit occupancy of any structure prior to final acceptance of all improvements. The security shall remain in full force and effect until such time as all required off-site improvements are constructed and accepted. In the case of projects which are divided into a number of large parcels subject to additional subdivision at a later time, only the major infrastructure necessary to serve all parcels and adjacent land shall be subject to these requirements. The form of the assurance must be acceptable to the City Attorney and will be in an amount fixed by the Public Works Director. Receipt of an acceptable assurance will be required at the time of approval of improvement plans.

(Prior Code, § 19-11-2)

§ 152.138 PARTIAL CONSTRUCTION.

When it is impractical for the city to accept a financial assurance because the schedule for city improvements is undetermined or unreasonably far into the future, or if for any other reason the improvements are constructed by the developer, the Public Works Director will order the construction of one or both sides of sufficient roadway necessary to ensure an orderly traffic flow. The cost of construction of improvements beyond the center of abutting streets or beyond the property limits (other than tapers and other transitional items) shall be applied toward the amount of the developer's total obligation set forth in the benefit study, or the developer may enter into a reimbursement agreement with the city to recover costs from other developers as prescribed in § 152.142 below.

(Prior Code, § 19-11-3)

§ 152.139 BENEFIT STUDY.

The benefit study shall be utilized as the basis of determining a developer's full off-site improvement obligation. Use of the benefit study is required to ensure that the costs of the common infrastructure are equitably borne by all property owners in the subject study area. The amount and the purpose of the obligation for each property owner shall be stated in the benefit study subject to adjustment for inflation based on the ENR Construction Cost Index published by McGraw-Hill, Inc., and actual construction costs. When development occurs in areas which have not been included in benefit studies, the obligations will be estimated by the Public Works Director or, at the developer's option, may be determined by a developer-funded benefit study.

(Prior Code, § 19-11-4)

§ 152.140 CREDIT.

(A) When improvements are developer-constructed, the developer will be credited for the improvements he or she constructs against the developer's obligation set forth in the benefit study. Improvements for which credit is applied must be those set forth in the benefit study, but need not be those specific obligations set forth for any particular property. Where possible, the credit will be established with physical quantities such as lineal feet of curb and gutter, square feet of asphalt and the like. Where physical quantities cannot be established, such as portions of railroad crossings, portions of canal improvements and the like, the obligation to be met shall be the estimated current value for the item as set forth in the benefit study.

(B) The benefit study analysis and determination of credit for work performed will be accomplished by the city's benefit study consultant at developer expense. If the improvements to be installed by the developer do not satisfy the full obligation of the property as set forth in the benefit study, the developer may:

(1) Install additional improvements, credited at values established by the benefit study as opposed to actual costs, up to the value of the developer's full obligation;

(2) Pay the cash differential which will be held in a trust account for use only for the designated improvements; or

(3) Provide an appropriate security, approved by the City Attorney, to guarantee construction of the remainder of the developer's obligation when determined necessary by the Public Works Director as set forth in division (B)(2) above.

(Prior Code, § 19-11-5)

§ 152.141 CITY PARTICIPATION.

When development occurs prior to initiation of city improvements, the city will not be obligated to participate in the developer's off-site construction costs; however, when funds budgeted for city participation in the developer's off-site improvements are available, the City Council may authorize the use of the funds to defray the developer's common infrastructure costs. The amount of the defrayal shall not exceed the amount of city participation set forth in the benefit study for the developer's property.

(Prior Code, § 19-11-6)

§ 152.142 REIMBURSEMENT AGREEMENT.

When the value of improvements constructed exceeds the developer's obligation as determined by the benefit study, the developer may be entitled to enter into a reimbursement agreement with the city to provide for recovery of costs from others who develop later on land adjacent to the streets constructed by the developer. In those cases where existing development will preclude property owner reimbursement, the City Council may authorize reimbursement from city funds subject to availability of funds. The Public Works Director shall determine the amount of improvements eligible for reimbursement, and the determination shall be made a part of the agreement. Reimbursement shall be made on the basis of the benefit study. Procedures for establishing agreements and collection and payment of buy-ins shall be as set forth in § 152.048.

(Prior Code, § 19-11-7)

STREET FINANCING POLICY

§ 152.155 GENERAL PROVISIONS.

The cost of all improvements of streets located on or adjacent to new subdivision areas to be developed or redeveloped shall be the full responsibility of the developer, except that when improvements are constructed under improvement district financing.

(Prior Code, Art. 19-12)

§ 152.156 STREET IMPROVEMENT COSTS.

The cost of street improvements adjacent to already developed areas and within or adjacent to new subdivisions or developing areas, whether platted or unplatted, shall be as set forth below.

(Prior Code, § 19-12-1)

§ 152.157 LOCAL.

The cost of improvements to local and minor collector streets shall be the responsibility of the abutting property owners.

(Prior Code, § 19-12-2)

§ 152.158 COLLECTORS AND ARTERIALS.

The cost of improvements to major collector and minor and major arterial streets shall be as follows.

(A) Where street improvements have not been previously constructed in accordance with city standards, the abutting property owners shall be responsible for costs of all improvements to city standards to the street centerline adjacent to the property, including but not limited to curbs, gutters, sidewalks, asphaltic pavement, tree removals, ditch removals, scuppers and retention basins, irrigation piping, and structures. Where applicable, the property owner shall share with other property owners the cost of streetlights, traffic-control devices, striping, landscaping, intersection construction, temporary pavement, pavement transitions, and miscellaneous removals.

(1) Where medians are required, the owner of the property first developing shall install the full median, including curbing, street lighting, and landscaping. The developer required to install a full median may request the city to enter into an agreement providing for reimbursement of that portion of the costs which would have been the responsibility of subsequent developers. Reimbursement shall be made on the basis of front footage as determined by the Public Works Director at the rate of half the front foot current cost less the reimbursement transaction fee established by Council resolution which shall be retained by the city to cover administrative costs.

(2) Reimbursement shall be made by the city upon receipt of payment from the adjacent or abutting property owners. The agreements shall be requested of the city by the developer within one year from the date of acceptance of the improvements and shall run for a period not to exceed 15 years from the date of execution by the Public Works Director, who is hereby authorized to execute the agreements in accordance with the provisions of this section. The agreements shall automatically terminate at the end of the 15-year period. The Public Works Director shall establish in July, on an annual basis, the current cost of construction medians, streetlight, and landscaping installations to be used in determining reimbursement charges. Such current cost shall include engineering, construction, and inspection costs.

(3) Buy-ins for medians shall be collected by the city only when a valid reimbursement agreement is in force. They shall be paid at the time of plan or plat approval.

(B) Where the abutting property is an owner-occupied single-family residential use, the costs for the improvement shall be calculated on the basis of local street standards for that portion of the property frontage reasonably related to the single-family residential use, and the difference in cost assumed as a responsibility of the city. The abutting property owners shall be responsible for the cost of the 19 feet of pavement nearest the right-of-way property line based upon local street standards together with the necessary curbs, gutters, four-foot-wide sidewalks, and other miscellaneous work required to construct the street improvement.

(C) Where the street improvements have been constructed in accordance with city standards in effect at the time of the construction, the street reconstruction shall be at no cost to the property owner if the construction or reconstruction is initiated by the city or persons other than the property owner.

(D) If the construction or reconstruction is undertaken by the abutting property owner as an improvement to his or her property, the costs shall be borne by the property owner in accordance with this subchapter.

(E) If the construction or reconstruction is initiated by a third party as part of an improvement to an adjacent or nearby property, the cost of construction or reconstruction shall be borne by the third party unless the property owner agrees to assume a share of the improvement costs.

(Prior Code, § 19-12-3)

SCALLOPED STREET ASSESSMENTS

§ 152.170 RESOLUTION OF INTENTION TO ORDER IMPROVEMENTS.

(A) Upon the determination of the City Engineer that the public health, safety, welfare, and convenience requires the construction of streets prior to the development of the adjacent property, a resolution of intention to order the improvement shall be submitted to the City Council for approval as set forth below.

(B) Each property owner that may be subject to any assessments under this subchapter shall receive written notice of the City Council consideration of the resolution of intention described above at least ten calendar days prior to the date of the hearing. An affidavit of mailing of such notice shall be filed in the office of the City Clerk.

(C) If the City Council receives any written objections, prior to acting on the resolution of intention to order improvements, the City Council shall hold a public hearing. The public hearing shall be for the purpose of receiving comment on whether the proposed improvements are required for the public health, safety, welfare, and convenience.

(D) After the public hearing is concluded, the City Council shall determine whether the public health, safety, welfare, and convenience require the street improvements. If the City Council so determines, then the City Council shall adopt the resolution of intention to order the improvement. The determination shall include that the street improvements shall be constructed or improved at city expense. The expense shall be assessed against each property owner in accordance with the provisions of this subchapter.

(E) The resolution of intention to order the improvement shall contain:

(1) A description of the street, road or highway to be improved;

(2) A general description of the proposed improvements, including the estimated total cost and cost per linear foot; and

(3) The estimated cost of assessment for each affected parcel of property.

(F) The City Council's decision on necessity for street improvements and construction shall be final and conclusive, and such decision shall result in the assessment of property under this subchapter, subject to appeal as set forth below.

(Prior Code, § 19-13.1-1) (Ord. O08-07-13, passed 7-10-2008)

§ 152.171 NOTICE OF ASSESSMENTS.

(A) Not more than 20 calendar days after the City Council adopts the resolution of intention to order improvements, the City Engineer or designee shall serve a written notice of assessments, by any means permissible under the Arizona Rules of Civil Procedure, upon each owner of real property adjacent to the improvement and subject to assessment.

(B) The notice of assessments shall contain:

(1) The name, address and tax parcel number of the property owner served;

(2) The total assessment against the property for the proposed improvement;

(C) The notice of assessments shall advise the property owners of their right to submit written objections to the amount of assessment to the city or to appear in person at a public hearing to object to the amount of assessment. Objections shall be filed within 15 calendar days after receipt of the notice of assessments. Upon receipt of an objection, a public hearing shall be scheduled before the City Council on the objections and confirming of assessments. The public hearing shall be at least 30 days after notice was served upon each property owner.

(Prior Code, § 19-13.1-2) (Ord. O08-07-13, passed 7-10-2008)

§ 152.172 ADOPTION AND IMPOSITION OF ASSESSMENTS.

(A) The City Council shall hold a public hearing on all objections to the assessments.

(B) At the public hearing, or at any time thereafter to which the hearing may be continued, the City Council shall hear and rule upon all objections. The decision of the City Council shall be final and conclusive as to all errors, informalities and irregularities which the City Council might have remedied or avoided at any time during the progress of the proceedings. If the City Council determines that the objections should be granted, the City Engineer shall reissue the notice of assessment. If the City Council determines that the objections shall be overruled, the City Council shall adopt an order and resolution overruling all objections and confirming the assessments established by the City Engineer.

(C) The order and resolution confirming the assessments and describing the property against which the assessments are imposed shall be recorded in the office of the Maricopa County Recorder, together with a specific written notice of the assessment containing:

(1) The amount of the assessment;

(2) The legal description of and the tax parcel number of the subject property;

(3) The name of the property owner; and

(4) The conditions that require payment of the assessment.

(D) Upon recording of the order and resolution and notice of assessment, the amount so assessed shall be a lien upon the property assessed until the earlier to occur of:

(1) The date such assessments are paid; or

(2) The date that is ten years after the date of such assessments, and such recording shall be notice to all persons interested in the contents of the record.

(E) Assessments levied against property containing multiple leaseholds may be subdivided by the City Engineer to apply against

each leasehold based on the amount of the leasehold interest compared to the total interest.

(Prior Code, § 19-13.1-3) (Ord. O08-07-13, passed 7-10-2008)

§ 152.173 RIGHT-OF-WAY.

When sufficient right-of-way is not available to perform the improvements ordered pursuant to this subchapter, the City Manager is hereby authorized to obtain the right-of-way upon terms just to the city. If the right-of-way is not dedicated in time before construction commences, the cost to the city to acquire the right-of-way shall be considered an expense attributable to the completion of the improvements.

(Prior Code, § 19-13.1-4) (Ord. O08-07-13, passed 7-10-2008)

§ 152.174 LIMITATIONS ON ASSESSMENTS.

(A) The assessment of property, if adjacent arterial streets are involved, shall not exceed the cost of improving more than one-half of the width and more than 1,000 lineal feet of such adjacent arterial street, except that if any parcel of land is presently being used for single-family residential use and the width of such residential use does not exceed 200 lineal feet, such property shall not be assessed greater than one-half the cost of the average residential property within the city.

(B) The assessment of property shall not exceed the actual expense incurred by the city at the time of construction.

(C) Any assessment under this chapter shall abate if the property has not been developed within ten years of the assessment.

(Prior Code, § 19-13.1-5) (Ord. O08-07-13, passed 7-10-2008)

§ 152.175 COLLECTION; PAYMENT AND SATISFACTION.

(A) The City Manager or designee shall collect any unpaid assessments:

(1) Prior to issuing a building permit for development of any assessed property; and

(2) Prior to permitting access to the street from the assessed property.

(B) The City Manager or designee shall collect any unpaid assessments prior to the City Council or Planning and Zoning Commission approving any request for rezoning or site plan for development of any assessed property.

(C) Assessments levied under this chapter against real property having multiple leasehold interests may be payable in part by each leasehold interest at the time of application for a building permit, conditional permit or special use permit.

(D) The City Manager or designee shall collect any unpaid assessment prior to the City Council's approval of any final subdivision plat which plat will result in a subdivision of property assessed under this subchapter.

(E) The City Manager or designee shall collect any unpaid assessment prior to issuance of any grading permit required for any assessed property.

(F) Upon payment of the assessment in full or in part, a full or partial satisfaction evidencing payment shall be recorded in the office of the Maricopa County Recorder.

(Prior Code, § 19-13.1-6) (Ord. O08-07-13, passed 7-10-2008)

§ 152.176 APPEALS; SEVERABILITY.

The determination of necessity by the City Council resulting in the levying of assessments upon any property under this subchapter may be appealed by the aggrieved party to the Superior Court of Arizona, Maricopa County. In the event any part or portion of this subchapter is declared unenforceable by any court of competent jurisdiction, all other portions of this subchapter not declared unenforceable shall be deemed separate and apart and shall continue to be in full force and effect.

(Prior Code, § 19-13.1-7) (Ord. O08-07-13, passed 7-10-2008)

ACCELERATED PUBLIC IMPROVEMENTS

§ 152.190 POLICY.

The purpose of this subchapter shall be to provide a mechanism by which the city or developers may be repaid the reimbursement amount of the cost of accelerated public improvements by each benefitted party who has received a special benefit from the accelerated pubic improvements, but who has not contributed a pro rata share of the cost of constructing the accelerated public benefit.

(Prior Code, § 19-13.2-1) (Ord. O08-07-13, passed 7-10-2008)

§ 152.191 CONSTRUCTION OF ACCELERATED PUBLIC IMPROVEMENTS.

Prior to a permit being issued for construction of accelerated public improvements for which repayment of reimbursement amount is being requested, the following requirements shall be met:

(A) A diagram describing all property which will be benefitted by any accelerated public improvements to be installed shall be provided to the City Engineer or designee.

(B) The field engineering plans and specifications required for the accelerated public improvement may be prepared by the owner or the city. If prepared by the owner they must be approved by the City Engineer or designee prior to construction. The engineering costs for preparation of plans and staking of the accelerated public improvements only, which are incurred by the person, may be included as determined by the City Engineer or designee in the agreed construction costs as provided in this section.

(C) For any accelerated public improvements that are constructed, the owner shall furnish and install to city specifications all facilities within the boundary of the designated area of the development.

(D) Detailed plans and specifications for accelerated public improvements that are extensions to existing public facilities must be approved by the City Engineer prior to construction. The costs for the preparation of plans and specifications, diagrams and other information required by the owner to comply with §§ 152.190 through 152.195 shall be assumed by the property owner.

(E) The project shall be bid in accordance with the provisions pertaining to public works projects contained in A.R.S. Title 34. The city shall open the bids on a pre-determined date agreeable to the property owner and the city. The city and the property owner reserve the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the city. In the event that the agreed upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the city.

(F) The city will perform the inspection during construction and shall charge the owner for the inspection of the accelerated public improvements. The costs of such inspections may be included in any repayment agreement.

(G) The ownership of all accelerated public improvements upon inspection and acceptance as meeting city standards shall be vested in the city.

(Prior Code, § 19-13.2-2) (Ord. O08-07-13, passed 7-10-2008)

§ 152.192 AUTHORIZATION OF REPAYMENT AGREEMENTS.

(A) Upon development of any property within or outside of the city limits for which a accelerated public improvements project will be constructed, the developer or owner paying the cost of the accelerated public improvements may request that the City Manager or designee, on behalf of the city, enter into a reimbursement agreement to collect reimbursement amounts from the developers and owners of parcels specially benefitted by the project located within or outside the city.

(B) The City Manager shall be authorized to enter into repayment agreements under this subchapter without further authorization from the City Council. The agreements shall be recorded in the office of the Maricopa County Recorder.

(C) Any improvements constructed pursuant to §§ 152.170 through 152.176 of this chapter shall not be subject to repayment agreements under this chapter in addition to assessments levied pursuant to §§ 152.170 through 152.176.

(Prior Code, § 19-13.2-3) (Ord. O08-07-13, passed 7-10-2008)

§ 152.193 REPAYMENT AGREEMENTS; TERMS; COLLECTIONS; AND COSTS.

(A) The repayment agreement shall designate the parcels and persons who are entitled to reimbursement amounts and shall include a diagram of the properties and respective amounts from which reimbursement amounts may be collected.

(B) The repayment agreement shall set forth the total of the reimbursement amount to be paid to the city, which agrees to repay the reimbursement amounts to the property owner when the amounts are paid to the city. The total of the reimbursement amounts shall not exceed that portion of the agreed construction costs of the accelerated public improvement allotted to property other than that held by the property owner receiving the reimbursements. The repayment agreement shall terminate in ten years or when the total amount provided for by this chapter is repaid, whichever is earlier. The city will not be liable to the property owner for any amounts not collected by the city prior to termination of the repayment agreement.

(C) The approved construction costs as described above will be used for calculation of all reimbursement amounts.

(D) In consideration for their entry into a repayment agreement with the city, the property owner shall have the right to connect into the accelerated public improvement.

(E) The field engineering plans and specifications required for an accelerated public improvement shall be prepared by the developer and approved by the city prior to construction. The engineering costs for preparation of plans and staking of the accelerated public improvements on the property which are incurred by the property owner may be included as determined by the city in the agreed construction costs as provided in this section. The city will perform the inspections during construction.

(F) The city shall have sole and exclusive control of connections to the accelerated public improvement. Connections to the accelerated public improvement may only be made upon issuance of a written permit from the city. It shall be unlawful to make a connection to an accelerated public improvement without a permit. The unlawful connections may be removed by the city and the costs of removal assessed to the party making the connection.

(G) Prior to the inspection and acceptance of the accelerated public improvement by the city, all reimbursement amounts due by an owner for repayment of the benefit which their property received from the accelerated public improvement shall be paid to the city.

(H) An annual charge will be assessed by the city for the administration of each repayment agreement. The annual charge shall be calculated based on actual cost incurred by the city for the administration of the agreement; however, the annual charge shall not be less than $500 per year.

(I) Any property owner may assign the benefits arising out of any reimbursement agreement with the city. The assignments shall not relieve the property owner from its duties and obligations under the agreement. The assignment shall require prior, written approval of the city, which may be withheld for any reason.

(Prior Code, § 19-13.2-4) (Ord. O08-07-13, passed 7-10-2008)

§ 152.194 REIMBURSEMENT AMOUNTS PAYABLE TO CITY.

(A) When an accelerated public improvement is constructed by the city or its contractors to provide service or benefit to a parcel of a property owner, which owner or their predecessors in interest did not pay for any of the costs of the accelerated public improvement, the city may impose and collect a reimbursement amount. The reimbursement amount shall be based on the benefitted parcel's share of the special benefit received as compared to the total cost of the accelerated public improvement. The reimbursement amount shall be paid to the city prior to the issuance of a building permit or the issuance of an encroachment permit to access city right-of-way for the purpose of connecting to the accelerated public improvement.

(B) It shall be unlawful for any person to extend service from an accelerated public improvement to property for which a reimbursement amount has been imposed without first paying the reimbursement amount and obtaining a permit issued by the City Engineer or designee.

(C) The repayment obligation under this section shall terminate in ten years or when the total amount provided for by this

subchapter is repaid, whichever is sooner.

(Prior Code, § 19-13.2-5) (Ord. O08-07-13, passed 7-10-2008)

§ 152.195 NOTICE OF INTENTION TO APPROVE ACCELERATED PUBLIC IMPROVEMENTS.

(A) Upon the determination of the City Engineer or designee that the public health, safety, welfare, and convenience requires the construction of accelerated public improvements prior to the development of the adjacent property, but for which the adjacent property will be specially benefitted, a map establishing the boundaries of the zone and indicating the amount of charges for accelerated public improvements on each parcel shall be prepared by the City Engineer and filed in the office of the City Clerk. The map for the accelerated public improvement shall contain:

(1) A description of the accelerated public improvement;

(2) A general description of the estimated total cost and cost per frontage foot or cost per acre of the proposed accelerated public improvement;

(3) A description of the accelerated public improvement project area and a map and list of all property owners who will be receiving a special benefit from the construction of the accelerated public improvement;

(B) Those property owners within the area subject to repayment for accelerated public improvements shall receive notice in writing of the proposed charges for accelerated public improvements by personal delivery or by certified U.S. Mail.

(C) Upon completion of any accelerated public improvements as permitted in this subchapter, the city may record with the Maricopa County Recorder's Office a notice of the reimbursement amount owed by a benefitted party together with a notice of the provisions of this subchapter relating to repayment of the reimbursement amount prior to any development on the property owned by the benefitted party.

(Prior Code, § 19-13.2-6) (Ord. O08-07-13, passed 7-10-2008)

PRIVATE STREETS

§ 152.205 GENERAL PROVISIONS.

Private streets are subject to all requirements of public streets except for street and right-of-way width. They shall be reviewed, approved, inspected, and tested in the same manner as public streets and shall include drainage facilities, curbs, sidewalks, and streetlights built to city standards. The minimum allowable width of the private streets will be determined by the Public Works Director based on projected traffic volume and availability of off-street parking.

(Prior Code, Art. 19-14)

§ 152.206 PERMITS AND INSPECTION.

(A) Any person constructing or installing private streets or any other privately-owned off-site improvement must comply with all of the requirements of this chapter including but not limited to complete inspection and testing for private streets for paving, curb, gutter, and drainage facilities. Parking lots and their associated access ways shall receive limited inspection to ensure plan requirements for drainage and thickness of asphalt and base course have been satisfied. Plan review fees and inspection fees for limited inspection will be issued at 25% of the normal paving fee. Other construction such as sidewalks, streetlights, and signs will not require plan review but will be visually checked by the off-site inspector for minimum requirements of approved plans; and these requirements must be satisfied prior to project acceptance. The distinction between private streets and parking lot access ways will be determined by the Public Works Director.

(B) Street name signs and traffic-control devices shall be furnished and installed by the developer in accordance with approved plans prior to project acceptance.

(Prior Code, § 19-14-1)

§ 152.215 TRAFFIC SIGNAL SYSTEM DEVELOPMENT FEE.

In accordance with apportioned cost of future traffic signal installations to new development, there is hereby established a traffic signal system development fee.

(Prior Code, § 19-15-1)

§ 152.216 FEES.

Type of Development Traffic Signal System Development	*Fee ($)*
Single-family, per unit	$15
Multi-family, per unit	$9
Commercial, per 1,000 square feet	$87
Office, per 1,000 square feet	$21
Industrial, per 1,000 square feet	$12

(A) The traffic signal system development fee shall be paid prior to issuance of a building permit.

(B) Developers of property which has been assessed for traffic signal installation through the improvement district process shall be exempt from the traffic signal system development fee. Payment by a developer of a traffic signal system development fee may be credited against subsequent improvement district assessments for traffic signals on the properties for which payment of the traffic signal fee was made should initial installation of a signal be made by the improvement district process.

(C) Monies received from the traffic signal system development fee shall be deposited in a special account to offset costs to the city for capital expansion and enlargement of the city traffic signal system and/or retirement of debt service, both principal and interest, associated with providing necessary traffic-control services.

(Prior Code, § 19-15-2)

§ 152.217 TRAFFIC SIGNAL AND STREETLIGHT REIMBURSEMENT AGREEMENTS.

(A) When a developer is required to install a traffic signal as part of the development plan, the developer shall be entitled to enter into a reimbursement agreement with the city to provide for recovery of costs from owners of other corners of the intersection which are undeveloped at the time the plans are approved. The reimbursement costs shall be computed by the Public Works Director based on actual construction cost of the signal plus engineering and construction inspection costs. The determination shall be made a part of the reimbursement agreement. The total of the reimbursement to the developer shall not exceed the total costs as determined by the Public Works Director less the proportion of the costs applicable to the developer's project. The developer shall furnish the Public Works Director a certified copy of the actual costs when he or she requests the reimbursement agreement. No reimbursement shall be received from others on corners already developed or with valid engineering plans approved for development. The Public Works Director shall determine the applicability and the amount of buy-ins due when development occurs on the other corners of the intersection. As a general rule, one-fourth of the total cost will be assessed to each corner. Exceptions may apply when the size of a parcel or the amount of traffic generated warrants a different assessment.

(B) When streetlights are installed by a developer on local or collector streets, he or she shall be entitled to enter into a reimbursement agreement with the city to provide for recovery of cost from others who develop later on land adjacent to the

streetlights installed by the developer. The Public Works Director shall determine the amount of street frontage eligible for reimbursement, and the determination shall be made a part of the agreement. Reimbursement shall be made on the basis of street frontage at rates established by the Public Works Director. The rates shall include current costs for engineering, construction and inspection and shall be reevaluated annually in July.

(C) All reimbursement agreements must be requested by the developer and shall run for a period not to exceed 15 years from the date of execution by the Public Works Director, who is hereby authorized to execute the agreements in accordance with the provisions of this section. The agreements shall automatically terminate at the end of the 15-year period. No agreement shall be approved and executed more than one year after date of acceptance of the improvements, and no reimbursement shall be received from projects by others which have engineering plans approved prior to receipt of the developer's request to enter into such an agreement.

(D) Reimbursement shall be made by the city upon receipt of payment from adjacent property owners, less the fee established by Council resolution per reimbursement transaction which shall be retained by the city to cover administrative costs. All agreements shall include the name and address of the recipient of reimbursement payments, and it shall be the developer's responsibility to keep the information current. Agreements may be assigned by the developer upon written notification to the Public Works Director and subsequent written acknowledgment.

(E) Buy-ins for traffic signals and streetlights shall be collected by the city only when a valid reimbursement agreement is in force. They shall be paid before the final plat or site development plan is approved.

(Prior Code, § 19-15-3)

DISPOSITION OF UNNECESSARY RIGHTS-OF-WAY

§ 152.230 GENERAL PROVISIONS.

The City Council may dispose of unnecessary public roadway either by sale, vacation, or exchange of the roadway in accordance with the requirements of state law and pursuant to the adoption of an ordinance authorizing the disposition. The City Council may extinguish unneeded easements by resolution.

(Prior Code, Art. 19-16)

§ 152.231 RESERVATION OF EASEMENTS.

In the event there are existing utility lines, pipes, canals, ditches, or appurtenances in any unneeded public roadway being sold, vacated, or exchanged, or if in the sole discretion of the city it is probable that there will be a need for a public utility easement in the roadway, the city shall reserve an easement or easements for such purposes and of such size as the city may determine.

(Prior Code, § 19-16-1)

§ 152.232 APPLICATION FOR DISPOSITION OF ROADWAY OR EASEMENT.

An applicant for disposition of unnecessary public roadway or for extinguishment of an easement shall submit an application in such form and with such information as may be required by administrative regulation and shall pay such fees as are established by resolution approved by the City Council.

(Prior Code, § 19-16-2)

§ 152.233 DECISION TO DISPOSE OF ROADWAY OR EASEMENT.

(A) The decision to dispose of an unnecessary public roadway or to extinguish an unneeded public easement lies solely with the City Council and shall be made upon receipt of staff's recommendation.

(B) The vesting of title to roadway vacated by the city shall be subject to consideration from the owner of the abutting property to the city deemed by the City Council, in its sole discretion, to be commensurate with the value of the abandoned roadway, giving due

consideration to its degree of fragmentation and marketability and any other public benefit received by the city in return for the abandoned roadway.

(Prior Code, § 19-16-3)

ENFORCEMENT

§ 152.245 CEASE AND DESIST ORDERS.

Whenever any work is being done contrary to the provisions of this code, the Public Works Director or his or her designee may order the unauthorized work stopped by notice in writing served on any person engaged in the doing or causing the unauthorized work to be done, and any such person shall forthwith stop the unauthorized work.

(Prior Code, § 19-17-1)

§ 152.246 APPEAL PROCEDURE.

Any developer who has been aggrieved by a decision of the Public Works Director or the Public Works Department, pursuant to action taken in the enforcement of this chapter, to include benefit study standards, criteria, limits, cost assignments and the like, may appeal the decision for consideration by the City Council. Appeals shall be presented in writing to the Public Works Director, who shall prepare a report and recommendation to the Council and notify the appellant in writing of the time and place of the Council hearing. The Council may modify these provisions in such a manner and to such extent as it may deem appropriate to the public interest. The decision of the Council shall be final and conclusive.

(Prior Code, § 19-17-3)

§ 152.999 PENALTY.

Any person violating any of the provisions of this chapter shall severely, for each and every such violation and non-compliance, be punished as provided in § 10.99(A) of this code of ordinances.

(Prior Code, § 19-17-2)

CHAPTER 153: FLOODPLAIN MANAGEMENT

Section

Floodplain Responsibilities, Management and Administration

153.001 Floodplain Manager

153.002 Flood insurance

153.003 Floodplain management regulations for Maricopa County

153.004 Repeal of conflicting ordinances

153.005 Severability

153.006 Providing for penalties

FLOODPLAIN RESPONSIBILITIES, MANAGEMENT AND ADMINISTRATION

§ 153.001 FLOODPLAIN MANAGER.

The City of El Mirage Deputy City Manager/City Engineer is appointed/designated as the Floodplain Manager for the city and will serve as the community point of contact on National Flood Insurance Program issues for local, county, state and federal officials, responsible to coordinate with the district's staff for floodplain management, and to verify that the community's participation in the National Flood Insurance Program is maintained and remains in good standing through adoption and enforcement of the Floodplain Management Regulations for Maricopa County.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

§ 153.002 FLOOD INSURANCE.

Those public records entitled "Flood Insurance Study for Maricopa County, Arizona, and Incorporated Areas dated September 30, 2005" and "Flood Insurance Rate Maps dated September 30, 2005" and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the City Clerk, are hereby adopted by reference, as the basis for establishing the special flood hazard areas for floodplain management in the city. 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.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

§ 153.003 FLOODPLAIN MANAGEMENT REGULATIONS FOR MARICOPA COUNTY.

That public record in the Floodplain Management Regulations for Maricopa County (2011 Revision) and all subsequent amendments and/or revisions, three copies of which shall be kept on file in the office of the City Clerk, is hereby adopted as the legal basis for implementing floodplain management in this community.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

§ 153.004 REPEAL OF CONFLICTING ORDINANCES.

Repeal of conflicting ordinances. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

§ 153.005 SEVERABILITY.

Severability. If any portion of this chapter is determined by a court of competent jurisdiction to be invalid, all remaining portions of this chapter shall remain in full force and effect.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

§ 153.006 PROVIDING FOR PENALITES.

Providing for penalties. Any person found guilty of violating any provision of the Floodplain Management Regulations of the Flood Control District of Maricopa County adopted herein shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not to exceed $1,000 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.

(Ord. O13-07-12, passed 7-9-2013; Res. R13-07-23, passed 7-9-2013)

CHAPTER 154: ZONING CODE

Section

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GENERAL PROVISIONS

§ 154.001 CITATION OF CHAPTER.

This chapter shall be known as and may be cited as the "El Mirage Zoning Ordinance", except that when cited herein, it shall be referred to as "this chapter."

(Prior Code, § 21-1-1)

§ 154.002 ADOPTION.

This chapter is adopted as the city's Zoning Ordinances relating to Comprehensive Planning and Zoning, pursuant to provisions of Arizona law, including, without limiting the generality of the foregoing, A.R.S. §§ 9-462 and 9-462.01 to 9-462.07, inclusive, as amended.

(Prior Code, § 21-1-2)

§ 154.003 PURPOSE AND NATURE OF REGULATIONS.

It is the intent and purpose of this chapter to protect the public health, safety, and general welfare of the community and the people of the city through the establishment of minimum regulations governing development and use of land. This chapter shall divide the city into districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land. The regulations are established to promote orderly development and redevelopment; to provide adequate light, air, and access to property; to prevent congestion in the public rights-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this chapter; to provide for amendments; to prescribe penalties for violation of the regulations; and to define powers and duties of the city staff, the Planning and Zoning Commission, the Board of Adjustment, and the City Council in relation to this chapter.

(Prior Code, § 21-1-3)

§ 154.004 RELATION TO EL MIRAGE GENERAL PLAN.

All zoning and rezoning ordinances or regulations adopted under this chapter shall be consistent with and conform to the adopted

general plan per A.R.S. § 9-462.01(F).

(Ord. 11-09-17, passed 9-22-2011)

§ 154.005 SEVERABILITY.

It is hereby declared to be the intention of the city that the provisions of this chapter are separable in accordance with the following:

(A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, that judgment shall not affect any other provisions of this chapter not specifically included in the judgment; and/or

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or other structure, that judgment shall not affect the application of the provision to any other property, building, or structure not specifically included in the judgment.

(Prior Code, § 21-1-5)

§ 154.006 CONFLICT WITH OTHER REGULATIONS.

In the case of a conflict between this chapter and/or any part thereof, or any other ordinance of the city, the more restrictive provision in all cases shall apply.

(Prior Code, § 21-1-6)

§ 154.007 PRIVATE AGREEMENTS.

(A) The provisions of this chapter are not intended to interfere with or abrogate or annul any easements, covenants, or other agreements between private parties when the easements, covenants, or other agreements are more restrictive or otherwise not in conflict with this chapter.

(B) When the easements, covenants, or other agreements are less restrictive or otherwise in conflict with this chapter, this chapter shall prevail.

(Prior Code, § 21-1-7)

DEFINITIONS

§ 154.020 DEFINITION OF TERMS.

(A) Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word "shall" is always mandatory, the word "person" includes a firm, association, organization, partnership, trust, corporation, or company, as well as an individual; the word "lot" includes the words "plot" or "parcel"; the word "building" includes the word "structure"; the words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied"; the words "map" or "zoning map" mean the Zoning Map(s) of the city that delineate the area to be governed by these regulations.

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

100-YEAR FLOOD. The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring in any given year).

ACCESSORY BUILDING OR USE. A subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner as by a roof, the

accessory building shall be counted as part of the principal building. Individual public utility installations above ground are considered ***ACCESSORY BUILDINGS***.

ADULT USE. A retail establishment selling or leasing publications and other material of a sexual nature, including adult bookstores and theaters.

AGRICULTURAL/RANCHING. The cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms ***FARMING*** and ***RANCHING*** shall be interchangeable for purposes of this chapter.

ALLEY. A permanent public thoroughfare providing a secondary means of access to abutting lands.

APARTMENT BUILDING. A building other than a hotel or motel containing five or more dwelling units which have primary entrances from common hallways.

AREA OF SHALLOW FLOODING. A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

AUTO REDUCTION YARD. A lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

AUTO SALVAGE YARD. A junk yard primarily containing inoperable vehicles. (See ***JUNK YARD***).

AUTOMOBILE SERVICE STATION. An establishment with the primary business function of the retail sale of gasoline for passenger car use with or without minor service and repair work incidental to the operation of passenger automobiles.

AUTOMOBILE WASHING ESTABLISHMENT. A building which has its primary purpose as washing automobiles. The facilities shall be considered incidental to automobile service stations if not more than one auto may be washed at one time and if the service station is clearly the principal use.

BASE FLOOD, 100-YEAR. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. A portion of a building located partly underground but having not less than half its floor-to-ceiling height below the average grade of the adjoining ground.

BLOCK FRONTAGE. All of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

BOARD. The Board of Adjustment of the City of El Mirage, Arizona.

BUILDING. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes, recreational vehicles, and mobile offices.

BUILDING AREA. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. ***BUILDING AREA***, as that portion of a lot upon which construction is permitted, is as follows: That area of a lot that lies within the boundaries of the front, side, and rear yard setback requirements measured from the actual lot line.

BUILDING ENVELOPE. The area of a lot lying between the front, rear, and side yard setback lines and between ground level and the maximum allowable building height, amounting to the three-dimensional area available for potential building construction.

BUILDING, FRONT LINE OF. The line of the face of a building nearest the front lot line.

BUILDING, HEIGHT OF. The vertical distance of a building as measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambel roofs.

BUILDING LINE, FRONT. The line nearest to the front and across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

BUILDING LINE, REAR. The line nearest to the rear and across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.

BUILDING, NON-CONFORMING. A legally existing building which fails to comply with the regulations set forth in this

chapter applicable to the zone in which the building is located.

BUILDING, PRINCIPAL. A building in which is conducted the main, or principal, use of the lot on which the building is situated.

BUILDING, PUBLIC. A building, supported by government funds, to be used in an official capacity on behalf of the entire community.

BUSINESS. The engaging in of the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; the maintenance or operation of offices or recreational or amusement enterprises.

CAMP GROUND. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, recreational vehicles, or other camping outfits.

CARPORT. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. The structure shall be considered as an accessory building when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of the cemetery.

CHURCH. A building together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. The term ***CHURCH*** shall be interchangeable with the term(s) ***RELIGIOUS ASSEMBLYORINSTITUTION*** as may be defined or determinable with state law (see A.R.S. § 41-1493).

CITY. The City of El Mirage.

CLINIC or ***MEDICAL CENTER.*** An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a "professional office" for general consultation purposes.

CLUB, PRIVATE (NON-PROFIT). A non-profit association of persons who are bona fide members paying annual dues which owns, hires, or leases a building, or a portion thereof; the use of the premises being restricted to members and their guests.

COMMISSION. The City of El Mirage Planning and Zoning Commission.

CONDITIONAL USE PERMITS. Legal authorization to undertake a conditional use as defined by this chapter.

CONVENIENCE-FOOD RESTAURANT. An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the consumer in a ready-to-eat state for consumption either within the premises or tor carry-out with consumption either on or off the premises and whose design or principal method of operation includes both of the following characteristics:

(a) Foods, frozen desserts, or beverages are usually served inedible containers or in paper, plastic, or other disposable containers.

(b) The customer is not served food at his or her table by an employee but receives it at a counter, window, or similar facility for carrying to another location for consumption either on or off the premises.

CORPORATE COUNSEL. The Attorney of the city or any assistant or special counsel of the city.

COUNCIL. The City Council of the city.

DAY-CARE CENTER. A use where care is provided for pay for five or more unrelated children subject to the requirements of the State of Arizona.

DENSITY, GROSS. The number of residential dwelling units per unit of land.

DENSITY, NET RESIDENTIAL. The number of residential dwelling units per unit of land, excluding any land used or to be used as arterial street rights-of-way or private non-residential uses except parks, open space and recreational areas. For calculating ***NET RESIDENTIAL DENSITY***, the following formula shall apply:

$$D = \frac{du}{A - (c+i+s+a)}$$

Where:

D = Residential density

du = Total number of dwelling units in project

A = Total site area (acres)

c = Total commercial land area (acres)

i = Total industrial land area (acres)

s = Reserved but undedicated school sites (acres)

a = Arterial rights-of-way (acres)

DEVELOPMENT. Any human-made change to improve or alter real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DRIVE ACCESS. The area between the curb of a street, or edge of the traveled portion of a street when no curb exists, and the right-of-way/property line over which the city will permit vehicular travel from the traveled portion of a street to an individual property or off-street parking space(s).

DRIVE-IN BUSINESS. Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. These businesses include, but are not limited to, the following: drive-in theater, drive-in bank, drive-in laundry or dry-cleaning pickup station, drive-in restaurant, and any business offering "take-home" food services.

DUPLEX. See ***DWELLING, TWO-FAMILY***.

DWELLING. A building, or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings, and group homes, but not including hotels, motels, or tourist homes.

DWELLING, ATTACHED. A dwelling that has a wall, roof, and/or floor in common with any other dwelling.

DWELLING, DETACHED. A city dwelling that does not have a wall, roof, and/or floor in common with any other dwelling.

DWELLING, SINGLE-FAMILY. A building used for residential occupancy by one family.

DWELLING, TWO-FAMILY. A building, or portion thereof, used for occupancy by two families living independently of each other with the units completely separated by a common wall, floor, and/or ceiling, Also referred to as ***DUPLEX***.

DWELLING, MULTIPLE (MULTI-FAMILY). A building, or portion thereof, used for occupancy by three or more families living independently of each other, with the units completely separated by a common wall, floor and/or ceiling.

DWELLING UNIT. A dwelling, or portion of a dwelling, used by one household for residential purposes.

FAMILY. Any number of individuals customarily living together as a single housekeeping unit and using common cooking facilities as distinguished from a group occupying a hotel, motel, club, fraternity, sorority, lodging house, or nursing home.

FENCE. A barrier constructed of materials erected for the purpose of protection, confinement, enclosure, or privacy.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report in which the Federal Insurance Administration has provided flood profiles as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOODPLAIN. The area encompassing the floodway area and the floodway fringe.

FLOODWAY, 100-YEAR. The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of 100-year magnitude without substantial increases in flood height.

FLOODWAY FRINGE, 100-YEAR. The area between the floodway and the 100-year flood boundary.

GARAGE, PRIVATE. A detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles per family housed in the building to which the garage is accessory and not more than one-third of the total number of vehicles stored in the garage shall be commercial vehicles.

GARAGE, PUBLIC. Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles; or where the vehicles are equipped for operation, repaired, or kept for rental, hire, or sale.

GENERAL PLAN. The City of El Mirage General Plan.

GRADE. The average level of the finished ground surfaces surrounding a building.

GROUND FLOOR AREA. The square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

GROUP HOME. A single, residential structure having common kitchen facilities occupied by persons having physical, mental, emotional, or social problems and living together for the purpose of training, observation, and/or common support.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof.

HOME OCCUPATION OR PROFESSION. Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this chapter.

HOSPITAL. An institution for the diagnosis, treatment, or other cure of human ailments, and includes sanitarium or clinic, provided the institution is operated by, or treatment is given under direct supervision of, a physician licensed to practice by the State of Arizona.

HOTEL or ***MOTEL.*** A building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; shall not include a lodging house.

INDUSTRY, HEAVY. Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise, or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

INDUSTRY, LIGHT. Those industries whose processing of products results in none of the conditions described for heavy industry.

JUNK YARD. Any place of which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or sorted including, but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles, and similar property which are used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

KENNEL. Any lot or premises on which three or more dogs, cats, or small animals over the age of eight weeks are kept. A non-commercial ***KENNEL*** at, in, or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder (i.e., hunting, tracking, or exhibiting) or for guarding or protecting the householder's property is permitted in residential zoning districts, provided the number of dogs, cats, or small animals over the age of eight weeks does not exceed four.

LANDFILL SANITARY. A site for solid waste disposal in which the solid waste is spread in thin layers, compacted to the smallest practical volume and covered with soil. Disposal of liquid waste or chemicals or other potentially toxic substances is not permitted.

LOADING and ***UNLOADING BAYS.*** The off-street area required for the receipt of or distribution, by vehicles, of material or merchandise.

LODGING HOUSE. A building with more than two but not more than ten guest rooms where lodging with or without meals is

provided for compensation.

LOT. A piece, parcel, plot, tract, or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this chapter, and having its principal lot frontage on a street.

LOT AREA. The total horizontal area within the boundary lines of a lot.

LOT, CORNER. A lot at a junction of and fronting on two or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by buildings.

LOT DEPTH. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

LOT GROUND LEVEL. For buildings having walls fronting on only one street, the elevation at the front lot line at the center of a wall fronting on the street; for buildings having walls fronting on more than one street, the average of the elevation of the lot lines at the center of all walls fronting on the streets; for buildings having no walls fronting on the street, the average level of the ground adjacent to the exterior walls of the building.

LOT INTERIOR. A lot other than a corner or through lot.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street; in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street; and in the case of a through lot, a line separating the lot from the street from which a drive access may be permitted by the city.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The distance as measured in a straight line, between side lot lines at the points of intersection with the front building line.

MANUFACTURED HOME. See ***MOBILE HOME.***

MANUFACTURING. The creation of products either with machinery or by hand according to an organized plan and with the division of labor.

MANUFACTURING, LIGHT. Fabrication and/or assembly of goods from previously prepared materials.

MEDICAL MARIJUANA. All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

MEDICAL MARIJUANA CULTIVATION. The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana that is physically separate and off-site from a medical marijuana dispensary.

MEDICAL MARIJUANA DISPENSARY. A non-profit entity defined in A.R.S. § 36-2801(11) that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

MEDICAL MARIJUANA MANUFACTURING FACILITY. A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.

MEDICAL MARIJUANA QUALIFYING PATIENT. A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801.13.

MINING. The extraction of sand, gravel, or other material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing.

MOBILE HOME PARK. Any plot of ground upon which two or more mobile homes, occupied or intended to be occupied for

dwelling or sleeping purposes, are located.

MOBILE HOME SPACE. A plot of ground within a mobile home park designed for the accommodation of one mobile home.

MOBILE HOME STAND. The portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

MOBILE HOMES (also ***MANUFACTURED HOME***). A factory-assembled structure or structures exceeding eight feet in width, originally equipped with the necessary service connections and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit(s) without a permanent foundation, whether or not the running gear has been removed.

MOBILE OFFICE. A factory-assembled structure or structures exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an office without a permanent foundation, whether or not the running gear has been removed.

MODULAR or ***SECTIONAL HOME.*** A dwelling unit mass-produced in a factory, designed and constructed for transportation to a site for occupancy when connected to the required utilities and when permanently anchored to a permanent foundation, and whether intended for use as an independent, individual unit or in combination with other units to form a larger building.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter.

NON-CHARTERED FINANCIAL INSTITUTION. A business other than a state or federally chartered bank, credit union, mortgage lender, or savings and loan association that offers check cashing services and loans for payment of a percentage fee. Specifically included are check-cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, payday loan businesses that make loans upon assignments of wages to be received, businesses that provide loans secured by title of a vehicle unless the loan is made for the purpose of purchasing the vehicle, and businesses that function as deferred presentment business. A ***DEFERRED PRESENTMENT BUSINESS*** is a business that makes transactions pursuant to a written agreement in which the licensee accepts a check and agrees to hold the check for at least three days before presentment for payment or deposit.

NON-CONFORMING USE. See ***USE, NON-CONFORMING***.

NON PROFIT ORGANIZATION. An organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code, and uses its surplus revenues to further achieve its purpose or mission, rather than distributing its surplus income to the organization's directors (or equivalents) as profit or dividends.

NOXIOUS MATTER OR MATERIAL. Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSING HOME. See ***GROUP, HOME***.

OFFICES. Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold, or repaired. These include: banks; general and professional offices; governmental offices; insurance offices; real estate offices; taxicab offices, but not taxi stands; travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting; and similar uses.

OPEN SALES (OR RENTAL) LOT. Any land used or occupied for the purpose of buying, selling, or renting for use away from the premises, any goods, materials, or merchandise, and for the exterior storing of the same prior to sale or rental.

OVERLAY ZONE. A zone superimposed upon an underlying zone which establishes special requirements in addition to, or in lieu of, those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

PARKING AREA, PUBLIC. An open area, other than a street or alley designated for use, or used, as temporary parking of four or more vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers.

PARKING SPACE, OFF-STREET. A space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

PARTY WALL. Any wall of a building or structure which is common to two or more buildings.

PAVED PARKING SPACE OR SURFACE. An area covered by an impervious, dust-free surface of asphalt or concrete

designed to specifications of the City Engineer.

PAWNSHOP. Any establishment in which is carried on the business of pawn brokerage, or the business of loaning money for himself or herself or for another person, receiving as security for payment thereof pawns or pledges of property, or the business of purchasing personal property and reselling or agreeing to resell, trade, or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of the purchase, whether the business be the principal or sole business so carried on or be merely incidental to, in connection with, or a branch or a department of some other business.

PERSONAL and ***CONVENIENCE SERVICES.*** Businesses offering services such as barber shops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations, and similar uses.

PERSONS. Includes a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in a property.

PROPERTY, PERSONAL. Property, other than real property, consisting of things temporal and movable.

PROPERTY, REAL. Property consisting of buildings and/or land.

RECREATIONAL VEHICLE. A vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven primarily designed as temporary living accommodation for recreational, camping, and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.

RECREATIONAL VEHICLE PARK. A plot of ground upon which two or more sites are located, established, or maintained for occupancy by the general public as temporary living quarters for recreation, education, or vacation purposes.

RESEARCH LABORATORY. An establishment or facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

RESTAURANT. Any restaurant (except a drive-in restaurant or a convenience food restaurant as defined in this section), coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich stand, drugstore, and soda fountain serving food, and all other eating or drinking establishments provided that a least one-half of the total sales are derived from the sale of food.

SCHOOL. Any pre-primary, primary, or grammar, public, parochial, or private school, high school, preparatory school, or academy, public or founded, or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school, or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

SCREENING. A solid or nearly solid barrier (i.e., wall, fence, plantings) constructed or installed for the purpose of visual separation.

SETBACK. The horizontal distance between the front line of building and the street right-of-way line or lot line.

SETBACK LINE. That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be placed.

SEWER, PUBLIC. Any sanitary sewer line owned and maintained by the city, whether or not installed by the city.

SEWER SYSTEM, COMMUNITY. Any sanitary sewer system, whether treatment plant, septic tank, or lagoon, designed with a sewer collection system to be used by a legally-constituted association of property owners. The system may or may not be a public system.

SHOPPING CENTER. Any grouping of two or more principal retail uses, whether on a single lot or on abutting lots under multiple or single ownership and whether contained in one building or multiple buildings.

SIGN. Any device providing identification, advertising, or directional information for a specific business, service, product, person, organization, place, or building. Included in this definition are graphic devices such as logos, attention attracting media such as banners or logo sculpture, and obtrusive colored fascia or architectural elements.

SIGN, FREE-STANDING. Any non-movable sign not affixed to a building.

SIGN, NON-ACCESSORY. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN, WALL. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from the building or structure.

SITE PLAN. A drawing to a scale not less than one inch equals 100 feet showing the accurate location of all structures, streets, alleys, and parking areas existing and proposed on subject property or any other information as may be required by this chapter.

STABLE, PRIVATE. Any building located on a lot which is designed, arranged, used, or intended to be used for not more than four horses for the private use of the owner of the lot, but shall not exceed 6,000 square feet in area.

STABLE, PUBLIC. A stable where horses are kept for remuneration, hire, or sale.

START OF CONSTRUCTION. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

(a) For a structure (other than a mobile home) without a basement or poured footings, the ***START OF CONSTRUCTION*** includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

(b) For mobile homes not within a mobile home park or mobile home subdivision, ***START OF CONSTRUCTION*** means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, ***START OF CONSTRUCTION*** is the date on which the construction of facilities, for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STREET. A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.

STREET ARTERIAL. A street with access control, signals at important intersections, and stop signs on the side streets and restricted parking designed to primarily distribute traffic.

STREET, COLLECTOR. A street which carries (collects) traffic from local streets and connects with minor or major arterial streets.

STREET, LOCAL. A street designed to provide vehicular access to abutting properties and to discourage through traffic.

STREET FRONTAGE. Any property line separating a lot from a street; the front lot line.

STREET, PUBLIC. Any street which has been dedicated or is otherwise publicly owned by the city.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any change in the exterior walls or the roof.

STRUCTURE. Anything constructed or erected which requires location on the ground.

SUBSTANTIAL IMPROVEMENT.

(a) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

1. Before the improvement or repair is started; or

2. If the structure has been damaged and is being restored, before the damage occurred.

(b) For the purpose of this definition ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

2. Any alteration of a structure listed on the National Register of Historic Places.

TOURIST HOME (BED AND BREAKFAST). A building in which more than one, but not more than five, guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.

TOWNHOUSE. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent building and/or buildings by party walls, or are located immediately adjacent thereto without any visible separation between walls or roof; all of which dwellings may be located on individual and separate lots, if individually owned, or upon a single lot, if under common ownership.

TOWNHOUSE CLUSTER. A building consisting of three or more non-communicating, attached one-family units placed side by side and/or back to back having a common wall between each two adjacent dwelling units.

USE. The employment or occupation of a building, structure, or land for a person's service, benefit, or enjoyment.

USE, ACCESSORY. See ***ACCESSORY BUILDING OR USE.***

USE, CONDITIONALLY PERMITTED. Either a public or private use as listed herein which, because of its unique characteristics, cannot be properly classified as an otherwise permitted use in a particular district. After consideration, in each case, of the impact of the use upon neighboring land and of the public need for the particular use at the particular location, a permit for the conditional use may or may not be granted, subject to all conditions specifically listed in this chapter for any particular conditional use and any other reasonable condition or conditions established by the Planning and Zoning Commission, including time limits, pursuant to the requirements of this chapter. A ***CONDITIONAL USE*** may be a principal use or an accessory use.

USE, NON-CONFORMING. An existing use of land or building which was legal prior to the effective date of this chapter but which fails to comply with the requirements set forth in this chapter applicable to the zone in which the use is located.

USE, PERMITTED. A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations, and performance standards of the district. A ***PERMITTED USE*** may be a principal use or an accessory use.

USE, PRINCIPAL. A use or structure which determines the predominant or major use of the lot on which it is located. A ***PRINCIPAL USE*** may be either a permitted or a conditional use.

USE, TEMPORARY. A use established for a fixed period of time with the intent to discontinue the use upon the expiration of the time period.

VARIANCE. A modification or variation of the provisions of this chapter as applied to a specific piece of property. Dimensional variances only may be allowed; no variance regarding use of property shall be permitted; no variance decreasing lot area requirements shall be allowed. ***VARIANCE*** may be permitted only by the Board of Adjustment.

VARIANCE, DIMENSIONAL. Departure from the terms of the zoning regulations pertaining to height or width of structures and size of yard and open spaces where the departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

WAREHOUSE. An enclosed building designed and used primarily for the storage of goods and materials.

WAREHOUSE, RESIDENTIAL STORAGE (MINI-WAREHOUSE). A building or group of buildings in a controlled-access and fenced or screened compound that contains relatively small storage spaces of varying sizes and/or spaces for recreational vehicles or boats, having individual, compartmentalized, and controlled access for the dead storage of excess personal property of an individual or family generally stored in residential accessory structures, when the building or group of buildings are not located on the lot of the residence.

WRECKING YARD. A place, lot, or area where the primary function is that of dismantling, storage, abandonment, or sale of goods and materials as parts or scraps.

YARD. A space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar structures, and unobstructed by structures, except as otherwise provided in this chapter.

YARD, CORNER SIDE. A yard on a corner lot the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along the side lot line to a point intersecting the rear lot line, then along the rear lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

YARD, FRONT. A yard extending across the full width of the lot between two side lot lines the depth of which is the least distance between the street right-of-way and the front building line.

YARD, REAR. A yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building and the depth of which is the least distance between the rear lot line and the parallel line.

YARD, SIDE. A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

(Prior Code, § 21-3-1) (Ord. O08-07-11, passed 7-10-2008; Ord. O11-04-06, passed 4-14-2011; Ord. O12-11-10, passed 11-8-2012; Ord. O15-10-08, passed 10-6-2015; Ord. O16-03-03, passed 3-1-2016)

ADMINISTRATION

§ 154.035 ADMINISTRATIVE AGENCIES.

The following will have primary responsibility of administering this chapter as established and prescribed in this subchapter:

(A) Planning and Zoning Commission;

(B) Board of Adjustment; and

(C) Zoning Administrator.

(Prior Code, § 21-2-1)

§ 154.036 PLANNING AND ZONING COMMISSION.

(A) *Establishment of the Planning and Zoning Commission*. There is hereby created a Planning and Zoning Commission of the city, which shall promote the health, safety, order, beauty, prosperity, and general welfare of the city, and shall secure efficiency, economy, and concerted effort in its growth and development.

(B) *Membership*.

(1) The Planning and Zoning Commission shall consist of five members, who shall be residents of the city, representing, insofar as possible, different professions or occupations. Members shall be appointed by the Mayor with the approval of a majority vote of the City Council. Insofar as possible, appointment of members shall be made so as to constitute equal representation for all areas within the city. Members of the Planning and Zoning Commission shall serve without pay or compensation of any kind except actual expenses and shall hold no other municipal or county office, except that one member may serve on the Board of Adjustment.

(2) When a position becomes available on the Planning and Zoning commission, a classified ad for "Volunteer Planning and Zoning Commissioner" shall appear in a local newspaper for one day of two consecutive weeks. This position shall also be posted at all four city posting locations; the city Water Utility Department, the city Public Works Department, the CAP Office and the Maricopa County Library - El Mirage. Each applicant will be required to fill out a Planning and Zoning Commissioner Application and return it to the City Clerk. At the end of a two- to three-week period, the applications will be turned over to the Commissioner Review Board who will interview qualified candidates. After the interview process, a recommendation will be made to the Council for approval of appointment.

(3) The Commission Review Board shall be made up of three Council members appointed by Council.

(C) *Term of office*. The term of office of members of the Planning and Zoning Commission shall be two years, providing that the appointments first made under this chapter shall be two for one year and three for two years, with the effective date of appointment

being January 1, 1987. Members may be reappointed. All members shall hold office until their successors are appointed and qualified. Any member of the Planning and Zoning Commission may be removed by the Mayor with the consent of a majority vote of the City Council for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Failure to attend three regular meetings in a calendar year and/or three special meetings or any combination thereof resulting in the absence of three consecutive meetings in a calendar year will be considered cause for removal. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term by the Mayor with the approval of a majority vote of the City Council.

(D) *Organization*. The Planning and Zoning Commission shall elect a Chairperson from the members of the Planning and Zoning Commission and shall create and fill such other of its offices as it may determine. The Chairperson shall be eligible for reelection. The Planning and Zoning Commission shall schedule at least one regular meeting in each month at such time and place as may be fixed by the Planning and Zoning Commission. If there is no business to conduct, the meeting may be cancelled by posting the cancellation 24 hours prior to the scheduled meeting. The Zoning Administrator shall be responsible for posting the cancellation. Special meetings of the Planning and Zoning Commission may be called by the Chairperson, by any three members of the Planning and Zoning Commission, or the City Manager. A majority of the Planning and Zoning Commission shall constitute a quorum for the transaction of business. The Planning and Zoning Commission shall adopt such other rules and regulations governing its organization and procedures as it may deem necessary, which rules and regulations shall be subject to the approval of the governing body of the city and shall not be inconsistent with the ordinances of the city and the laws of Arizona. The Planning and Zoning Commission shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. The Planning and Zoning Commission shall make each year, and at such other times as directed by the Mayor, a report to the Mayor and City Council of its proceedings with a full statement of its receipts, disbursements, and the progress of its work during the preceding fiscal year.

(E) *Duties of the Planning and Zoning Commission*. It shall be the duty of the Planning and Zoning Commission to:

(1) Submit and recommend to the City Council a zoning map dividing the city into districts of such number, shape, and area as may be determined best suited to carry out the purposes of this chapter and with the provisions of Arizona Revised Statutes and, within such districts, it shall recommend such regulations and restrictions concerning the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land as it shall deem to be in the best interests of the city and its inhabitants;

(2) Determine and recommend to the City Council decisions regarding the classification of parcels of land from one zoning district to another;

(3) Recommend to the City Council changes in any of the regulations of this chapter as to the use of land in any district, or as to the restrictions upon buildings or structures therein by amendment to this chapter;

(4) Review or delegate review of site plans for multiple-dwelling residential structures and developments, commercial development, and industrial development and to determine the appropriate action and requirements for each site plan of the development, as called for in this chapter;

(5) Determine and make decisions regarding conditional uses as provided for under this chapter;

(6) Determine and make decisions regarding special temporary uses as provided under this chapter;

(7) Make and recommend to the City Council for adoption a general plan to guide the physical development of the city;

(8) Provide recommendations to the City Council concerning purchase of sites for city buildings, parks, and other city improvements, the widening, opening, vacation, or other changes to city streets or other public ways, the ornamentation of city sites, streets, grounds of premises, and other issues that may tend to promote the public health, safety, comfort, convenience, utility, and welfare in connection with the City's General Plan; and

(9) Make recommendations to the City Council on matters regarding the interpretation, enforcement, and administration of the El Mirage Subdivision Ordinance.

(Prior Code, § 21-2-2)

§ 154.037 BOARD OF ADJUSTMENT.

(A) *Board of Adjustment*. The City Council shall serve as the Board of Adjustment unless a Board of Adjustment is hereby established consisting of five members to be appointed by the Mayor and with the consent of the City Council. The members shall be residents of the city.

(B) *Membership*. Each member of the Board of Adjustment shall be appointed for a term of two years, provided that the

appointments first made under this chapter shall be two for one year and three for two years, with the effective date of appointment being January 1, 1987, and thereafter, each appointment shall be made for the full term of two years; vacancies shall be filled by appointment for the unexpired term of any member whose term becomes vacant. Members shall not serve more than two consecutive three-year terms. Before entering upon the duties of his or her appointed position, each member shall take and subscribe an oath to support the Constitution and laws of the United States and the State of Arizona, and the ordinances of the city.

(C) *Adoption of rules*. The Board of Adjustment shall adopt by-laws and rules governing its organization and meetings, and the by-laws and rules shall be subject to the approval of the governing body of the city and shall not be inconsistent with the ordinances of the city and the laws of the State of Arizona. It shall be the duty of the Chairperson to call a meeting of the Board to pass upon and determine all variances and appeals and all other matters upon which it is the duty of the Board to act. The Board shall meet at any other times as it may prescribe in its rules. The Chairperson of the Board, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of all its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating that fact, and shall keep records of its examination of other official actions, all of which shall be immediately filed in the offices of the Board and shall be of public record.

(D) *Appeals to the Board of Adjustment*. Appeals to the Board of Adjustment may be taken by any person or by any officer, department, board, or commission of the city, aggrieved or affected by the decision of any administrative officer. The appeal shall be taken within 30 days of the aggrievement by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds. The officer from whom the appeal is taken shall forthwith transfer to the Board all of the papers constituting the record upon which the appealed action is taken.

(E) *Duties of the Board of Adjustment*. The Board of Adjustment shall be, and it is hereby, endowed with the following enumerated duties:

(1) To hear and decide appeals where it is alleged that an error exists in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant to this chapter;

(2) To vary or adjust the strict application of the requirements of this chapter in the case of an irregular, narrow, shallow, or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by this chapter. Variances may be granted only for hardships related to the physical characteristics of land. Variances to this chapter related to permitted, accessory, and/or conditional uses in any use district shall not be allowed. No variance or adjustment in the strict application of any provision of an ordinance may be granted unless:

(a) Special circumstances or conditions, fully described in the Board's findings, are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter;

(b) For reasons fully set forth in the Board's finding, the circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and

(c) The granting of the adjustment is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(3) To grant exceptions and variances upon request where, after a showing that an illegal construction or a non-conforming building or use existed for a period of at least five years in violation of zoning ordinances and the city, with knowledge of the existence of the condition, has not taken any steps toward elimination of the violations.

(Prior Code, § 21-2-3)

§ 154.038 ZONING ADMINISTRATOR.

(A) *Establishment of Zoning Administrator*. The staff position of Zoning Administrator shall be and is hereby established for the general and specific administration of this chapter. The Zoning Administrator shall be appointed by the City Manager and shall perform such duties as set forth in this chapter.

(B) *Duties of the Zoning Administrator*. It shall be the responsibility of the Zoning Administrator to perform the following duties:

(1) Receive, process, record, and administer all requests for approvals and permits, as governed by this chapter;

(2) Advise and recommend to the Planning and Zoning Commission, the Board of Adjustment, and the City Council regarding requests for approvals and permits as required by this chapter;

(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 city relating to the regulations and restrictions as set forth by this chapter;

(4) To take such action as is necessary for the enforcement of this chapter relating to violations of the regulations and restrictions;

(5) To pass upon all building permits to determine if the proposed construction, remodeling, or alterations are in conformity with the provisions of this chapter; and

(6) To ensure compliance with state statutes, following city notification procedures for proposed residential developments impacted by high noise and accident potential generated by Luke Air Force Base will be adhered to effective February 27, 1998. Upon submission by individual(s) on land use and zoning applications, staff will review applications for completeness and proceed with the following:

(a) A notice by first class mail shall be sent to the Arizona Military Airport Preservation Committee, Chair and/or Co-Chairs informing them of a proposed residential development that is the vicinity of a military airport and on which the day-night average sound level is 65 decibels or greater.

(b) A notice by first class mail shall be sent to the property owner(s) at the address shown on the record of the county assessor 30 days before final approval of the change in the land use plan or zoning regulation.

(c) A notice by first class mail shall be sent to the same property owner(s) immediately following the final approval of such a change in the plan or regulation.

(Prior Code, § 21-2-4)

§ 154.039 METHOD OF DOCUMENTING AMENDMENTS.

(A) Any official amendments to this chapter of the city shall be incorporated in a timely manner. The amendments shall be added to or deleted from the appropriate place. Where additional pages are required due to any amendment, the necessary pages shall be paginated using the proceeding page number followed by the appropriate alphabetical designation (5a, 5b, and the like).

(B) Amendments will be followed by the ordinance number and date of adoption which shall appear in parentheses.

(C) The table of contents shall be amended as necessary to reflect the amendments.

(Prior Code, § 21-2-5)

ESTABLISHMENT OF ZONES

§ 154.050 ZONE CLASSIFICATIONS.

(A) For the purpose of this chapter, the city shall be divided into the following zones:

(1) NR Natural Reserve Zone.

(2) RA Rural Area Zone.

(3) SN Suburban Neighborhood Zone.

(4) MP Mobile Park Zone.

(5) MU Mixed Urban Zone.

(6) UC Urban Corridor Zone.

(7) TD Transit Development Zone.

(8) CP Commerce Park Zone.

(9) EI Employment/Industry Zone.

(10) [Left blank intentionally.]

(11) FW Floodway Zone.

(12) FP Floodplain Zone.

(13) 65LDN 65-70DB Noise Zone.

(14) 70LDN 70-75DB Noise Zone.

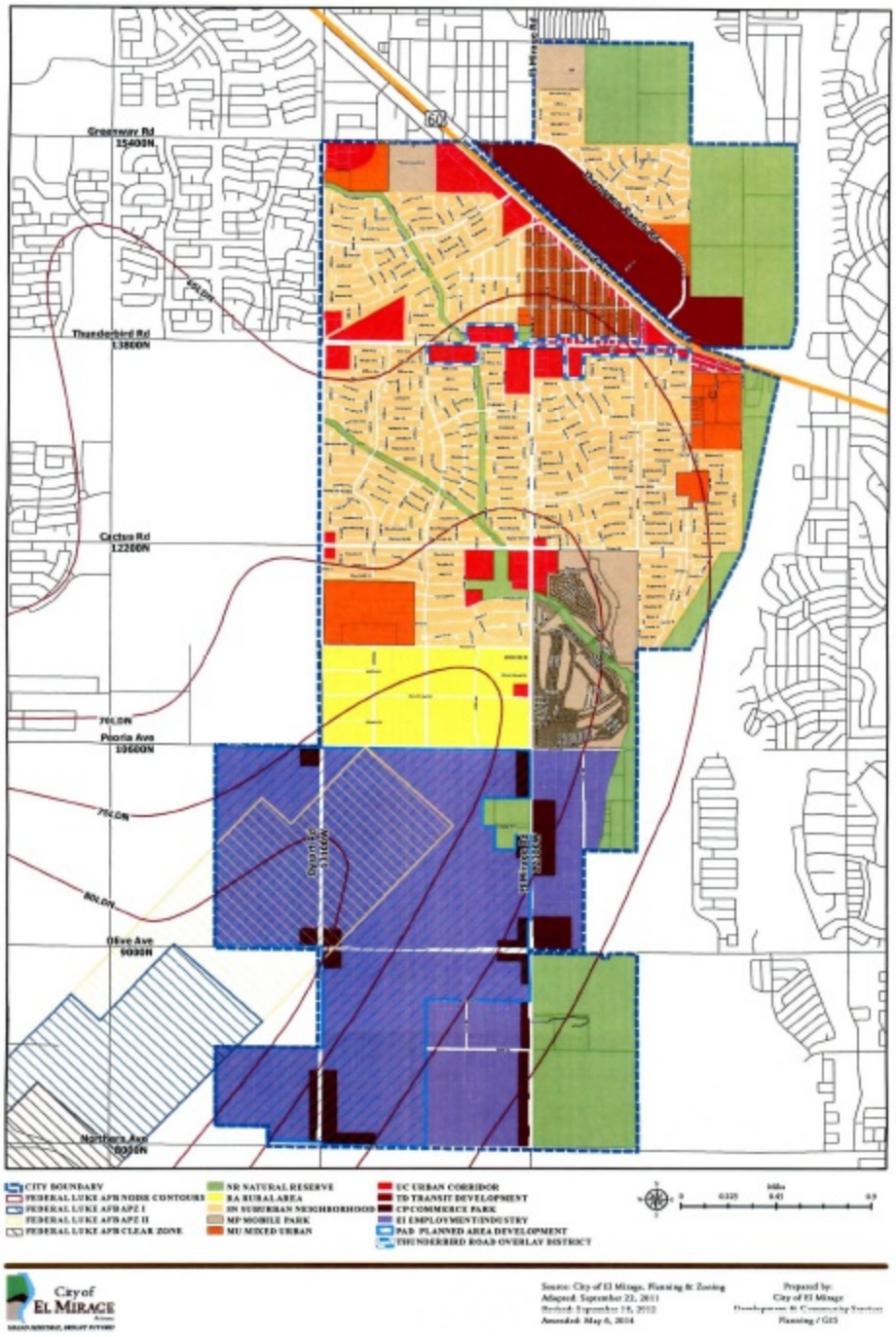
(15) 75LDN 75-80DB Noise Zone.

(16) 80LDN 80+DB Noise Zone.

(17) APZ1 Accident Potential Zone 1.

(18) APZ2 Accident Potential Zone 2.

(B) The boundaries of the above zones are hereby established as shown on a map entitled "City of El Mirage Zoning Map," which has been approved by the City Council and is hereby made a part of this chapter.



(Prior Code, § 21-4-1) (Ord. 11-09-17, passed 9-22-2011; Ord. O14-05-02, passed 5-6-2014)

§ 154.051 INTERPRETATION OF ZONE BOUNDARIES.

Where uncertainty exists with respect to any of the boundaries of the zones as shown on the zoning map, the following rules shall apply:

(A) Where zone boundaries are indicated as approximately following the center lines of street, highway, or railroad rights-of-way or the lines extended, the center lines or the lines extended shall be construed to be such boundaries.

(B) Where zone boundaries are indicated as approximately following the corporate limit line of the city, the corporate limit line shall be construed to be the boundaries.

(C) Where zone boundaries are indicated as approximately following property lines or the lines extended, the property lines or the lines extended shall be construed to be the boundaries.

(D) Where zone boundaries are indicated as approximately following the center line or stream beds or river beds, the center lines or the lines extended shall be construed to be the boundaries.

(E) No zone boundary line shall hereinafter be established to divide one lot into two or more zones unless the size of the lot in question is such that division is determined to be essential by the Planning and Zoning Commission and the City Council.

(Prior Code, § 21-4-2)

§ 154.052 PERMITTED USES BY ZONE.

Key to symbols: P = Permitted C = Conditional

PERMITTED USES BY ZONE[1 3]									
	NR	***RA***	***SN***	***MP***	***MU***	***UC***	***TD***	***CP***	***EI***
AGRICULTURE									
Animal clinic/kennel	C	C			C	C	C	P	P
Grain storage	C	P						C	P
Greenhouse	C	P	C					C	P
Livestock pen	C	P						C	P
Stable	C	P	C					C	P

PERMITTED USES BY ZONE[1 3]									
	NR	***RA***	***SN***	***MP***	***MU***	***UC***	***TD***	***CP***	***EI***
BUSINESS									
Arts gallery/studio	C			C	P	P	P	P	C
Home occupation	C	P	P	P	P	P	P	P	C
Kiosk	C			C	C	C	C	C	C
Medical marijuana (dispensaries per A.R.S. § 36-2801)	C			C	P	P	P	P	P
Medical marijuana (cultivation operation per A.R.S. § 36-2801) 4									C
Mixed use	C			C	P	P	P	P	C
Non profit organization	C			C	C	C	C	C	C
Open air market	C			C	C	C	C	C	C
Push Cart	C			C	C	C	C	C	C
Restaurant	C			C	P	P	P	P	C
Restricted [2]	C					C	C	C	C
Retail and service [2]	C			C	P	P	P	P	C
CIVIC									

Airport/heliport	C						C	C	C
Broadcast/recording	C				P	P	P	P	C
Bus Shelter	C	P	P	P	P	P	P	P	P
Community Center	C	C	C	C	P	P	P	P	C
Golf Course	C	C	C	C	C	C	C	C	C
Indoor amusement	C	C	C	C	P	P	P	P	C
Library	C			C	P	P	P	P	C
Museum	C			C	C	C	P	P	C
Outdoor recreation	C	C	C	C	C	C	C	C	C
Parking structure	C			C	C	P	P	P	C
Passenger terminal	C			C	C	C	P	P	C

PERMITTED USES BY ZONE[1 3]									
	NR	***RA***	***SN***	***MP***	***MU***	***UC***	***TD***	***CP***	***EI***
Playground	C	P	P	C	P	P	P	P	C
Private club	C	C	C	C	P	P	P	P	C
Public Art	C	P	P	C	P	P	P	P	C
Religious assembly	C	C	C	C	C	C	C	C	C
Surface Parking Lot	C	P	P	P	P	P	P	P	P
Theater/auditorium	C			C	C	P	P	P	C
DWELLINGS[1]									
Accessory dwelling					P	P			
Duplex					P	P			
Live/work unit					P	P	P		
Multi-family	C				C	C	P		
Mobile home/RV				P					
Single unit attached				C	P				
Single unit detached		P	P	C	P				
Watchman's quarters				P	P	P	P	P	P
EDUCATION									
College/university	C				C	C	C		
Daycare center (5+)	C	C	C	C	P	P	P	C	C
Elementary school	C	C	C	C	C	C	C		
High school	C				C	C	C		
Trade school	C				C	C	C	P	P
AUTOMOTIVE									

Auto/RV sales/service	C					C	C	P	C
Billboard	C				C	C	C	P	C

PERMITTED USES BY ZONE[1 3]									
	NR	***RA***	***SN***	***MP***	***MU***	***UC***	***TD***	***CP***	***EI***
Drive-thru facility	C				C	P	P	P	P
Fuel service station	C				C	C	C	P	C
Rest stop	C							C	C
Roadside stand	C							C	C
Shopping center	C				P	P	P	P	
Shopping mall	C				P	P	P	P	
Truck maintenance	C					C	C	C	P
CIVIL SUPPORT									
Cemetery	C				C	C	C	C	C
Fire station	P	P	P	P	P	P	P	P	P
Funeral home	C				P	P	P	P	C
Hospital	C				C	C	C	C	C
Medical/Dental clinic	C			C	P	P	P	P	C
Police station	P	P	P	P	P	P	P	P	P
LODGING									
Bed and Breakfast (<6)	C	C			P	P	P	P	
Group quarters (>6)					C	C	C	C	
Inn (6-12)	C	C			P	P	P	P	
Hotel/Motel (13+)	C					P	P	P	
Residential facilities		P	P	C	P				
Industrial									
Cremation facility						C	C	C	P
Exterior storage yard					C	C	C	C	P
Hazardous materials									C

PERMITTED USES BY ZONE[1 3]									
	NR	***RA***	***SN***	***MP***	***MU***	***UC***	***TD***	***CP***	***EI***
Laboratory facility	C						C	C	P
Manufacturing (light)	C				C	C	C	P	P
Mining/material mix	C								C

Mini-storage						C	C	C	P
Oil and gas refinery									C
Recycling facility									C
Sewer/waste facility	C			C				C	P
Truck depot/terminal								C	P
Utility substation	C	C	C	C	C	C	C	C	P
Warehouse	C					C	C	C	P
Water supply facility	C	C	C	C	C	C	C	C	P
Wireless transmitter	C	C	C	C	C	C	C	C	C

1 All uses are subject to Military Airport Overlay Zones per A.R.S. § 28-8481.

2 Restricted uses include adult sexually oriented businesses, cargo containers, payday loans, pawnshops, tattoo parlors, and piercing salons.

3 City facilities are permitted in any district and exempt from the site plan approval process.

4 One thousand five hundred feet restricted distance from residential zones, public facilities, parks, freestanding/permanent churches, and schools.

(Prior Code, § 21-4-3) (Ord. O10-01-02, passed 1-14-2010; Ord. O10-04-03, passed 4-8-2010; Ord. O11-09-17, passed 9-22-2011; Ord. O12-11-10, passed 11-8-2012; Ord. O14-07-06, passed 7-1-2014; Ord. O15-02-03, passed 2-17-2015; Ord. O15-10-08, passed 10-6-2015; Ord. O15-12-12, passed 12-1-2015 ; Ord. O17-08-08, passed 8-15-2017)

§ 154.053 ZONING STANDARDS.

The standards for each zone are set forth in the table below:

NR	Natural Reserve
RA	Rural Area
SN	Suburban Neighborhood
MP	Mobile Park
MU	Mixed Urban

UC	Urban Corridor
TD	Transit Development
CP/EI	Commerce Park and Employment/Industry

TABLE OF ZONE STANDARDS								
Standard	**NR**	**RA**	**SN**	**MP**	**MU**	**UC**	**TD**	**CP/EI**

LOT OCCUPATION								
Lot Area (sq. ft.)	per site plan	43,560	5,000	2,000	4,000	2,000	1,000	2,000
Lot Width (minimum)	per site plan	120 ft.	45 ft.	40 ft.	40 ft.	20 ft.	20 ft.	50 ft.
Lot Cover (maximum)	per site plan	25%	55%	80%	90%	90%	90%	90%
MINIMUM SETBACKS - PRINCIPAL BUILDING								
Front (minimum)	per site plan	30 ft.	20 ft.	5 ft.	10 ft.	5 ft. *	5 ft. *	20 ft.
Side St. (minimum)	per site plan	20 ft.	10 ft.	5 ft.	10 ft.	5 ft. *	5 ft.*	10 ft.
Int. Side (minimum)	per site plan	20 ft.	5 ft.	5 ft.*	5 ft. *	5 ft. *	5 ft.*	5 ft. *
Rear (minimum)	per site plan	30 ft.	20 ft.	5 ft.	10 ft.	5 ft. *	5 ft. *	5 ft. *
Rear (minimum)	developments over 30 acres		15 ft.					
Frontage (minimum)	per site plan	no	50%	50%	50%	50%	50%	no
MINIMUM SETBACKS-ACCESSARY BUILDING								
Front (minimum)	per site plan	30 ft.	20 ft.	5 ft.	10 ft.	5 ft.*	5 ft. *	10 ft.
Side (minimum)	per site plan	5 ft.*	5 ft. *	5 ft.*	5 ft.*	5 ft. *	5 ft. *	5 ft.*
Rear (minimum)	per site plan	5 ft. *	5 ft.*	5 ft. *	5 ft.*	5 ft.*	5 ft.*	5 ft.*
MAXIMUM BUILDING HEIGHT								
Principal (stories)	per site plan**	2**	2**	2**	2**	3**	5**	2**
Accessory (principal)	below	below	below	below	below	below	below	below
BUILDING FUNCTION [See Table of Land Uses]								

*No setback is required if structure is fire resistant per International Building Code and Fire Code (IBC and IFC).

**Any building above 30 feet in height shall be subject to additional fire protection precautions per IBC and IFC.

(Ord. O11-09-17, passed 9-22-2011; Ord. O17-08-09, passed 8-15-2017)

§ 154.065 PLANNED AREA DEVELOPMENT (P.A.D.).

(A) *Purpose*.

(1) As an alternative to conventional zoning and development approaches and processes, the Planned Area Development (P.A.D.) procedures and regulations are set forth to enhance the city in order that the public health, safety, and general welfare be as the city increasingly urbanizes: to encourage innovations in residential, commercial, and industrial development so that greater opportunities for better housing, recreation, shopping, and employment may extend to all citizens and residents of the city; to reflect changes in the technology of land development; to encourage a more creative approach in the utilization of land in order to accomplish a more efficient, aesthetic, and desirable development which may be characterized by special features of the geography, topography, size, or shape of a particular property; and to provide a compatible and stable, developed, environment in harmony with that of the surrounding area.

(2) The P.A.D. may include any development having one or more principal use or structures on a single parcel of ground or contiguous parcels. The P.A.D. shall consist of a harmonious selection of uses and groupings of buildings, parking areas, circulation, and open spaces, and shall be designated as an integrated unit, in such manner as to constitute a safe, efficient, and convenient urban area development.

(B) *General requirements and standards*.

(1) *Ownership*. The tract shall be a development of land under unified control at the time of application and planned and scheduled to be developed as a whole.

(2) *Conformance with general plan*. The land uses and design of the proposed P.A.D. shall be consistent with the city's General Plan.

(3) *P.A.D. regulations*. The minimum total P.A.D. shall be no less than three acres unless the applicant can show that the minimum P.A.D. requirements should be waived because the waiver would be in the public interest and that one or both of the following conditions exist.

(a) Unusual physical features of the property itself or of the surrounding area are such that development under the standard provisions of this zoning ordinance would not be appropriate in order to conserve a physical or terrain feature of importance to the neighborhood or community.

(b) The property is adjacent to or across the street from property which has been developed under the provisions of this section and will contribute to the amenities of the area.

(4) *Uses in a P.A.D.* Any use may be allowed in a P.A.D. provided it is consistent with the general plan.

(5) *Residential density in P.A.D.s.*

(a) Residential development in a P.A.D. may provide for a variety of housing types allowed in any one of the basic residential zoning districts. In addition, the number of dwelling units allowed may be flexible relative to the number of dwelling units allowed may be flexible relative to the number of dwelling units per acre that would be permitted by the zoning regulations otherwise applicable to the site. However, the total number of dwelling units and the resulting density allowed in a P.A.D. shall be consistent with the land use plan of the city's general plan.

(b) In determining the reasonableness of the densities in a P.A.D., the Planning and Zoning Commission and City Council shall consider increased efficiency in the provision of public facilities and services based, in part, upon:

1. The location, amount, and proposed use of common open space;
2. The location, design, and type of dwelling units;
3. The physical characteristics of the site; and
4. Particular distinctiveness and excellence in siting, design, and landscaping.

(6) *Front, rear, and side yard building setback regulations*. Residential building setbacks from all property lines which form the perimeter of the P.A.D. or from all interior and exterior dedicated street right-of-way lines or from the paving of any private interior circulation streets shall be no less than 20 feet; commercial building setbacks shall be no less than 20 feet or the height of the building, whichever is greater.

(7) *More than one building per lot*. More than one building may be placed on one platted or recorded lot in any P.A.D. Areas

for single-family detached dwellings or other housing types providing privately owned lots must comply with the city's subdivision ordinance in all respects not specifically noted in this section as appropriate variances or waivers.

(8) *One housing type not inconsistent with intent*. A P.A.D. which only involves one housing type such as all detached or all attached units shall not be considered inconsistent with the stated purposes and objectives or this section and shall not be the sole basis for denial or approval.

(9) *Architectural style, appearance*. Architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, the overall appearance and compatibility of individual buildings to other site elements or to surrounding development will be primary considerations during P.A.D. review by the Planning and Zoning Commission and Council.

(10) *Phasing of development*.

(a) Any P.A.D. plan proposed to be constructed in phases shall include full details relating thereto, and the City Council may approve or modify, where necessary, any such proposals.

(b) The phasing shall include the time for beginning and completion of each phase. The timing may be modified by the city on the showing of good cause by the developer.

(c) The land owner or developer shall make such easements, covenants, and other arrangements and shall furnish such financial guarantees as may be determined by the city to be reasonably required to assure performance in accordance with the plan and to protect the public.

(11) *Street utilities, services, and public facilities*. The uniqueness of each proposal for a P.A.D. may allow specifications and standards for streets, utilities, and specifications and standards for streets, utilities, and services to be subject to minor modifications of the specifications and standards established in this and other city ordinances governing their construction. The city may, therefore, waive or modify the specifications or standards where it is found that they are not required in the interests of the residents of the P.A.D. or the city. The plans and profiles of all streets, utilities, and services shall be reviewed, modified if necessary, and approved by the city prior to the final approval of the P.A.D. All P.A.D.s shall be served by public or community water and sewer systems.

(12) *Open space provision*. At least 7% of the total P.A.D. area shall be set aside for public and/or private open space and recreational use. The city shall determine what portion of the 7% shall be private and what shall be public.

(13) *Operating and maintenance requirements for planned area development common facilities*. In the event that certain land areas or structures are provided within the P.A.D. for private recreational use or as service facilities, the owner of the land and buildings shall establish an arrangement to assure the city of a continued standard of maintenance. These common areas may be placed under the ownership of one of the following, depending upon which is more appropriate:

(a) Dedicated to public where a community-wide use would be anticipated;

(b) Landlord control; and/or

(c) Landowners association, provided all of the following conditions are met:

1. The landowners association must be established prior to any sale;

2. Membership may be mandatory for each owner and any successive buyer;

3. The open space restrictions must be permanent or tied to a long-term agreement (e.g., 99 years);

4. The association must be responsible for liability insurance and the maintenance of recreational, service, and other facilities as deemed necessary by the city;

5. Landowners must pay their pro rata share of the cost and the assessment levied by the association that can become a lien on the property in accordance with Arizona Statutes;

6. The association must be required to adjust its assessment to meet changing needs; and

7. The association must be required to, at minimum, adjust its assessment on an annual basis by a percentage not less than the previous year's increase in the Consumer Price Index.

(14) *Building height and setbacks*. In general, a building's setback from property adjacent to the P.A.D. site shall approximate its height.

(15) *Landscaping*. Landscaping and/or fencing shall be provided according to a plan approved by the city and shall include a

detailed planting list with sizes indicated.

(16) *Utilities*. All utilities, including electricity and telephone, shall be installed underground.

(17) *Additional standards*. Development within a P.A.D. shall conform to all conditions and standards agreed upon by the applicant and the city at time of P.A.D. approval.

(C) *Property in floodplains or airfield impact areas*. Any property located in a P.A.D. zone and any F-1, F-2, or A-1 Overlay Zone must comply with the regulations of the applicable overlay zone.

(Prior Code, § 21-5-12) (Ord. O11-09-17, passed 9-22-2011; Ord. O14-05-02, passed 5-6-2014)

§ 154.066 FLOODWAY OVERLAY ZONE (F-1).

(A) *Purpose*. The F-1 Floodway Zone is intended to allow unimpeded passage of water during a flood through those areas of the city identified as the floodway by the Federal Insurance Administration of the National Flood Insurance Program of the U.S. Department of Housing and Urban Development and shown as such on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the city. The purpose of these regulations is to promote the public health, safety, and general welfare, and to minimize public and private losses because of flood conditions. Since the floodway is an extremely hazardous area because of the velocity of flood waters, which carry debris and erosion potential, development is closely regulated.

(B) *Principally permitted uses*. Those principally permitted uses which are allowed in the underlying zoning district only if a technical evaluation demonstrates that encroachments, fill, new construction, substantial improvements, or other development shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(C) *Conditionally permitted uses*. Those conditionally permitted uses which are allowed in the underlying zoning district only if a technical evaluation demonstrates that encroachments, fill, new construction, substantial improvements, or other development shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(D) *Non-conforming uses*. Non-conforming uses in the floodway overlay zone shall not be expanded but may be modified, altered, or repaired to incorporate flood-proofing measures providing the measures do not raise the level of a 100-year flood.

(Prior Code, § 21-5-13) (Ord. O11-09-17, passed 9-22-2011)

§ 154.067 FLOODPLAIN OVERLAY ZONE (F-2).

(A) *Purpose*. The F-2 Floodplain Overlay Zone is intended to regulate the nature of permitted development in the 100-year floodplain as identified by the Federal Insurance Administration of the National Flood Insurance Program of the U.S. Department of Housing and Urban Development and shown as "A" Zones on the city's Flood Insurance Rate Maps, so as to lessen property damage and hazards resulting from such events.

(B) *Principally permitted uses*. Those principally permitted uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that the uses comply with the restrictions of divisions (E) and (F) of this section, below.

(C) *Conditionally permitted uses*. Those conditionally permitted uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that such uses comply with the restrictions of divisions (E) and (F) of this section, below.

(D) *Permitted accessory uses*. Those permitted accessory uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that such uses comply with the restrictions of divisions (E) and (F) of this section, below.

(E) *General standards for flood hazard reduction*. In all floodway and floodplain areas, the following standards are required.

(1) *Anchoring*.

(a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.

(b) All existing mobile homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations; mobile homes less than 50 feet long require only one additional tie per side;

2. Frame ties be provided at each corner of the mobile home with five additional ties per side at intermediate points with mobile homes less than 50 feet requiring only four additional ties per side;

3. All components of the anchoring system are capable of carrying a force of 4,800 pounds; and

4. Any additions to the mobile home be similarly anchored.

(2) *Utilities*.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(F) *Specific standards for flood hazard reduction*. The following standards shall apply in all areas where base flood elevation data has been established by the Federal Insurance Administrator of the National Flood insurance Program of the U.S. Department of Housing and Urban Development.

(1) *Residential construction*.

(a) New construction and substantial improvement of any residential structure shall have the lowest finished flood elevation, including basement, at least one foot above the base flood elevation.

(b) New construction and substantial improvement of any residential structure located in an AO zone as specified on the community's Flood Insurance Rate Map (FIRM) shall have the lowest floor, including basement, elevated above the crown of the nearest street or to the depth number specified in the community's FIRM.

(2) *Non-residential construction*.

(a) New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. The certifications shall be provided to the Building Department and the Maricopa County Flood Control District.

(b) New construction and substantial improvement of any non-residential structure located in an AO zone as specified on the community's FIRM shall have the lowest floor, including basement, elevated above the crown of the nearest street or to the depth number specified on the community's FIRM or together with attendant utility and sanitary facilities shall:

1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer that the standards of this division are satisfied. The certifications shall be provided to the Building Department and the Maricopa County Flood Control District.

(3) *Mobile homes*.

(a) Existing mobile homes shall be anchored in accordance with division (E)(1) of this section, above.

(b) No mobile homes shall be placed in any floodway or floodplain after the effective date of this chapter.

(Prior Code, § 21-5-14) (Ord. O11-09-17, passed 9-22-2011)

§ 154.068 AIRFIELD IMPACT OVERLAY ZONE (A-1).

(A) *Purpose*.

(1) The principal purpose of the Airfield Impact Overlay zone is to promote and protect the public health, safety, and general welfare in the vicinity of Luke Air Force Base by minimizing exposure to high noise levels and accident hazards generated by airport operations and to encourage future development which is compatible with the continued operation of the airports.

(2) In addition, it is the purpose of the Airfield Impact Overlay Zone to minimize future conflicts between land uses and excessive noise generated by aircraft.

(3) It is the intent of this overlay zone to regulate land uses within designed existing or projected airfield noise impact areas by requiring acoustical performance standards. Nothing herein shall be construed as altering building materials or construction methods from those which are specified in the Uniform Building Code.

(4) It is also the intent of this overlay zone to prohibit uses in the accident potential zone that, if otherwise permitted, would endanger lives or invite destruction of property.

(B) *Zone and area boundaries*. All zoning and rezoning ordinances or regulations shall be subject to provisions of A.R.S. § 28-8481 et seq.

(C) *Establishment of zones and areas.*

(1) *Airfield Impact Overlay Zone*. The Airfield Impact Overlay Zone shall be established in like manner as any other zone permitted by this chapter. The boundaries of this zone and its areas may be subject to periodic updating and may be amended in accordance with the provision of § 154.150 and § 154.151 of this chapter.

(2) *Airfield overlay areas*. For purposes of administering these regulations there shall be three airfield noise overlay areas.

(a) Airfield noise overlay area one (AI-I). The area between the 60 Ldn and 70 Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).

(b) Airfield noise overlay area two (AI-II). The area between the 70 Ldn and the 75 Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).

(c) Airfield noise overlay area three (AI-III). The Area within the 75Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).

(3) *Purpose of airfield overlay areas*. The boundaries of the areas shall be established in accordance with the provision of division (C)(1) above. The purpose of the establishment of three airfield overlay areas is to distinguish between the severity of the levels of noise impact so that appropriate uses and acoustical performance standards can be established to mitigate the adverse impacts of aircraft noise and hazards to protect the public health, safety, and welfare.

(4) *Lots divided by airfield zone boundaries*. Whenever a lot of record is divided by an airfield zone boundary, the development shall conform to the land use and design criteria of the more restrictive district in accordance with all city codes and regulations.

(D) *Permitted uses.*

(1) *Noise attenuation matrix.* Within the Airfield Impact Overlay Zone, there shall be three overlay areas (AI-I, AI-II, and AI-III). The uses permitted in the overlay areas shall be those uses permitted in the underlying zoning district, and shall be subject to all conditions and procedures of the underlying district. The uses shall also comply with the restrictions of the following noise attenuation matrix, unless a land use category is specifically not permitted in the matrix, in which case such uses classified in the designated land use category shall not be permitted.

ATTENUATION MATRIX

Code	***Restrictions***
NR	No restrictions as a result of noise
1	The land use or activity is permitted; however, the level of noise within the principally permitted structures must be reduced by the developer of this land use activity, in accordance with Chapter 35 Sound Transmission Control of the most recent edition of the UBC.
2	The land use or activity is permitted; however, the level of noise within principally permitted structures shall not exceed 55 Ldn.
3	The land use or activity is permitted; however, the level of noise within principally permitted structures shall not exceed 60 Ldn.
4	The land use or activity is permitted when the level of noise does not exceed 70 Ldn within the principally permitted structure, unless 70 Ldn is exceeded by self generated noise.
5	Uses which produce air pollutants that may obscure vision in any way, or which pose a potential explosive hazard are not permitted.
6	Above ground transmission lines are not permitted.
-	Uses within this category are not permitted.

	AI-I	**AI-II**	**AI-III**
Single-family, duplex, multi-family	1,2	1,2	-
Mobile homes, parks, or courts	1,2	1,2	-
Other residential uses	1,2	1,2	-
Educational facilities	2	-	-
Religious facilities, libraries, museums, galleries, clubs, and lodges	2	2	-
Outdoor sport events, entertainment, and public assembly, except amphitheaters	2	2	-
Indoor recreation, amusements, athletic clubs, gyms, and spectator events	3	3	-
Neighborhood parks	NR	NR	-
Community and regional parks	NR	NR	-
Outdoor recreation: tennis, golf courses, riding trails, and the like	NR	NR	-
Cemeteries	NR	NR	-
Hotels/Motels	2	2	-
Hospitals and other health care services	2	2	-
Services: finance, real estate, insurance, professional, and government offices	2	2	-
Retail sales: building materials, farm			

equipment, automotive, marine, mobile homes, recreational vehicles, and accessories	NR	4	4
Restaurants, eating and drinking establishments	3	3	3
Retail sales: general merchandise, food, drugs, apparel, and the like	3	3	3
Personal services: barber and beauty shops, laundry and dry cleaning, and the like	3	3	3
Automobile service stations	NR	4	4
Repair services	NR	4	4
Processing of food, wood and paper products; printing and publishing, warehouses, wholesale and storage activities	NR	4	4
Refining, manufacturing, and storage of chemicals, petroleum and related products, manufacturing and assembly of electronic components, and the like	NR	4	4
Manufacturing of stone, clay, glass, leather, gravel, and metal products; construction and salvage yards; natural resource extraction and processing, agricultural, mills and gins	NR	5	5

	AI-I	**AI-II**	**AI-III**
Animal husbandry: livestock, farming, breeding, and feeding	NR	NR	-
Plant nurseries (excluding retail sales)	NR	NR	NR
Farming (except livestock)	NR	NR	NR
Transportation terminals, utility and communication facilities	NR	NR	NR
Vehicle parking	NR	NR	NR
Signs	NR	NR	NR

(2) *Non-conforming uses.* Nothing herein shall require any change or alteration in a lawfully constructed or established building, structure, or use in existence at the time of the adoption of any airfield overlay areas, as established in § 154.109 of this chapter.

(E) *Certification of noise attenuation.*

(1) *Certification*. Prior to issuance of a building permit in any AI-I, AI-II, or AI-III area, a certification by a registered acoustical engineer or registered architect that the construction practices and/or materials of the structure will achieve the interior noise level required in the noise attenuation matrix shall be submitted. The engineer or architect shall submit relevant information to permit the Zoning Administrator to verify that the proposed measures will achieve the interior noise level standard.

(2) *Inaccurate data*. False or inaccurate data shall be cause for rendering null and void any building permit and may result in non-issuance of an occupancy permit.

(3) *City liability*. The city, its employees, and officers shall not be held liable for any permit issued on the basis of false information.

(F) *Avigational easement and release*. Prior to issuance of any building or development permit for property within the Airfield Impact Overlay Zone, the owner of the property shall provide the city with an avigational easement over the subject property and release the city from all liability for any and all claims for damages originating from dust, noise, vibration, fumes, fuel, and lubricant particles, and the like. The avigational easement and release form shall be available from the city.

(G) *Additional height and safety regulations.*

(1) *Hazard marking and lighting*. Luke Air Force Base personnel will determine whether the construction and/or existence of any structure, pole, tower, tank, or plant material constitutes a hazard to an aircraft operation in the vicinity of the airfield. When such a determination is made, the owner of the structure, pole, tower, tank, or plant material shall, at his or her own expense, reduce in height or install, operate, and maintain such markers and lights as may be necessary to indicate to aircraft operators the presence of an airfield hazard.

(2) *Communications facilities*. Any activity within this district which may create any electrical interference with communications between Luke Air Force Base and aircraft is prohibited.

(Prior Code, § 21-5-15) (Ord. O11-09-17, passed 9-22-2011)

THUNDERBIRD ROAD OVERLAY DISTRICT (TROD)

§ 154.081 THUNDERBIRD ROAD OVERLAY DISTRICT (TROD).

In order to more fully implement the recently adopted General Plan and form-based zoning and create a walkable urban environment, all properties adjacent to Thunderbird Road from 127th Avenue to Grand Avenue as identified on the map attached to Ord. O12-09-06, passed 9-18-2012, are subject to the following design standards:

(A) All new principal buildings shall be built along the front property line for at least 50% of the ground floor facade. All areas in front of facades shall be paved or landscaped to form a part of the pedestrian corridor.

(B) On-site parking shall be provided in the side and/or rear of the property.

(C) Awnings may be built to front property lines or projecting over rights-of-way to provide shade to building facades and adjacent pedestrian walkways.

(D) Ground floor facades shall be reserved for retail and/or service uses with office and/or residential uses either above or to the rear of the property.

(E) At least 50% of the ground flood facade and at least 25% of all upper stories shall be provided with doors and/or window openings to allow natural surveillance between the street and businesses.

(F) Notwithstanding the requirements as set forth above, any other building configurations may be considered and approved by conditional use permit.

(G) These provisions shall not hinder the continued use of any existing buildings but any additions or new structures shall comply with these regulations.

(H) Any residential use within the 65+ DB LDN noise zone is subject to review by Luke Air Force Base per A.R.S. § 28-8481(J).

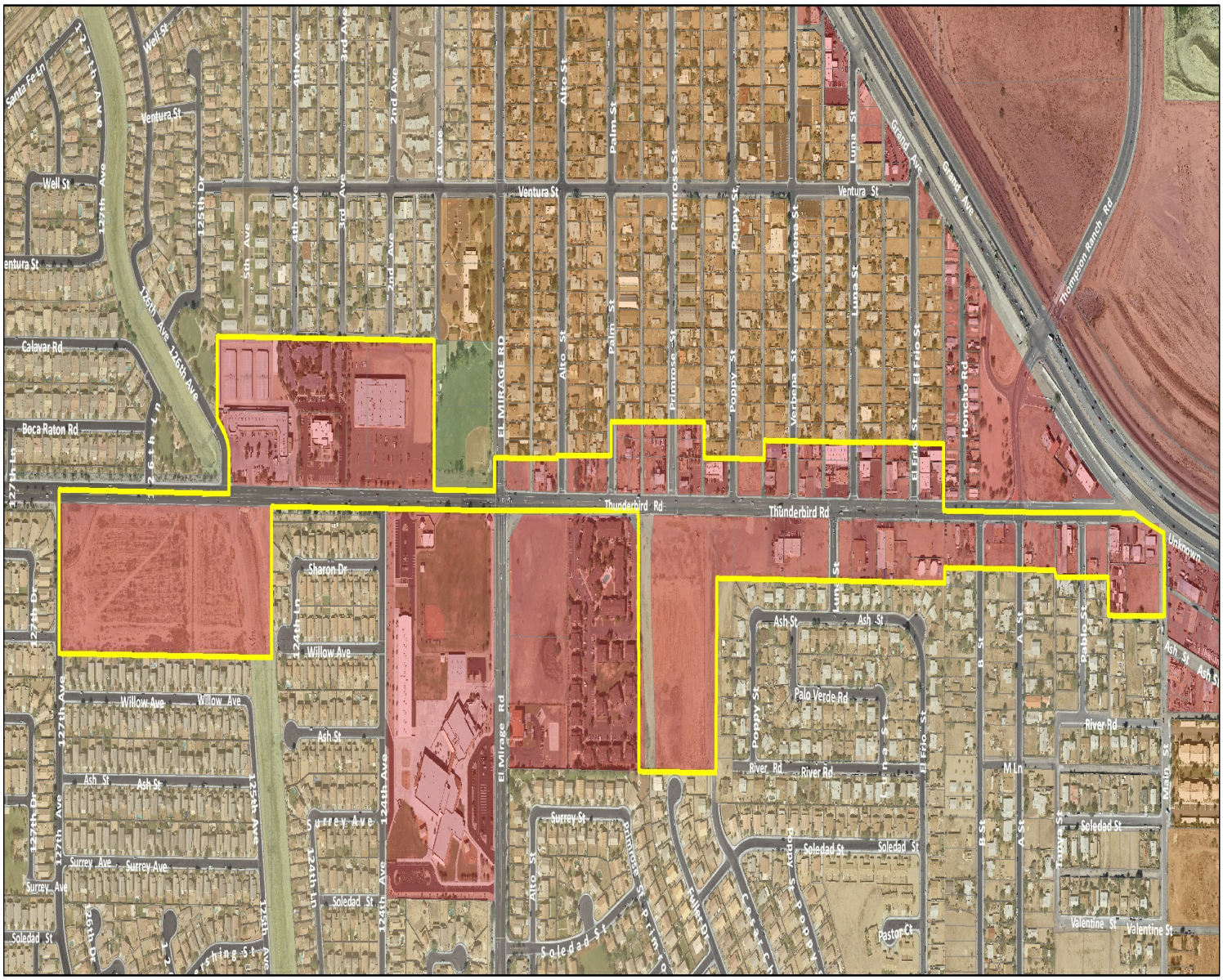
(Ord. O12-09-06, passed 9-18-2012)

For a PDF file of the map below, click here.

City of El Mirage

Thunderbird Road Overlay District

(127th Avenue to Grand Avenue)



- THUNDERBIRD ROAD OVERLAY DISTRICT
- NR - NATURAL RESERVE
- RA - RURAL AREA
- SN - SUBURBAN NEIGHBORHOOD
- MP - MOBILE PARK
- MU - MIXED URBAN
- UC - URBAN CORRIDOR
- TD - TRANSIT DEVELOPMENT
- CP - COMMERCE PARK
- EI - EMPLOYMENT/INDUSTRY

0 0.125 0.25 0.5 Miles

Prepared by: JM
Community Services & Development
Planning / GIS Division
June 29, 2012

ADULT OR SEXUALLY ORIENTED BUSINESSES

§ 154.085 DEFINITIONS.

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

ADULT or ***SEXUALLY ORIENTED BUSINESS.*** Any adult arcade, adult bookstore or novelty store, adult cabaret, adult theater, adult use, nude model studio, semi-nude business, or topless bar.

ADULT ARCADE. Any place to which the public is permitted wherein money-operated, token-operated or credit-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time in any viewing room of 150 square feet or less, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ***NOVELTY STORE.*** Any commercial establishment:

(1) Which as one of its principal business uses offers for sale or rental, for any consideration, any of the following:

(a) Books, magazines, periodicals or other printed materials, which depict or describe specified sexual activities or specified anatomical areas; or

(b) Films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas; or

(c) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding condoms and other birth control and disease prevention products; and

(2) Which regularly excludes all minors from the premises because of the sexually explicit nature of the items sold, rented or displayed therein.

(3) For purposes of this definition, 25% or more of the establishment's merchandise constitutes a principal business use.

ADULT CABARET. Any nightclub, bar, restaurant, or other commercial establishment which features live performances or activities on the business premises that are characterized by the exposure of specified anatomical areas or by specified sexual activities; provided that a nude model studio is not an adult cabaret, the term ***ADULT CABARET*** is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite any patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

ADULT THEATER. Any business establishment, other than an adult arcade or adult motel, used regularly for the business of exhibiting films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas, and from which all minors are regularly excluded because of the sexually explicit nature of such films, cassettes or reproductions.

NUDE, NUDITY or ***STATE OF NUDITY.*** The appearance of the cleft of the buttocks, anus, genitals or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals or areola of the female breast.

NUDE MODEL STUDIO Any place where a person appears nude or semi-nude, and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons for any consideration, the term ***NUDE MODEL STUDIO*** does not include a proprietary school that is licensed by this state; a college, community college, or university that is supported entirely or in part by taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college, or university that is supported entirely or in part by taxation; or a structure to which all of the following apply:

(1) A sign is not visible from the exterior of the structure and no other advertising appears on the premises indicating that a nude or semi-nude person is available for viewing;

(2) The business does not otherwise advertise itself as an adult business;

(3) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(4) Where no more than one nude or semi-nude model is on the premises at any one time.

SEMI-NUDE or ***SEMI-NUDITY.*** A state of dress which shows the female breast below a horizontal line across the top of the areola at its highest point, or which shows the male or female buttocks. This definition shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, leotard, bathing suit, or other wearing apparel, provided that the areola is not exposed in whole or in part.

SEMI-NUDE BUSINESS. Any commercial establishment, other than an adult cabaret, nude model studio, or topless bar, which features employees who appear semi-nude before customers on the business premises. The term ***SEMI-NUDE BUSINESS*** is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite any patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion of exploitation of semi-nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

SPECIFIED ANATOMICAL AREAS. Human genitals in a state of sexual arousal; the appearance of the cleft of the buttocks, anus, genitals, or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals, or areola of the female breast.

SPECIFIED SEXUAL ACTIVITIES. Activities that depict, describe, or relate to any of the following activities:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any activities set forth in divisions (1) through (3) above.

TOPLESS BAR. Any establishment which is required to hold a liquor license under Arizona law and which offers semi-nude performers as entertainment.

(Ord. O08-07-12, passed 7-10-2008)

§ 154.086 LOCATION REGULATIONS.

(A) *Findings, purpose and intent.*

(1) The Council makes the following findings and provides the following guidelines for the construction, interpretation, and administration of this section:

(2) The City Council hereby finds:

(a) Adult and sexually oriented businesses cause secondary effects on the community which are detrimental to the public health, safety and welfare, including unlawful and unhealthy activities; unlawful sexual activities, including public sexual indecency and prostitution; sexual encounters of a casual nature; and risk of spread of sexually transmitted and possibly fatal diseases.

(b) Areas of the community surrounding adult businesses are beset by higher incidences of sexually related crimes, street crime, and property crimes; greater demand on police resources; lower property values; litter from sexual devices, materials and packaging; and other problems.

(c) Incidents are reported of lack of strict age verification procedures and of admission of under-aged juveniles as patrons into an adult entertainment establishment.

(d) Adult businesses require reasonable location restrictions and spacing requirements to protect residential areas and other uses which are frequented by children from the negative secondary effects which occur with these businesses and to protect and preserve the public health, safety and welfare.

(e) Preventing concentration of adult businesses in proximity to each other and on the same site or in the same building is a reasonable means to prevent intensification of negative secondary effects from these businesses in the immediately surrounding area and on the community generally.

(f) Establishing regulations on the location of adult businesses will disperse any secondary effects; allow more effective utilization of police resources; allow more effective law enforcement monitoring of the adult businesses and prevention of illegal

negative secondary effects of adult businesses; and will facilitate enforcement of the provisions of this zoning ordinance and other state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.

(b) It is the intent of this section to regulate the location of adult business establishments so as to protect and promote the health, safety, and general welfare of the citizens of the city and its visitors, and to establish reasonable and uniform regulations to prevent the concentration of adult businesses and their secondary effects.

(c) This section has neither the purpose, nor effect of imposing a limitation or restriction on the content of any communications or communicative materials, including sexually oriented business.

(d) It is not the purpose or intent of this section either to restrict or deny lawful access by adults to adult and sexually oriented materials or to deny accesses by the distributors of adult or sexually oriented materials to their intended market.

(e) It is not the purpose or intent of this section to impose judgment on the content or merits of any constitutionally protected form of speech or expression.

(B) Prohibited locations of any type of adult or sexually oriented business:

(1) An operator of an adult or sexually oriented business is in violation of this subchapter if the business is operated in a zoning district which does not expressly permit that type of use in the district.

(2) In addition to being located in a proper zoning district, an operator commits a violation if the adult or sexually oriented business is operated within 5,280 feet of an existing adult or sexually oriented business or 1,320 feet of an existing:

(a) Church (including synagogue or other house of worship);

(b) School (public, private or charter);

(c) Public park;

(d) Residential use or residentially zoned property;

(e) Child care center; or

(f) Designated historic district.

(3) The measurement of the distance, for the purposes of division (B)(2) above, shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of an existing church, school, child care center, or adult business, or from the boundary line of a public park, residential use or residentially zoned property or designated historic district, to the nearest property line of the property used or sought to be used as an adult or sexually oriented business.

(4) The measurement of the distance for the purposes of division (B)(2) above shall also include churches, schools, child care centers, residential use or residentially zoned properties, public parks, or other adult or sexually oriented business uses which are located outside the city.

(5) A person commits a violation by causing or permitting the establishment or operation of more than one adult or sexually oriented business use in the same building or structure, or on any portion of the site on which an adult or sexually oriented business currently operates.

(Ord. O08-07-12, passed 7-10-2008; Ord. O13-02-03, passed 2-5-2013)

§ 154.087 APPLICATION.

Submittal or application for adult or sexually oriented business use:

(A) Application for an adult or sexually oriented business use shall be submitted to the Planning Department for review. The application shall include a narrative statement describing the nature of the business for determination of conformity with a listed adult or sexually oriented business use. The application shall also include a site plan and Maricopa County assessor parcel map clearly identifying surrounding properties with depiction of the required distances from the uses detailed in § 154.086 above. This application shall state the distance from each of the uses identified in § 154.086 above.

(B) Review of a site application for completeness of information shall be completed within ten business days of the submission of the application. The applicant will be notified by first class mail if the application is complete or requires additional information.

(Ord. O08-07-12, passed 7-10-2008)

§ 154.088 EXISTING NONCONFORMING USES.

The following are provisions for existing nonconforming uses: An adult or sexually oriented business otherwise lawfully operating prior to the adoption of this subchapter that was lawfully established and maintained under prior zoning ordinance provisions shall be deemed a legal nonconforming use. The nonconforming use shall not be increased, enlarged, extended, or altered except the use may be voluntarily changed by the operator to a conforming use within the property's zoning district which meets all other applicable requirements of city.

(Ord. O08-07-12, passed 7-10-2008)

§ 154.089 RESTRICTED USE LOCATIONS.

In order to promote the health, safety, and general welfare of the city and its citizens and prevent the concentration and proliferation of businesses that tend to lower property values, in addition to being located in a proper zoning district and obtaining a conditional use permit, non-chartered financial institutions, pawnshops, tattoo parlors, and/or piercing salons shall be located no closer than 5,280 feet [property line to property line] to another similar use and no closer than 1,320 feet [property line to property line] to any residential use or district, school, church, or city-owned park.

(Ord. O13-02-03, passed 2-5-2013)

CARGO CONTAINERS

§ 154.090 LOCATION, PLACEMENT AND USE OF CARGO CONTAINERS.

(A) *Definitions.* As used in this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CARGO CONTAINER. An article of transport equipment which falls into any of the following categories:

(1) Designed or constructed for or used to facilitate the packing, shipping, movement, or transportation of freight, articles, goods or commodities by one or more modes of transport; and/or

(2) Designed to be or capable of being mounted or moved on a rail car, or mounted on a chassis or bogie for movement by a tractor trailer, or loaded on to a ship; and/or

(3) A prefabricated metal structure designed for use as an individual shipping container in accordance with international standards or a metal structure designed and built for use as an enclosed truck trailer in accordance with U.S. Department of Transportation standards.

PERMANENT. A period of time limit that exceeds four months on site without being utilized for transportation purposes.

STACK/STACKING. A method of storing cargo containers or a chassis in a vertical manner where the floor of the container or bed of the chassis remains parallel to the ground.

TEMPORARY. A period of time that does not exceed four months on site while being used for storage purposes.

(B) *Permitted locations.*

(1) Except as provided in division (D) of this section, cargo containers may not be placed, stored or used on property zoned for residential use.

(2) Cargo containers may be placed, stored or used for temporary storage on property zoned for neighborhood or general business, provided the business has obtained a temporary storage permit from the Zoning Administrator. Cargo containers may not be placed, stored or used on a permanent basis on any property zoned for neighborhood or general business.

(3) Cargo containers may be placed, stored or used on property zoned for general service or industrial for permanent storage, provided the placement, condition and use of the cargo container complies with the provisions of division (C) of this section.

(C) *Standards and regulations.*

(1) Cargo containers shall not be stacked on one another.

(2) Cargo containers shall not be used for living quarters and shall not be provided with refrigeration, heating, electricity, or plumbing.

(3) Cargo containers used for permanent storage must be placed on an asphalt or concrete surface and secured thereto.

(4) Cargo containers used for temporary storage must be placed to the rear of the business and may not be placed within any designated landscape or flood retention or detention areas.

(5) No cargo containers may be placed, stored or used on property or any area that is within the flood plain or flood way.

(D) *Exemptions.*

(1) Contractors licensed by the Arizona Registrar of Contractors may use cargo containers in any zoning district for the storage of equipment and materials during the period of construction at the construction site subject to the following:

(a) The construction must be properly permitted by the city;

(b) The container shall be removed from the property no later than seven calendar days after the final inspection and approval of the construction by the city; or

(c) If construction ceases for a period of 30 days or is abandoned, the cargo container shall be removed not later than seven days after notice to remove issued by the city.

(2) Containers used during moving may be placed on residential zoned property for a maximum of 14 days.

(E) *Removal by city.* Any cargo container(s) placed, stored or used in violation of this section may be removed by the city if the property owner on which the cargo container(s) is located fails to remove the cargo container(s) within 14 calendar days of notice by the city of violation and order to remove. A notice of violation and order to remove shall be deemed received by the property owner if the notice and order are mailed to the address of the owner as listed in the records of the county assessor and a copy of the notice and order are posted on the main entrance door or gate of the property. The city's cost to remove and dispose of the cargo container shall be recorded as a lien against the property.

(F) *Existing nonconforming uses.* A cargo container otherwise lawfully existing on property prior to the adoption of this section that was lawfully placed and maintained under prior zoning ordinance provisions shall be deemed a legal nonconforming use. Such nonconforming use shall not be increased, enlarged, extended or altered, except the use may be voluntarily changed by the operator to a conforming use within the property's zoning district which meets all other applicable requirements of the City Code.

(Ord. O09-10-12, passed 10-8-2009)

GENERAL BUILDING AND DEVELOPMENT STANDARDS

§ 154.095 PURPOSE.

The purpose of this subchapter of the Zoning Ordinance is to establish general development standards. These standards are intended and designed to assure compatibility of uses, to prevent urban blight, deterioration, and decay, and to enhance the health, safety, and general welfare of the residents of the community.

(Prior Code, § 21-6-1)

§ 154.096 USE OF LANDS, BUILDINGS, AND STRUCTURES.

(A) *Only permitted uses to be constructed*. No building or structure or part thereof shall be erected, altered, or enlarged for a use, nor shall any existing building, structure, or part thereof, or land, be used for a purpose or in a manner that is not in conformity with

the uses listed as principal, accessory or conditionally permitted uses for the zone in which the buildings, structure, or land is situated subject to the provisions of this chapter.

(B) *Height requirements enforced*. No building, or part thereof, or structure shall be erected, reconstructed, or structurally altered to exceed in height the limit herein designated for the district in which the building is located, except as is specified in § 154.153.

(C) *Yard requirements enforced*. No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged, or rebuilt or moved into any zone, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard and setback regulations designed for the zone in which the building or open space is located except as is specified in § 154.153.

(D) *Yard areas "non-transferable"*. No yard provided around any building for the purpose of complying with provisions of this chapter shall be considered as providing a yard for any other building, and no yard for one building site shall be considered as providing a yard for a building on any other building site.

(E) *Use of mobile home or recreational vehicle outside of approved park*. No person shall park or occupy any recreational vehicle or mobile home on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside of any approved mobile home park or mobile home subdivision except that the parking of only one unoccupied recreational vehicle in any accessory private garage, or in a rear yard in any district, is permitted, providing no living quarters shall be maintained or any business practiced in the recreational vehicle while the recreational vehicle is so parked or stored; and except granted for occupying the recreational vehicle or mobile home, under procedures established in § 154.157.

(Prior Code, § 21-6-2)

§ 154.097 DWELLING UNIT RESTRICTIONS.

No cellar, garage, tent, basement with unfinished structure above, or accessory building or any mobile home or recreational vehicle outside of an approved mobile home or recreational vehicle development shall at any time be used as a dwelling unit. The basement portion of a finished home may be used for normal living, eating, and sleeping purposes, provided it is properly damp-proofed and has suitable fire protection and exits.

(Prior Code, § 21-6-3)

§ 154.098 ACCESSORY BUILDINGS, USES, AND EQUIPMENT.

(A) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.

(B) Accessory buildings, uses, or equipment shall not be stored or constructed between the front lot line and front building setback line except for porches, steps, eaves, and the like, as allowed in division (K) below.

(C) Accessory buildings and garages in residential districts shall not exceed the height of the principal structure and shall not be located within a utility easement.

(D) No accessory building or garage for single-family homes shall occupy more than 25% of a rear yard. For lots less than one acre, the maximum floor area for accessory buildings or garages shall not exceed 600 square feet of floor area without a conditional use permit. For lots one acre or larger, the maximum floor area for accessory buildings or garages shall not exceed 1,200 square feet without a conditional use permit.

(E) No permit shall be issued for the construction of more than one accessory, detached, private garage structure for each dwelling.

(F) No accessory building or use shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory, except by conditional use permit.

(G) No accessory building in any business or industrial district shall exceed the height of the principal building except by conditional use permit.

(H) Canopies, or roofs attached to the main building or connecting the main building with a detached accessory building, may extend into a required rear or side yard provided that portions of the structures extending into the yard:

(1) Shall not exceed 12 feet in height or project closer than five feet to a side or rear lot line; and

(2) Shall be entirely open on at least three sides except for necessary supporting columns; except that a roof connecting a main building and an accessory building shall be open on two sides.

(I) Detached structures.

(1) A detached structure shall meet the setback requirements of the main building for the front yard area.

(2) A detached accessory structure may be located within a side yard or rear yard; provided, that when the structure is located closer than five feet to a side lot line, one-hour fire walls shall be required.

(3) A detached structure shall maintain a minimum of five feet separation from the main structure.

(J) Swimming pools; private or semi-private. All private or semi-private swimming pools shall meet the following standards.

(1) The pool and all structures housing appurtenances thereto shall be not less than five feet from the nearest property line except, however, that the pool or structure shall not be located between the front property line and the front building setback line.

(2) Pool barriers shall be installed in accordance with state statutes. All wall or fence must be set back from the edge of the swimming pool a minimum of five feet.

(3) The pool or mechanical equipment shall be located so as to minimize the noise and lessen the nuisance to nearby occupants of apartments and houses.

(4) All swimming pool plans and safety devices proposed to be built or erected in conjunction with swimming pools shall be first presented to the Zoning Administrator for approval.

(K) *Other structures*. Porches, steps, architectural features such as eaves, awnings, and chimneys, and balconies or stairways, wing walls, or bay windows, may not project within five feet of the property line without compliance with the adopted building codes.

(Prior Code, § 21-6-4) (Ord. O11-09-17, passed 9-22-2011)

§ 154.099 SETBACK ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS.

(A) *In any yards*. Posts; off-street, open-parking spaces; sills; pilasters; lintels, cornices; eaves; gutter; awnings; open terraces; service-station pump islands; open canopies; steps; flag poles; ornamental features; open fire escapes; sidewalks; and fences, except as hereinafter amended. Also, terraces, steps, exposed ramps (wheelchair), uncovered porches, stoops, or similar features provided they do not extend above the height of the ground-floor level of the principal structure or to a distance of less than three feet from any lot line nor less than one foot from any existing or proposed access drive. Also, yard lights and nameplate signs in residential districts; trees; shrubs; plants; floodlights or other sources of light-illumination, authorized lights or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent, residential property.

(B) *In side and rear yards*. Balconies eight feet above grade may extend into the yards to within five feet of a lot line provided said balconies do not extend over non-residential driveways. Recreational equipment, picnic tables, and apparatus needed for the operation of active and passive solar-energy systems.

(C) *In rear yards*. Laundry, drying equipment; covered but not enclosed porches, breezeways, and detached outdoor living rooms may extend 20 feet into the rear yard but not closer than ten feet from the rear lot line. Apparatus needed for the operation of active and passive solar-energy systems.

(D) *Front setbacks averaging*. When more than 25% of the frontage on the side of a street between intersections is occupied by structures having setbacks from the street rights-of-way of greater or lesser amounts than hereinafter required, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. In the event a building is to be built where there is an established average setback different from that required hereinafter and there are existing buildings on one side only, the front setback of the new building needs to be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the furthest extension of the first adjacent building on each side.

(E) *Side and rear setbacks; zero lot line provision*. Subject to regulations contained in the Adopted Building Code and other

applicable regulations, buildings may be excluded from side and rear setback requirements provided party walls are used and if the adjacent buildings are constructed as an integral unit. This primarily pertains to town homes and condominium structures.

(Prior Code, § 21-6-5) (Ord. O11-09-17, passed 9-22-2011)

§ 154.100 HEIGHT ENCROACHMENTS, LIMITATIONS, AND EXCEPTIONS.

(A) *Exempt appurtenances*. Height limitations shall not apply to church spires, belfries, cupolas, and domes; monuments; chimneys and smokestacks; flag poles; public and private utility facilities; transmission towers of commercial and private radio broadcasting stations; television antennae; parapet walls extending no more than four feet above the limiting height of the building except as hereinafter provided; and solar-energy collectors and equipment used for the mounting or operation of the collectors.

(B) *Public building exceptions*. Places of public assembly in churches, schools, and other permitted public and semi-public buildings may exceed height limitations otherwise established by this chapter; provided that these are located on the ground floor of the buildings and provided that, for each one foot by which the height of the building exceeds the maximum height otherwise permitted in the zone, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the zone.

(C) *Towers and monument exceptions*. Towers and monuments, cooling towers, gas holders, or other structures, where the manufacturing process requires a greater height and grain elevators and silos are exempt from this chapter; provided that any structure above the height otherwise permitted in the zone shall occupy no more than 25% of the area of the lot and shall be at least 25 feet from every lot line.

(Prior Code, § 21-6-6)

§ 154.101 FENCES AND WALLS.

(A) *Permit required*. No persons, firm, or corporation, except on a farm and related to farming, shall hereafter construct, or cause to be constructed or erected within the city any fence without first making an application for and securing a building permit.

(B) *Locations*. All fences shall be located entirely upon the private property of the persons, firms, or corporation constructing, or causing the construction, of the fence unless the owner of the property adjoining agrees, in writing, that the fence may be erected on the division line of the respective properties.

(C) *Construction, maintenance, and height measurement.*

(1) *Fences*.

(a) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage, or unsightliness, or constitute a nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health, or welfare, for any other building, and no yard for one building site shall be considered as providing a yard for a building on any other building site.

(b) Link or wire fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top, except in industrial districts and shall be constructed of at least 11-gauge wire or its comparable.

(c) Electrical or security wire fences shall be prohibited, except for industrial yards and shall be screened.

(2) *Masonry Walls*. The following shall apply regardless of zoning district.

(a) Up to three feet high: restrictions.

(b) Three feet to six feet high: 2,000 lbs. concrete footings, 18 inches below bearing grade, six inches wider and longer than the bearing wall or column it is intended to support. Any non-structural sections (four inches or less) eight inches under bearing grade six inches wider than the wall it is intended to support.

(c) Six feet and higher: see Adopted Building Code.

(3) *Measuring fence and wall height*. The height of any fence shall be calculated to the uppermost points as follows.

(a) In required yards abutting a street, the height of the fence shall be the total effective height measured from the finished grade on the side nearest the street but allowing up to two feet of additional height for retaining walls.

(b) In other required yards, the height of the fence shall be the total effective height above the finished grade measured on the side nearest the abutting property.

(c) On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreements, with the agreement submitted in writing.

(D) *Residential fences and walls.*

(1) In all parts of the city zoned residential, no fence or wall shall be erected or maintained more than six feet in height and also:

(a) No chain link or wire fence shall be allowed within the front yard setbacks; except in RA Rural Area Zone, properties with existing chain link fence, or properties where chain link fence has been removed for less than six months;

(b) No fence or wall over four feet in height shall be allowed in any residential front yard setback or in any side yard closer to the front lot line than the adjacent front line of the principal building, except in the RA Rural Area Zone, open fences (chain link, wrought iron, pole fences, wooden rail, and the like) may exceed four feet in front yard setbacks;

(c) On corner lots in all zoning districts, no fence or planting in excess of 30 inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curbing lines of two intersecting streets, thence 40 feet along one back of curb line, thence diagonally to a point 40 feet from the point of beginning on the other curb lines, then to the point of beginning, and at the intersection of each driveway or alley with a street, a clear site triangle as defined by the City Engineer where corners are defined by two points on the right-of-way line, 15 feet on each side of the centerline of the driveway or alley and a point on the centerline ten feet outside right-of-way;

(d) In those instances where a fence is erected as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section of fence, or other such means of recognizable ingress shall be installed, shall remain unobstructed and shall be a minimum of three feet in width. The location of the ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure;

(e) In corner lot side yards, fences up to six feet in height may be permitted provided that no fence may be built in a corner side yard that is adjacent to a neighboring front yard; and

(f) Notwithstanding the provisions set forth above, architectural embellishments such as figurines, capstones, or light fixtures may project up to two feet above the maximum height of any residential fence.

(E) *Business and industrial fences*. Fences and walls on all business and industrial properties shall not exceed ten feet in height.

(F) *Special purpose fences*. Fences for special purposes and fences differing in construction, height, or length may be permitted in any district by issuance of conditional use permit approved by the Planning and Zoning Commission. Findings shall be made that the fence is necessary to protect, buffer, or improve the premises for which the fence is intended and will not detrimentally effect adjacent property.

(G) *Finished side toward adjacent property*. Any fence constructed so as to have only one elevation "finished," which shall be defined as not having its supporting members significantly visible, shall be erected such that the finished elevation of the fence is exposed to the adjacent property.

(H) *Outdoor storage area*.

(1) All utility substations, wells, storage facilities, or other utilities shall be screened from view by a wall or landscape screen.

(2) All outdoor storage for commercial operations shall be conducted within a completely enclosed building or within an area completely enclosed, except for access points, by a wall at least six feet in height.

(Prior Code, § 21-6-7) (Ord. O11-09-17, passed 9-22-2011; Ord. O14-06-04, passed 6-3-2014)

§ 154.102 REQUIRED SCREENINGS.

(A) *Purpose*. The purpose of this section is to establish general development standards for screening between uses of differing character, density, or intensity. The screening standards are intended to assure compatibility of uses, minimize deterioration of

properties and property values, and to enhance to health and safety of the residents of the city.

(B) *Use of screening*. Unless otherwise determined by the Planning and Zoning Commission, a masonry screen wall of six feet in height above grade shall be constructed and maintained between uses of differing intensity or character. This may include between existing and/or future:

(1) Large lot and small lot single-family developments;

(2) Single-family and multi-family developments;

(3) Multi-family and multi-family developments;

(4) Residential and non-residential uses;

(5) Differing non-residential uses;

(6) Parking areas subject to general public view; and/or

(7) Rear and/or side lot areas and public rights-of-way.

(C) *Responsible party*. The Commission shall determine the party responsible for construction and maintenance of screening. Generally, it will be either by the most intense use or the initial use.

(D) *Location of screen walls*. Screening shall be located adjacent to perimeter property lines, but on the constructing party's property, unless otherwise approved by the Planning and Zoning Commission, which may include public rights-of-way.

(E) *Exceptions*.

(1) In lieu of screen walls of six feet in height, the Planning and Zoning Commission may require alternative methods for screening uses of differing character, density, or intensity. Alternative methods may include:

(a) Open space with landscaping;

(b) Arterial or collector streets with landscaping;

(c) Landscaped earth berms (particularly with parking lots);

(d) Lower screen walls with landscaping (particularly with parking lots); and/or

(e) Other screening approved by the Commission.

(2) Alternative methods of screening shall be implemented when it is in the best interest of the affected properties and deemed by the Commission to provide more acceptable screening than provided by a screen wall.

(Prior Code, § 21-6-8)

§ 154.103 LANDSCAPING REQUIREMENTS.

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

DETENTION BASIN. An area requiring landscaping to maintain the purpose and requirements of controlling the flow of water.

LANDSCAPE MATERIALS. Any materials used for the purpose of landscape improvement which may include, but shall not be limited to, the following: trees, shrubs, groundcover materials, boulders, sculptures, foundations, irrigation equipment, street furniture, outdoor lighting, fences, and walls.

LANDSCAPING. An exterior improvement of property in accordance with an approved landscape plan and utilizing approved landscape materials.

LANDSCAPING PLAN. A graphic representation of the development site indicating the location of all existing and proposed landscape improvements to be present on the site at the completion of the construction of the project. The ***LANDSCAPING PLAN*** shall consist of preliminary and final plans as set forth herein.

SCREENING WALL. A solid wall designed and constructed so as to conceal areas used for refuse, mechanical equipment, parking, and service and loading bays from street and public view, and to separate potential incompatible land uses.

TURF FACILITY. A land area of five acres or more of continuous turf or grass that is not agricultural use.

(B) *Purpose and intent*. Landscape requirements as set forth in this chapter have been established to:

(1) Encourage quality development within the city;

(2) Provide compatibility and harmony between adjoining properties and land use;

(3) Screen service yards, parking lots, equipment, and limited access areas;

(4) Reduce heat transfer from pavements;

(5) Provide open space and recreational area to serve the needs of city residents;

(6) Soften development impact;

(7) Reduce erosion and storm-water runoff control;

(8) Reduce the particulate matter in the air;

(9) Aid in the enhancement of property values;

(10) Create an attractive appearance along city streets and assist as traffic calming device;

(11) Aid in the conservation of water by encouraging the use of varieties of plans, trees, and shrubs indigenous to this arid region;

(12) Promote protection or control of intense activities; and

(13) Promote community aesthetics as well as provide for the health, safety, and general welfare of city residents.

(C) *Extended regulation authorized*. The standards and regulations of this chapter shall be held to be the minimum requirements necessary for the promotion of the foregoing objectives of this chapter in those instances where the minimum standards and requirements are not sufficient to achieve the purpose and objectives of this chapter, the City Manager or his or her designee may impose such other reasonable requirements as may be deemed appropriate. Examples might be: where, in the opinion of the City Manager or his or her designee, there exists extraordinary conditions of topography, land ownership, site boundaries and dimensions, adjacent development characteristics, or other circumstances not provided for in this chapter, the City Manager or his or her designee may modify or vary an extent as is deemed appropriate to the public interest, provided that the purpose and intent of this chapter is maintained with the modification or variance.

(D) *Scope*. The provisions of this chapter shall apply to all development or construction, all building remodeling, alternations, additions, or expansions, and to all changes of occupancy in the use or development of land which requires the approval of a development site plan or subdivision plat by the city. Agricultural uses and single-family and two-family residences and their accessories shall be exempt from the requirements of this chapter.

(E) *Enforcement and notice of violations*. This chapter shall be enforced by the City Manager or his or her designee. The City Manager or his or her designee shall have the authority to enter upon the premises, or any part thereof, at any and all reasonable times for the purposes of performing his or her official duties. It is unlawful to refuse the City Manager or designee entry upon the premises. When any condition which could constitute a violation of the provisions of this chapter comes to the attention of the City Manager, he or she shall cause a notice thereof to be served upon the owner, lessee, or other person in control of the premises. The notice shall specify the nature of the violation and shall order the responsible party to correct the violation within 30 days.

(F) *Landscape inspections*.

(1) All projects required by this chapter to be landscaped shall pass a landscape inspection prior to a certificate of occupancy being issued by the city.

(2) The city shall have the right to refuse to pass any project not meeting the provisions of this chapter. The city shall also have the right to reject landscape materials as being substandard as to size, condition, or appearance including a pre-inspection of materials at the supplier if deemed necessary.

(G) *Required landscape maintenance*.

(1) With respect to every lot, parcel, or tract of land within the city containing a use for which the provisions of this chapter apply, every owner, lessee, or any other person having the lawful right to possession and control of this premise shall:

(a) Maintain all landscape materials and landscaped areas in accordance with the approved landscape plan, including the frontage street right-of-way landscaping required in this chapter. The landscaped areas shall be kept free of trash, debris, weeds, dead plant material, and shall in all respects be maintained in a neat and clean fashion; and

(b) Replace all dead or removed plants with plants of the same variety, and in the size and quantity as those removed.

(2) The city shall accept responsibility for the maintenance and operation of all landscaping and appurtenances installed in accordance with the provisions of this section for reverse street frontage landscaping or any landscaping and appurtenances installed within other street rights-of-way. Rights-of-way is described by one of the following categories:

(a) Arterial and/or secondary street rights-of-way adjacent to single-family residential areas that back onto the arterial and/or secondary street and have a screening wall constructed on the rear property line;

(b) Arterial street rights-of-way adjacent to single-family residential areas that side onto the arterial street, and which have a screening wall constructed on the side property line;

(c) Bridle trails, bicycle paths, and multi-use recreational facilities within city limits;

(d) Median islands on arterial and secondary public streets within the city;

(e) All alleys within city limits;

(f) Street rights-of-way abutting municipal public facilities;

(g) Street landscaping within districts specially approved or created by City Council; and

(i) Flood control facilities which have been accepted for operation and maintenance by the city.

(3) Prior to the city accepting for maintenance any reverse street frontage landscaping or other street rights-of-way landscaping described in the division (G)(2) above, the following conditions shall have to be satisfied:

(a) The landscaping shall be inspected and approved by the city for compliance with the approved landscape plan.

(b) The subsequent completion of a 60-day maintenance period wherein the developer shall be responsible for all watering, weeding, and replacement of all dead or dying plant materials.

(c) A final inspection called by the developer or his or her representative at the completion of a 120-day maintenance period resulting in final approval and acceptance by the city, except for the subdivision which shall be determined when final plans are approved.

(d) As-built drawings of the landscape and irrigation system are required prior to acceptance by the city and for projects within the city right-of-way or city-owned property. The as-built drawings shall be four mil., non-wash off photo mylar or digitized record in accordance with city CAD guidelines showing the locations of all plantings and irrigation equipment.

(H) *Landscape plan description.*

(1) A landscape plan consisting of a preliminary plan and a final plan shall be prepared, submitted, and approved for all applicable development projects in accordance with the procedures and requirements set forth in this subchapter.

(2) All changes in landscape plans before, during, or after preliminary or final landscape plan approval shall be approved by the City Manager or his or her designee prior to the installation of any such landscape change.

(3) All changes in the landscaping of a site before, during, or after final landscape plan approval and landscape installation shall be approved by the City Manager or his or her designee as set forth in this subchapter.

(I) *Preliminary landscape plan.*

(1) Two copies of a preliminary landscape plan shall be submitted along with the required development site plan for review by the City Manager or designee. The preliminary landscape plan may be shown on the development site plan drawings. The preliminary landscape plan shall be a conceptual plan and shall include the following information in generalized form:

(a) The location and identification of all proposed landscape areas (on-site, street rights-of-way, parking area, landscape

buffers, and others);

(b) Preliminary data pertaining to the amount of net site area, the ground floor areas of all proposed commercial and industrial buildings, the number of required and proposed parking spaces, and the amount of all landscaped areas required and provided;

(c) The approximate location of all proposed trees, and generally other landscape materials and improvements;

(d) The location of all sight visibility triangles;

(e) Notes or graphical representations adequately showing intent of the proposed plans and materials and indicating how those plans will comply with this chapter;

(f) The location, height, type, and general design and finish of all proposed screening walls;

(g) The location of all proposed stormwater retention areas; and

(h) A plant list indicating the botanical name, common name, and size of plant materials proposed.

(2) The preliminary landscape plan shall be reviewed and approved by the City Manager or designee as part of the development site plan review and may be approved with stipulated changes or additions.

(J) *Final landscape plan.*

(1) Two copies of a final landscape plan shall be submitted along with all other required site improvement and building plans prior to or concurrent with the application for a building permit. The final landscape plan shall contain the final calculations, data, and specific details and information all proposed landscape areas, landscape materials, screening walls, irrigation system, and other items that were required and identified in conceptual form on the preliminary landscape plan. The final landscape plan shall contain a specific schedule of all trees and shrubs identified by common and botanical name and shall clearly indicate quantity and size of each tree, shrub, and ground cover to be installed.

(2) The final landscape plan shall be in conformance with the approved preliminary plan and any stipulated changes or additions and shall be approved by the City Manager or designee prior to the issuance of a building permit.

(3) All changes in landscape plans before, during, or after preliminary or final landscape plan approval and/or landscape installation shall be approved by the City Manager or his or her designee.

(K) *Installation of landscape improvements prerequisite to certificate of occupancy; bond to secure installation.*

(1) All landscape improvements (landscape materials, irrigation system, screening walls, and the like) shall be installed by the developer on the site in accordance with the approved final landscape plan prior to the issuance of a certificate of occupancy for the building or use. When considered advisable, upon presentation of a cash bond, cash deposit, or assured letter of credit in the amount sufficient to guarantee installation of the landscaping and irrigation system, the City Manager or his or her designee may approve a delay in the immediate installation of the required landscape improvements for a period of time not to exceed 12 months. In those instances where the City Manager or his or her designee approves a delay in the installation of the required landscape improvements, a temporary certificate of occupancy shall be issued for the building or use conditioned upon the satisfactory installation of the required landscape improvements within the time period approved by the City Manager or his or her designee. All plant material in the right-of-way shall be selected from the Arizona Department of Water Resources current plant list for low water use plants in the Phoenix Active Management Area (AMA).

(2) All plant material and specifications shall conform to the Arizona Nurseryman Association (AMA) standards.

(L) *Minimum size of trees, shrubs and the like, and substitution of ground cover for shrubs.*

(1) Unless otherwise specified herein, all required trees shall be a minimum of 15 gallons in size and at least 50% of those trees must be 24-inch box or larger size. All shrubs shall be a minimum of five gallons in size. All 15 gallon trees must be a minimum of eight feet in height, four feet in spread, and one and one-quarter inches trunk caliper at the ground level. All 24-inch box and larger trees shall be a minimum of ten feet in height, four feet in spread and two and a half inches trunk caliper at the ground level. For individual specifications see AMA standards upon approval of the City Manager or his or her designee, the installation of 20 square feet of vegetative ground cover in any landscaped area shall substitute for one required shrub up to a maximum of 20% of the required shrubs in any particular landscaped area.

(2) All Mexican Fan Palms (Washington Robusta), California Fan Palms (Washingtonia Filifera), and Queen Palms (Syagrus remonzoffianum) shall have a minimum five foot trunk height measured from the base of the trunk to the base of the fronds when located within the public right-of-way or within 20 feet of the street property line.

(M) *Natural topping of landscaped areas*. All landscaped areas shall be finished with natural topping material which may include, but not limited to the following: turf, groundcover, planting, decomposed granite (two inches minimum depth), river run rock, expanded shale, or bark. A pre-emergent herbicide shall be applied to the ground prior to the placement of natural surface materials (decomposed granite, river run rock, and the like) in any landscaped area to prevent weed growth and again after the rock has been installed. Turf shall not be planted in a dedicated right-of-way. All turf is to be limited to 50% of the landscape areas unless defined as a turf facility.

(N) *Landscaped areas along street/frontage*.

(1) Landscaped areas along street frontages shall be contoured or bermed to provide variations in grade, visual relief, parking lot screening, and a more pleasing aesthetic value. All on-site parking areas shall be screened from street view by a landscaped berm or decorative wall not less than three feet in height. The required height of berm or wall shall be measured from the highest finished grade of the adjacent on-site parking area or adjacent finished grade of the street, whichever is greater.

(2) Trees along R.O.W. shall maintain seven foot canopy height.

(3) The installation of street trees, shrubs, and vegetative groundcover shall be required for all applicable projects in an amount equal to our greater than one tree and six shrubs for each 30 feet of street frontage, and vegetative groundcover occupying a minimum of 60% of the total street frontage landscaped areas. This minimum quantity of trees, shrubs, and vegetative groundcover shall be located in the street right-of-way landscaped area required hereof, or within the front 25 feet more or less of the on-site landscaped areas required hereof, and shall be designed and located to enhance the proposed development project and the streetscape.

(O) *Sight visibility triangle*. All landscaping and landscaped materials established in close proximity to a driveway or street intersection shall be installed and maintained in strict compliance with the sight visibility triangle requirements set forth as follows:

(1) Maximum plant material height of 24 inches; ten feet by 20 feet at drives onto streets, 15 feet by 33 feet at minor and major streets, and 33 feet by 33 feet at major intersections. Measurement is from behind the property line.

(2) Berming or boulders are not to be located in the sight visibility triangle.

(P) *Power lines*. All overhead power lines are to be shown if they exist or note that there are none. All trees under power lines or within 15 feet of power lines shall have a maximum height of 20 feet at maturity.

(Q) *Retention basins*. Slopes are to be no steeper than a four to one ratio and minimum of 50% live plant material and groundcover shall be planted within the retention area.

(R) *Irrigation standards*. All landscaped areas shall be supported by an automatic irrigation system. A pressure type vacuum breaker shall be required for any new, improved, or renovated irrigation system and enclosed with a two-inch steel pipe and screen and lock enclosure screened with a three foot wall or plant material four foot on center. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation and prevent water overflow or seepage into the street, sidewalk, or parking areas.

(S) *Screening walls*.

(1) A screening wall constructed to a minimum height of six feet from the finished grade of the site and designated and constructed in accordance with the provisions of this section shall be required along all property lines of a site developed for multiple-family residential, commercial, or industrial uses when the property lines are contiguous with or separated only by an alley from a residential development or a residential zoning district; except that no such screening wall shall be required for multiple-family residential contiguous with other multiple-family development or a multiple-family residential zoning district.

(2) All outdoor storage areas for materials, refuse containers, mechanical equipment, or vehicles, and all loading/unloading areas or service bays shall be screened from street view by a screening wall constructed to a minimum height of six feet and designed in accordance with the provisions of this section.

(3) All screening walls located along streets in accordance with this chapter shall be designed and constructed in accordance with the provisions of this section.

(4) All screening walls required by the provisions of this subchapter shall be designed and constructed using the following information:

(a) Use brick, slump block, or masonry with a stucco finish of a suitable color and design as approved by the City Manager or his or her designee;

(b) Break up the lineal expanse of the walls with a centerline, pilasters, three-wall enclosures, varying heights, the installation of extra plant materials, or varying the landscaped area contours to improve the visual impact of the wall; and

(c) Adhere to the height, location, and sight visibility triangle at street intersection requirements set forth in this chapter.

(T) *Use of landscape areas for other purposes*. No part of any landscape area shall be used for any other use such as parking, signs, or display; except for required on-site retention areas or when the use is shown on the approved final landscape plan.

(U) *Single-family residential subdivisions*. Landscaping shall be required along the rear of reverse-frontage, single-family lots along collector or arterial streets in accordance with the standards specified below.

(1) Trees with a minimum size of 15 gallons shall be planted at the rate of one tree per 30 feet of linear street frontage. At least 50% of the trees shall be 24-inch box size.

(2) Shrubs with a minimum size of five gallons shall be planted at the rate of five shrubs per tree and in no case shall be less than three shrubs per 20 feet of linear street frontage.

(3) Clustering of trees and shrubs shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.

(4) A minimum of 35% of all frontage landscaped areas shall be covered with vegetative or organic groundcover consisting of grass (except in right-of-way) or other living plant materials characterized by horizontal growth which generally does not exceed two feet in height.

(5) Inorganic groundcover consisting of decomposed granite (minimum one-half minus) crushed rock, gravel, river run rock, and/or boulders, shall be sufficiently variety in terms of color, texture, and materials to provide a pleasant and diverse appearance of streetscape. Mounding and contouring of landscaped areas is required.

(6) Vegetative groundcover shall be located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.

(7) A landscaped area not less than an average width of 20 feet throughout a particular street frontage shall be established.

(V) *Multi-family residential developments*. The following landscape standards shall apply to multi-family development.

(1) A minimum 20-foot wide landscaped area shall be required along all interior property lines separating individual development sites. Trees with a minimum size of 15 gallons shall be planted every 20 feet on center with the area.

(2) Along public street frontages, minimum 15-gallon sized trees shall be planted at a ratio of one tree per 30 feet of frontage. A minimum of 50% of the required trees shall be 24-inch box size.

(3) Within common open space areas, minimum 15-gallon sized trees and five-gallon shrubs shall be planted at a ratio of four trees and 20 shrubs per dwelling unit.

(4) Open space areas along public street frontages shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages.

(a) Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.

(b) Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for residents.

(c) No more than 50% of the required front yard landscaped area may be used for stormwater retention purposes.

(d) Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

(e) Landscaped islands within parking areas shall be installed at least every ten consecutive parking spaces. The islands shall be a minimum of ten feet wide and contain at least one fifteen-gallon sized tree and five shrubs or comparable groundcover.

(W) *Commercial and industrial development*. General requirements:

(1) A minimum of 10% of new land area of any site used for commercial or industrial development shall be landscaped.

(2) Landscaping shall be provided along the street frontage between the street or sidewalk and any building, parking, areas,

loading, or storage areas in accordance with the following standards.

(a) The intersection of arterial streets are a dominant feature of the urban landscape, serving as major focal points of activity in the community. Because of the importance of these intersections, additional landscaped setbacks and design features beyond the required minimum standards may be imposed on property at these intersections by the city at the time of rezoning and/or site plan approval. The additional features may include wider setbacks, unique building orientation and design, and special landscaped features such as wall and screening devices.

(b) Required yards fronting on a public street in the commercial districts shall be entirely landscaped excluding driveways and walkways in industrial districts the following landscape setbacks shall apply to any building site.

1. Along arterial streets required yards shall be entirely landscaped.

2. Along all other streets a ten-foot minimum landscape frontage shall be required (parking and maneuvering areas shall not be permitted in the landscaped areas cited above except driveways and walkways).

3. Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the City Manager or his or her designee.

4. Any part of a site not used for buildings, parking, driveways, sidewalks and the like, shall be landscaped.

5. All landscaped areas adjacent to vehicular parking and access areas shall be protected by a six-inch vertical concrete curbing in order to control stormwater flows and minimum damage by vehicular traffic.

6. All portions of the development site not occupied by buildings, structures, vehicle access and parking areas, loading/unloading areas, and approved storage areas shall be landscaped in accordance with the provisions hereof. Future building pads within a phased development shall be improved with temporary landscaping, or otherwise maintained weed-free in such a manner as may be approved by the city.

(X) *Streetscape standards*. The following landscaping shall be required along all streets.

(1) Trees with a minimum size as specified herein shall be planted at the rate of one tree per 30 feet of linear street frontage. A minimum of 50% of the required trees shall be 24-inch box trees.

(2) Shrubs with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than three shrubs per 20 feet of linear street frontage.

(3) Clustering of trees and shrubs shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along the street shall be required.

(Y) *Parking lot landscaping*.

(1) A minimum of 10% of the parking lot area shall be landscaped, exclusive of front yard or perimeter landscaping and street trees. The landscaping shall consist of parking islands located within the perimeter of the parking lot.

(2) A minimum of one tree shall be provided for every five parking spaces, exclusive of perimeter landscaping and street trees. Trees must be planted within the parking lot.

(3) Parking islands or landscaped areas shall be installed at least every ten consecutive parking spaces. The islands shall be a minimum of ten feet wide and contain a minimum of 180 square feet in area.

(4) All parking lots shall be separated from adjacent residential uses or districts by a ten-foot landscaped strip planted with a minimum of one tree every 25 linear feet and a minimum six-foot high masonry wall.

(5) Pedestrian walking lanes and related landscaping may be required at the discretion of the City Manager or his or her designee to control traffic and provide safety of pedestrians.

(6) All parking lots shall be screened from public streets by walls or earth berms or combination thereof constructed at least three feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Variety to the alignment and style of the walls is required. The walls shall be decoratively designed to match the facade of any buildings and shall be constructed of slump block, brick, or masonry with a mortar wash or stucco finish.

(7) Any landscaped area used for vehicular overhang shall not be counted towards the required landscaping.

(Prior Code, § 21-6-9) (Ord. O11-09-17, passed 9-22-2011)

§ 154.104 PROPERTY ACCESS STANDARDS.

(A) *Shared drive access*.

(1) The city encourages sharing access drives between separate parcels. Some of the following standards may be relaxed if shown during the site design review process that more efficient design can be accomplished without jeopardizing the public's health, safety, and welfare. All changes are subject to approval by the Planning and Zoning Commission. All drive accesses shall be approved by the City Engineer for width and location.

(2) Commercial developments which may not be able to meet the requirements of divisions (B) through (E) below, and are requesting deviations from the standards, shall submit to the City Engineer a report certified by a professional engineer addressing the following site conditions, both present and future.

(a) Traffic volumes;

(b) Turning movements;

(c) Traffic controls;

(d) Site design;

(e) Site distances; and

(f) Location and alignment of other access points.

(3) Based upon the above data, the City Engineer shall determine whether a deviation from the requirement standards is justified and, if so, what alternative requirements will be necessary.

(B) *Drive access required*. All non-residential off-street parking spaces shall have access from a drive access and not directly from the public street. Access drives shall not be less than 24 feet in width for two-way traffic nor less than 12 feet in width for one-way traffic. Residential drive accesses shall be not less than ten feet in width.

(C) *Distance from intersection*. Driveway access distances from street intersections shall be subject to the following minimum dimensions unless otherwise approved by the City Engineer based upon submittal of an approved traffic impact report as described in division (A) above.

	Distance from Intersection on Collector Streets*		***Distance from Intersection on Arterial Streets****	
Intersecting Street	***Res. Area***	***Comm./Ind. Area***	***Res. Area***	***Comm./Ind. Area***
Arterial	100'	150'	200'	300'
Collector	100'	150'	150'	150'
Local	60'	100'	100'	150'

*Minimum distance from nearest curb face of intersecting street.

(D) *Drive access spacing*. Drive accesses to a public street except for single, two-family, and townhouse dwellings shall be located as measured from inside of drive to inside of drive according to the following specified distances, unless granted approval by the Planning and Zoning Commission.

	Collector Streets		***Arterial Streets***	
	Res. Area	***Comm.***	***Res. Area***	***Comm.***

		Area		***Area***
Average Spacing				
Partial Access*	60'	80'	80'	150'
Full Access**	200'	250'	200'	300'
Minimum Separation	60'	80'	80'	150'

* Partial access includes right turn in and out only.

** Full access allows all turn movements, in and out.

(E) *Number of drive accesses*. Each property may be allowed one drive access for each 100 feet of street frontage. Single-family uses shall be limited to one drive access per property. These conditions shall apply unless otherwise granted approval by the Planning and Zoning Commission.

(Prior Code, § 21-6-11)

§ 154.105 OFF-STREET PARKING REQUIREMENTS.

(A) *General provisions*.

(1) *Floor area*. The term "floor area," for the purpose of calculating the number of off-street parking spaces required, shall be determined on the basis of the exterior-area dimensions of the building, structure, or use multiplied by the number of floors, minus 10%, except as may hereinafter be provided or modified.

(2) *Change of use or occupancy of buildings*. Any change of use or occupancy of any building or buildings, including additions thereto requiring more parking, shall not be permitted until such additional parking spaces as required by this chapter are furnished.

(3) *Parking accessory to a residential use*. Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles; no more than one truck not to exceed gross capacity of 12,000 pounds; and recreational vehicles and equipment. Under no circumstances shall required parking facilities accessory to a residential structure be used for storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants, or customers of business or manufacturing establishments.

(4) *Parking in residential setbacks*. No motor home or recreational vehicle shall be parked in any front or corner side setback. In rear setbacks, motor or recreational vehicles shall be parked on a paved parking surface.

(B) *Stall, aisle, and driveway design*.

(1) *Parking dimensions*. The following shall be the minimum parking space dimensions.

Width 1				***Length***			
Angle	***Standard***	***Handicapped***	***Compact 4***	***Standard***	***Handicapped***	***Compact 4***	***Aisle Width 2***
90 degrees	9'	13'	8'	18'	18'	16'	25'
60 degrees	9'	13'	8'	18'	18'	16'	20'
45 degrees	9'	13'	8'	18'	18'	16'	15'3

(a) As measured by a line perpendicular to the stall line at a point on the outside end of the stall, except when the stall is on the inside edge of a curve, in which case the point of measurement shall be on the inside end of the stall.

(b) For 90-degree parking, aisles are two-way; for 60 degree and 45 degree parking they are one-way only.

(c) Except where needed as a fire lane in which case a 20-foot minimum is required.

(d) Unless otherwise approved, all parking spaces shall be of standard width, but in no case shall compact spaces exceed 30% of the total required spaces.

(2) *Within structures*. The off-street parking requirements may be furnished by providing spaces so designed within the principal building or structure attached thereto; however, unless provisions are made, no building permit shall be used to convert the parking structures into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(3) *Circulation between bays*. Except in the case of single, two-family, townhouse, three-family, and four-family dwellings, parking areas shall be designed so that circulation between parking bays occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two-family, townhouse, three-family, and four-family dwellings, parking area design which requires backing into the public street is prohibited.

(4) *Preserving off-site parking*. When required, accessory off-street parking facilities are provided elsewhere than on the lot with the same ownership or control, either by deed or long-term lease, than the property occupied by the principal use, the owner of the principal use shall file a recordable document with the city and County Clerk requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.

(5) *Parallel parking spaces*. Parallel parking spaces shall be a minimum of 22 feet in length.

(6) *Grade*. The grade elevation of any parking area shall not exceed 3%.

(7) *Surfacing*. All areas intended to be utilized for parking space and driveways shall be paved with materials suitable to control dust and drainage. Plans for paving and drainage of driveways and stalls for five or more vehicles shall be submitted to the City Engineer for his or her review, and the final drainage plan shall be subject to his or her written approval.

(8) *Striping*. Except for townhouses and single-, two-, three- and four-family dwellings, all parking stalls shall be marked with painted lines not less than four inches wide.

(9) *Lighting*. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way, and be in compliance with this chapter.

(10) *Signs*. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall conform to the city sign requirements of the Sign Code for the city.

(11) *Curbing*. Except for townhouses and single-, two-, three-, and four-family dwellings, all open off-street parking areas and driveways shall have a six- inch by six-inch perimeter concrete curb and gutter around the entire parking lot built according to standards provided by the City Engineer. Furthermore, the curb and gutter shall be no closer than three feet to property lines. However, the city encourages shared access between parcels which may eliminate the need for curbing around the entire perimeter of a parcel. The Planning Director will determine whether more parcels sharing parking and/or driveway accesses during the design review process, subject to approval by the Planning and Zoning Commission.

(12) *Protruding vehicles*. All on-site parking stalls which abut property lines shall be designed and constructed such that parked vehicles shall not protrude over property lines.

(13) *Screening*.

(a) *Generally*. Every parking facility containing four or more spaces abutting a city street shall be separated from the street by a decorative wall, view obscuring fence, permanently maintained compact hedge, berm, or a combination of the preceding treatments, no less than 30 inches and not more than 42 inches in height.

(b) *Screening in residential areas*. Every parking facility abutting property located in a residential district shall be separated from the property by a decorative wall, view obscuring fence, or permanently maintained hedge no less than five nor more than six feet in height.

(C) *Maintenance*. It shall be the joint and separate responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping, and required fences.

(D) *Use of required parking areas for parking only*. Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale, or rental of goods, or storage of inoperable vehicles.

(E) *Number of spaces required*. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth.

(1) *Residential uses*.

	Off-Street Parking Spaces Required	
Dwelling Types	***With Street Parking***	***Without Street Parking***
Single-family	2 spaces/unit	3 spaces/unit
Mobile homes	2 spaces/unit	3 spaces/unit
Two-family	2 spaces/unit	2.25 spaces/unit
Three-family	2 spaces/unit	2.25 spaces/unit
Four-family	2 spaces/unit	2.25 spaces/unit
Townhouse	2 spaces/unit	2.25 spaces/unit
Apartments	2.25 spaces/unit	2.25 spaces/unit
Boarding houses	2.25 spaces/unit	2.25 spaces/unit
Group homes	1 space per potential guest room	1 space per potential guest room

(2) *Non-residential uses*.

Use Type	***Off-Street Parking Spaces Required***
Automobile sales	a. 1 space per 200 square feet of indoor floor area, plus
	b. 2 spaces per 20 outdoor vehicle display spaces.
Automobile service station	a. 2 spaces per service stall but no less than 4 spaces.
Automobile washing establishment - automatic drive-through	a. 3 spaces or one for each employee on maximum shift, in addition to stacking space.
. Self-service	a. 2 spaces per stall not including washing or drying spaces.
Bowling alley	a. 4 spaces per alley, plus
	b. 2 spaces per billiard table, plus
	c. 1 space per pinball and/or electronic game machine, plus
	d. 1 space per each five visitor gallery seats.
Church	a. 1 space per four seats based upon design capacity of main assembly hall.
Community or recreation center	a. 1 space per 200 square feet of floor area.
Dance halls, skating rinks, or similar uses	a. 1 space per 300 square feet of floor area.

Court clubs, (racquetball, handball, tennis)	a. 1 space per 200 square feet of floor area, plus 3 spaces per court.
Day care centers	a. 1 space per 200 square feet of floor area.
Elderly (senior citizens) housing	a. 1 space per unit.
Furniture stores over 20,000 square feet	a. 3 spaces per 1,000 square feet of floor area.
Golf courses	a. 1 space per 200 square feet of main building floor area, plus
	b. 1 space for every two practice tees in driving range, plus
	c. 4 spaces per each green in the playing area.
Hospital	a. 1 space per bed.
Manufacturing and industrial uses	a. 1 space per 450 square feet of floor area, plus
	b. 1 space for each company owned truck if not stored within the building.
Medical and dental offices	a. 4 spaces for each doctor or dentist, plus
	b. 1 space for each employee.
Motels, hotels	a. 1.1 spaces per each guest room, plus
	b. 1 space per employee on maximum shift, plus
	c. Spaces for accessory uses as follows:
. Restaurants, bars, dining rooms	d. 1 space per 60 square feet.
. Commercial areas	e. 1 space per each 400 square feet of floor area.
. Public assembly areas	f. 1 space for each five seats based upon design capacity, except that
	g. Total off-street parking for public assembly may be reduced by one space for every four guest rooms.
Nursing homes, rest homes, or similar uses	a. 4 spaces, plus
	b. 1 space for each three beds,
	c. 1 space for each employee on maximum shift.
Offices (except medical and dental)	a. Minimum of 4 spaces and
. Floor Area 0-5,000 square feet	b. 4 spaces per 1,000 square feet.
. Floor Area 5,000 - 20,000 square feet	c. 3.5 spaces per 1,000 square feet.
. Floor Area over 20,000 square feet	d. 3 spaces per 1,000 square feet.
Outdoor sales (plant nurseries, building materials, equipment rental, and similar	a. 1 space per 300 square feet of sales and/or display area.

uses)	
Restaurants, cafes, bars, and similar uses	a. 1 space per 50 square feet of indoor public floor area, plus
	b. 1 sp. per 200 sq. ft. outdoor serving (patio) area.
Retail store and service establishments	a. 1 space per 250 square feet of floor area
Schools	
. Elementary and/or Junior High	a. 1.5 spaces for each classroom library, lecture hall and cafeteria, plus
	b. 1 space per each three fixed seats in the main area of public assembly, or
	c. 1 space for each 21 square feet of area available for public assembly if fixed seats are not provided.
. Senior High	a. 1.5 spaces for each classroom or lecture hall, plus
	b. 1 space per each five students, plus
	c. 1 space for each non-teaching employee, plus
	d. 1 space per each three fixed seats in the area of public assembly, or
	e. 1 space per 21 square feet of area available for public assembly if fixed seats are not provided.
. Business or similar school	a. 1 space for each 150 square feet of floor area.
Theater, auditorium, or similar place of public assembly	a . 1 space per four seats based or upon design capacity.
Warehousing, storage, or handling of bulk goods	a. 1 space per 1,000 square feet of floor area devoted to storage of goods, plus
	b. 1 space for each employee on maximum shift, plus
	c. 1 space for each company truck not stored inside of building, plus
	d. Appropriate spaces to support accessory office or retail sales facilities, subject to the office and/or retail sales parking requirements.

(F) *Joint use of parking facilities.*

(1) Up to 80% of the parking facilities required by this subsection for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities by the following daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale, and similar uses.

(2) Other joint use of parking by adjacent commercial uses to reduce total parking spaces may be allowed with approved parking study submittal by a registered transportation engineer.

(3) Conditions required for joint use.

(a) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of the parking facilities.

(b) The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(c) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the County Recorder.

(G) *Off-site parking.*

(1) Any off-site parking which is used to meet the requirements of this chapter shall be a conditional use as regulated by this chapter and shall be subject to the conditions listed below.

(2) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this chapter.

(3) Reasonable access from off-site parking facilities to the use being served shall be provided.

(4) The site used for meeting the off-site parking requirements of this chapter shall be under the same ownership as the principal use being served, under public ownership, or shall have guaranteed permanent use by virtue of a perpetual lease filed with the City Clerk and County Clerk.

(5) Off-site parking for multiple-family dwellings shall not be located more than 200 feet from any normally used entrance of the principal use served.

(6) Off-site parking for non-residential uses shall not be located more than 300 feet from the main entrance of the principal use being used.

(7) Any use which depends upon off-site parking to meet the requirements of this chapter shall maintain ownership or prove a long-term irrevocable lease agreement for parking utilization of the off-site location.

(Prior Code, § 21-6-12)

§ 154.106 OFF-STREET LOADING BERTH REQUIREMENTS.

(A) *Affected uses.*

(1) Every hotel, restaurant, department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment, and all other structures devoted to similar mercantile or industrial pursuits, which has an aggregate gross floor area of 15,000 square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table.

SQUARE FEET OF AGGREGATE GROSS FLOOR AREA DEVOTED TO SUCH USE	***REQUIRED NO. OF BERTHS***
15,000 sq. ft. up to and including 40,000 sq. ft.	1
40,001 sq. ft. up to and including 100,000 sq. ft.	2
100,001 sq. ft. up to and including 160,000 sq. ft.	3
160,001 sq. ft. up to and including 210,000 sq. ft.	4
240,001 sq. ft. up to and including 320,000 sq. ft.	5
320,001 sq. ft. up to and including 400,000 sq. ft.	6
400,001 sq. ft. up to and including 490,000 sq. ft.	7
For each additional 90,000 sq. ft.	1 additional

(2) Any office building 100,000 sq. ft. or larger shall have at lease one off-street loading berth.

(B) *Standards for off-street loading facilities*. All off-street loading facilities shall conform to the following standards.

(1) Unless otherwise specified in these zoning regulations, the first loading berth shall be at least 70 feet in length and additional berths required shall be at least 45 feet in length and all loading berths shall be at least 12 feet in width and 21 feet in height, exclusive of aisle and maneuvering space.

(2) The space may occupy all or any part of any required yard space, except front and exterior side yards, and shall not be located closer than 50 feet to any lot in any residential zone unless separated from the zone, except at the accesses, by a masonry wall not less than eight feet in height.

(3) Sufficient room for turning and maneuvering vehicles shall be provided on the site so that vehicles shall cross a property line only by driving forward.

(4) Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley.

(5) The loading area, aisles, and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets, or alleys.

(6) Bumper rails shall be provided at locations where needed for safety or to protect property.

(7) If the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.

(8) No regular repair work or servicing of vehicles shall be conducted in a loading area.

(9) Off-street loading facilities shall be located on the same site with the use for which the berths are required.

(10) If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this chapter for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required but the aggregate gross floor area is greater than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.

(11) Off-street loading facilities for a single use shall not be considered as providing required off-street loading facilities for any other use.

(12) At the time of initial occupancy, major alterations or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading berth requirements. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement.

(13) Space allocated to any off-street loading berth shalt not be used to satisfy the space requirements for any off-street parking facility.

(Prior Code, § 21-6-13)

§ 154.107 MISCELLANEOUS REQUIREMENTS.

(A) *Glare and lighting*. Any lighting used to illuminate an off-street parking area, sign, or other structure shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Base incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cause light on a public street, other than lights specifically intended for that purpose, shall not exceed one foot candle (meter reading) as measure from the center line of the street. Any light or combination of lights which cast light on residential property shall not exceed four foot candles (meter reading) as measured from the property.

(B) *Surface-water ponding*. Natural ponding areas shall be retained as much as possible or, if necessary, enlarged or modified as

directed by the City Engineer to restrict the off-site runoff subject to city subdivision requirements for stormwater runoff control.

(C) *Storage; exterior displays*. All materials, supplies, merchandise, or other similar matter not on display for direct sale, rental, or lease to the ultimate consumer or user shall be stored within the confines of a 100% opaque wall or fence not less than six feet tall. Merchandise which is offered for sale as described may be displayed beyond the confines of a building in any general business zone, but the area occupied by the outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless the merchandise is a type customarily displayed outdoors, such as automobiles and garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street nor within any required interior side or rear setback.

(D) *Trash and garbage incinerators; storage*. No exterior incineration of trash or garbage is permissible. No exterior storage of trash or garbage is permissible except in an accessory building enclosed by walls and roof or in closed containers within a totally screened area.

(E) *Refuse containers*. It shall be the duty of the owner or developer of all new single-family residential construction and development within the city, when the development is not subject to the provisions of the city subdivision ordinance with respect to refuse containers, to supply at his or her expense refuse containers. The type of the containers shall be approved by the City Engineer.

(F) *Public-street frontage*. Except as otherwise allowed or required by this chapter, no lot shall contain any building unless the lot abuts for at least 50 feet on a public street or private street approved as part of a city-approved planned development.

(G) *Smoke, dust, and other particulate matter*. The emission of smoke, dust, and other particulate matter shall be in compliance with the County Bureau of Air Pollution Standards as regulated by the Maricopa County Health Services Department.

(H) *Bulk storage (liquid)*. All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable, and similar liquids shall comply with Uniform Building and Fire Code requirements and Maricopa County regulations, and shall be stored underground, except in I-2 and I-3 districts when approved by the Fire Chief.

(I) *Water quality, hazardous wastes, and wastewater*. Discharge of hazardous waste, chemicals, and wastewater will be subject to Arizona Department of Health Services, Division of Environmental Health Standards.

(J) *Odors*. The emission of odors by any use shall be in compliance with city standards and regulations.

(K) *Noise*. It shall be prohibited to disturb the peace or quiet of a neighborhood, family or person by making or emitting unreasonable noise. Noise that exceeds 55 decibels, measured at the property line of the source, between 10:00 p.m. and 6:00 a.m. is presumed unreasonable.

(Prior Code, § 21-6-14) (Ord. O16-03-03, passed 3-1-2016)

§ 154.108 HOME OCCUPATIONS.

(A) *Generally*. A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one or more persons, all of whom reside within the dwelling unit, where no persons are employed other than residents or domestic help, and where the use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. There shall be no outside storage of any kind; any indoor storage, construction, alterations, or electrical or mechanical equipment used, shall not change the fire rating of the structure or the fire district in which the structure is located. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. It shall not cause an increase in the use of one or more utilities (water, sewer, or garbage) so that the combined total use for dwelling and home occupation purposes of one or more utilities exceeds the average for residences in the neighborhood. When a use is a home occupation, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation after securing special permission to do so from the Zoning Administrator. However, the person shall be subject to all conditions set forth in this chapter, such as off-street parking, and to all other permits required by the city, such as building permits and business licenses, and is encouraged to check with city officials before establishing such home occupation.

(B) *Purpose*. It is the intent of this section to eliminate as home occupations all uses except those that conform to the standards set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, and a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use qualifies

as a home occupation.

(C) *Necessary conditions*. Home occupations are permitted accessory uses in residential zones only so long as all the following conditions are observed.

(1) The occupation shall be conducted solely by resident occupants in their residence.

(2) No more than one room or 25% of the gross area of one floor of the residence, whichever is less, shall be used for the purpose. Use of accessory buildings or garages for these purposes is prohibited.

(3) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.

(4) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, and the like) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.

(5) There shall be no outside storage or any kind related to the home occupation.

(6) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.

(7) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

(8) Complaints by citizens or residents may be cause for termination of the home occupation.

(D) *Examples of the uses that frequently qualify as home occupations*. The following are typical examples of uses which can be conducted within the limits of the restrictions established in this section and thereby qualify as home occupations. Uses which may qualify as "home occupations" are not limited to those named in this division (nor does the listing of a use in this paragraph automatically qualify as a home occupation); accountant; architect; artist; attorney-at-law; author; consultant; dressmaking; individual stringed-instrument instruction; individual tutoring; insurance; millinery; preserving and home cooking; realtor.

(E) *Uses that are prohibited*. The following uses by the nature of the investment of operation have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall not be permitted as home occupations: auto repair, minor or major; barber shop; carpentry work; dance instruction; dental office; medical office; painting of vehicles, trailers, or boats; photo developing; photo studios; private schools with organized classes; radio repair; television repair; upholstering.

(Prior Code, § 21-6-15)

§ 154.109 NON-CONFORMING USES AND STRUCTURES.

(A) Any structure or use lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon that date except as hereinafter specified and except for any uses previously approved as special, conditional, or temporary uses, which shall be lawful only so long as all terms originally approved are met, including time limitations.

(B) The right to operate and maintain a non-conforming use shall terminate when the structure or structures housing the use are removed, razed, or remodeled to the extent of 50% of the structure's fair market value as determined by the last equalized assessment role of the County of Maricopa, unless the condition was created as described in division (F) or (H) below.

(C) When any lawful, non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

(D) Whenever a lawful non-conforming use of a building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, to an extent greater than 50% of its originally appraised value, it shall not be reconstructed, but the property shall revert to a conforming use.

(E) Whenever a lawful non-conforming use of a building or structure or land is discontinued for a period of 90 days, any future use of the building or structure or land shall be in conformity with the provisions of this chapter.

(F) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary structural repairs, provided the structural repairs do not enlarge or intensify the non-conforming use.

(G) A lawful non-conforming use shall not be changed except in conformance with the use requirements of the zone in which it is located.

(H) Alterations may be made to a structure or building containing lawful non-conforming residential units when they will improve the livability thereof, providing they will not increase the number of dwelling units.

(I) Existing lots.

(1) At the time of the enactment of this chapter, if any owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements or does not have sufficient lot width to conform to the minimum lot width requirements, the plot of land may nevertheless be used as a building site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a structure of acceptable size to be built upon the lot, the reduction to be determined by the Board of Adjustment.

(2) No lot, even though it may consist of one or more adjacent lots in the same ownership at the time of passage of this chapter, shall be reduced in size so that lot width or size of yards or lot area per family or any other requirement of this chapter is not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(Prior Code, § 21-6-16) (Ord. O11-09-17, passed 9-22-2011)

§ 154.110 WIRELESS COMMUNICATION FACILITIES.

(A) *Intent*. It is the intent of this section to promote the use of appropriate wireless communication facilities while encouraging co-location and design techniques that minimize the impacts of the facilities on the community. The city encourages providers to explore all co-location options, locations on existing municipal facilities or locations on existing vertical structures prior to applying for a new facility. The city further encourages applicants to explore all camouflaging and screening options available to reduce the visual and environmental impacts of the facilities on the community.

(B) *General provisions*.

(1) Wireless communication facilities, as defined in § 154.020, shall be a conditionally permitted use in all zones.

(2) Wireless communication facilities shall be subject to the limitations contained in this section and as otherwise set forth in city codes.

(3) Definitions of terms specific to this chapter. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The term "pole" shall be used interchangeably with the term "monopole."

ALTERNATIVE DESIGN TOWER. Artificial trees, clock towers, and similar non-traditional structures that are compatible with the existing setting or structures and camouflage or partially conceal the presence of antennas or towers. This includes any antenna or antenna array attached to the alternative design structure.

ALTERNATIVE TOWER STRUCTURE. Ball field light poles, street lights, electric utility poles, water towers, and similar existing structures. This includes any antenna or antenna array attached to the alternative tower structure.

AMATEUR RADIO TOWER. A free-standing or building-mounted structure, including any base, tower or pole, antenna, and appurtenances intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission.

ANTENNA. The surface from which wireless radio signals are sent from and received by a wireless communication facility. ***ANTENNA*** includes whip antenna, panel antenna, and dish antenna. Any ***ANTENNA*** not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles the antenna.

1. Whip antenna is a long and thin device that transmits and/or receives radio frequency signals in a 360-degree radial pattern. Typical size is two to six inches in diameter and one foot to 18 feet in height.

2. Panel antenna is a relatively flat rectangle device that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees. Typical size is four feet to five feet high, six inches to 12 inches wide, and six inches to eight inches deep.

3. Dish antenna is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern. Typical size is four feet to six feet in diameter, and one foot to three feet deep.

ANTENNA ARRAY. One or more whip, panel, or dish antennas used for the transmission or reception of radio frequency signals. The ***ANTENNA ARRAY*** does not include the support structure.

BUILDING-MOUNTED ANTENNA. Any antenna that is attached to the wall of, or integrated into, buildings, church steeples, cooling towers, elevator bulkheads, parapets, or penthouses.

EQUIPMENT SHELTER. A cabinet or building located at the base of or near a wireless communication facility within which are housed, among other things, batteries and electrical equipment. This equipment is connected to the antenna by cable.

MONOPOLE. A tower used exclusively for wireless communication that is self-supporting with a single shaft of steel, concrete, or wood.

MOUNT. The ground, base pad, or the structure to which a wireless communication facility is attached.

PRE-EXISTING WIRELESS COMMUNICATION FACILITY. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as the approval is current and not expired.

ROOFTOP MOUNTED ANTENNA. An antenna that is located on top of roof and is not a wall-mount or an alternative design structure.

SATELLITE EARTH STATION. A device consisting of an antenna and reflector, having any dimension of more than five feet, and is a solid or open mesh configured structure used for reception or transmission of radio energy to or from an earth orbit satellite or celestial body.

STRUCTURE. Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

TOWER. A structure consisting of more than a single shaft of steel or concrete used to elevate an antenna for wireless communication or broadcasting.

TOWER HEIGHT. When referring to a tower or alternative structure, the distance measured from the finished grade of the parcel to the highest point on the other structure including the base pad.

WIRELESS COMMUNICATION FACILITY. A Facility for the provision of personal wireless services as defined by the Telecommunications Act of 1996, and any amendments thereto. ***WIRELESS COMMUNICATION FACILITIES*** are composed of two or more of the following components: antenna, mount, equipment shelter, and wall or security barrier.

(C) *General requirements*. All wireless communication facilities (hereinafter referred to as facility) shall meet the following general requirements.

(1) *Inventory of existing sites*. Each applicant for a facility shall provide to the city an inventory of its existing facilities or sites approved for facilities that are located either within the city or the city municipal planning area boundary (MPA). In addition to showing all existing and approved sites, inventories shall show all other wireless communication sites located within one mile of the proposed site, regardless of jurisdictional location. Each inventory shall include general information about the location, height, and design of each tower. The city may share this information with other applicants applying for conditional use permits under this section or other organizations seeking to locate antennas within the city; provided however, that the city is not, by sharing the information, in any way representing or warranting that the information is accurate, and that sites are available or suitable.

(2) *State or federal requirements*. All facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. if the standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring the towers and antennas into compliance with the revised standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring facilities and antennas into compliance with the revised standards and regulations shall constitute grounds for removal of the tower or antenna at the owner's expense.

(3) *Building code safety standards*. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with the codes and standards and constitutes a danger to persons or property, then upon notice being provided to

the owner of the tower, the owner shall have 30 days to bring the tower into compliance with the standards. Failure to bring the tower into compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(4) *Measurement*. For the purpose of determining separation distances, distances from property lines or districts, and setback distances, distance shall be measured from the closest portion of the pole or structure to the property line, district, pole, or structure in question. Tower setbacks and separation distances shall be calculated and applied to facilities located in the city, irrespective of municipal and county jurisdictional boundaries. Minimum setbacks for equipment shall conform to the International Building Code.

(5) *Franchises and licenses*. Owners and/or operators of wireless facilities shall certify that all franchises or licenses required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises or licenses with the city.

(6) *Pre-existing towers*. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (routine maintenance does not include replacement with a new tower of like construction and height) and construction related to the use of the pole or structure for the purposes of adding additional carriers shall be permitted on the pre-existing towers. New construction, including replacement of an existing tower, other than routine maintenance on a preexisting tower, shall comply with the requirements of this section.

(7) *Rebuilding damaged or destroyed non-conforming towers or antennas*. Notwithstanding this chapter, bona fide non-conforming towers or antennas that are damaged to the extent that repairs constitute 50% of the value of the undamaged tower or antennas, or destroyed shall not be rebuilt without first obtaining a conditional use permit and meeting separation requirements specified in this section. The type, height, and location of the tower onsite shall be of the same type and of no greater intensity than the original facility approval. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or if the permit expires, the tower or antenna shall be deemed abandoned as specified in this chapter.

(8) *Abandonment of towers or facilities*. A facility shall be deemed abandoned when the facility is not in use for a period of six consecutive months. The owner of the facility shall remove the facility within 90 days of receipt of notice from the city notifying the owner of the abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until users cease using the tower.

(9) *Federal, state, and local government exemption*. Wireless communication facilities owned by the federal, state, or city government shall be exempt from the provisions of this section.

(10) *City Council approval*. Any tower over 65 feet in height is required to go to City Council for approval after being presented to the Planning and Zoning Commission.

(D) *Conditionally permitted use*. A wireless communication facility shall be a conditionally permitted use and processed in accordance with § 154.155 of this chapter. All conditionally permitted wireless communication facility uses shall meet the following minimum development standards.

(1) The maximum height of the facility, except for rooftop or wall mounted facilities, facilities co-locating on an existing wireless communication facility, facilities locating on existing utility poles, or facilities located on existing vertical structures on school or municipal property, shall be 80 feet, provided, however, if the facility is located in any residential district or within 75 feet of the property line of residential use or district, the maximum height shall be 65 feet.

(2) An installation co-locating on an existing facility shall not increase the overall pole or tower height by more than 15 feet, and the antennas shall not exceed a maximum height of 95 feet or 65 feet in any residential district. Installations co-locating on existing utility poles may increase the height of the pole by not more than 15 feet. Installations locating on existing vertical structures on school or municipal property shall follow the non-residential height requirements.

(3) The facility replacing an existing pole on school or park grounds does not increase the original pole circumference by more than is necessary to accommodate the additional structural requirements.

(4) The pole or tower shall be set back from all adjacent residential zoning districts or residential land use property lines a minimum of 110% of the height of the tower or pole. The pole shall be set back from all non-residential zoning district or non-residential property lines a minimum of five feet and shall be set back from all street property lines equal to or greater than the building setback for the district in which the pole or tower is located.

(5) Facilities co-locating on utility poles, facilities within the right-of-way, or facilities located on school or city property shall not be required to meet the setback requirements set forth above.

(6) Tower and monopole facilities visible from off-site residential or business district view shall be camouflaged using an alternative design tower as defined in § 154.020.

(7) A rooftop or wall mounted facility shall be hidden from off-site views and shall be camouflaged and screened to the extent possible by screen walls and/or the building parapet.

(8) A rooftop mounted facility shall be 15 feet or less in height as measured from the surrounding rooftop height to the top of all appurtenances.

(9) A wall-mounted facility shall be 12 feet or less in height. Wall-mounted facilities shall be mounted so as not to extend above the roofline of the building and shall not project move than 12 inches from the building face.

(10) The colors and texture of the facility shall be compatible with the surrounding environment as determined by the city, except as otherwise required by the FAA.

(11) No commercial advertising or signage shall be allowed on-site; however, each facility shall have an identification plaque no larger than 12 inches square permanently affixed which clearly identifies the name, address, and emergency phone number of the provider.

(12) A facility shall have at least one parking space designed to city standards. This requirement shall also include maneuvering areas and access drives. This requirement shall be waived when sufficient hard surface parking exists.

(13) The facility shall not be artificially lighted, unless required by the FAA or other applicable authority.

(14) A facility may not be allowed within 1,320 feet of a city or state designated historical site.

(15) The minimum separation between facilities, except for approved alternate tower structures, rooftop or wall mounted facilities, facilities located within the industrial zoning districts, and facilities located on existing vertical structures on school or municipal property, shall be 1,000 feet, unless otherwise approved by the City Council.

(16) Security fencing is required and shall not exceed eight feet in height. Fencing shall be effectively screened from view by the use of landscaping.

(17) Anti-climbing features shall be incorporated in the wireless communication facility, as needed, to reduce potential for trespass and injury.

(18) Co-location of city or other public safety agency wireless communication facilities shall be permitted at no cost to the public on private wireless communication facilities approved in accordance with this section.

(Prior Code, § 21-6-17) (Ord. O11-09-17, passed 9-22-2011)

SIGN REGULATIONS

§ 154.125 PURPOSE.

The purpose of this subchapter is to establish standards for the regulation of signs within the city in order to safeguard the public interest by:

(A) Balancing public and private objectives by allowing adequate signage for business identification;

(B) Promoting the free flow of traffic and protect pedestrians and motorists from injury and property damage which may be caused by cluttered, distracting, and illegible signage;

(C) Preventing property damage and personal injury resulting from signs which are improperly constructed or poorly maintained;

(D) Promoting the use of signs which are well designed, of appropriate scale, and integrated with surrounding buildings and landscape in order to meet the community's desire for quality development; and

(E) Protecting property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape which affects the image of the city.

(Prior Code, § 21-6-10.1)

§ 154.126 DEFINITIONS.

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

(B) Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory, the word "person" includes a firm, associations, organization, partnership, trust, corporation or company, as well as an individual; the word "lot" includes the words "plot" or "parcel"; the words "used" or "occupied," as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

ABANDONED SIGN. Any sign located on a property or premises which is vacant and unoccupied for a period of three months, or a sign which is damaged, in disrepair, or vandalized and not repaired within 30 days of the date of the damaging event.

ADVERTISING COPY. The words, letters, or graphics painted, carved, etched, or mounted on the face of any sign used to advertise a business, product, service, or place.

ALTERATION. Any change in architecture, structure, or copy of an existing sign.

ANIMATED SIGN. A sign which has movement or the optical illusion of movement of any part of the sign structure, design, or pictorial segment, including the movement of any illumination or flashing or varying of light intensity; or the automatic changing of all or any part of the facing of a sign; or any movement or rotation of a sign or any part of the sign structure; or emits sounds.

APPLICANT. Any person who applies for a sign permit in accordance with the provisions of this subchapter.

ARTERIAL STREET. Any principal, major, or minor arterial street as classified and designated in the city General Plan.

AWNING SIGN. Any sign with information painted on or integrated into a structure covered with fabric, metal, or other material and supported by a building at one or more points.

BILLBOARD SIGN. Any sign which advertises a business, commodity, service, entertainment, product, or attraction sold, offered, or existing elsewhere than on the property where the sign is located.

BREAK AWAY DESIGN FEATURE. A structural feature built into the sign according to the Arizona Department of Highways which allows the sign to collapse on impact.

BUILDING. Any structure having enclosed space and a roof for the housing and enclosure of persons, animals, or goods.

BUILDING WALL. The individual sides of a building.

BUSINESS. The engaging in of the production, purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of offices or recreational or amusement enterprises.

BUSINESS NAME. The name by which a business is commonly recognized and referred to by the applicant but does not include slogans or product information.

CITY. The City of El Mirage, Arizona.

CITY ATTORNEY. The City Attorney of the city.

CITY COUNCIL. The governing body of the city.

CITY ENGINEER. The City Engineer of the city.

CITY MANAGER. The City Manager of the city.

COMMERCIAL FARM or ***RANCH SIGN.*** A sign that identifies the name of any commercial farm or ranch.

CONSTRUCTION SIGN. An on-premises, temporary sign providing information about future development or current construction on a site and the parties involved in the project.

DEVELOPMENT. Any human-made change to improve or alter real estate, including but not limited to buildings or structure, mining, dredging, filling, grading, paving, or excavation drilling operations.

DEVELOPMENT SIGN. A sign that is placed at the entrance to a multi-family or duplex development, manufacture home park, or single-family development to identify the name of the development.

DIGITAL BILLBOARD. An off-premise advertising sign which displays electronic or digital images that are changed via electronic means and control.

DIRECTIONAL SIGN. An on-premises sign that includes only information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way.

DIRECTORY SIGN. Any sign, other than an identification sign, which is centrally located and lists only the names, uses or locations of the various businesses or activities conducted within a building or group of buildings.

EMERGENCY SIGN. A sign erected by a governmental agency, a public utility company, or a contractor performing work within any right-of-way.

FASCIA SIGN. Any sign which is mounted against the horizontal piece covering the joint between the top of a wall and the projecting eaves of the roof.

FLAG. Any flag of the United States, or any state of the United States, foreign nations having diplomatic relations with the United States, the city, corporate flag, or any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, or any other flag whose display is authorized by the Constitution of the United Sates or the Constitution of the state.

FREESTANDING SIGN. A sign which is erected on its own self-supporting permanent structure, detached from any supporting elements of a building.

GRAND OPENING SIGN. A temporary sign that announces the introduction or promotion of a new business, store, shopping center, or office, or the announcement, introduction, or promotion of the changing ownership of an established business.

HEIGHT. The vertical distance from the top of the highest element of the sign or sign structure to the top of the curb or crown of the roadway where no curb exists.

IDENTIFICATION SIGN. A sign that identifies only the business, place, organization, building, street address, or person on the property on which it is located.

ILLUMINATED SIGN. A sign whose surface is artificially lighted internally or externally.

INFORMATION SIGN. Any sign which is used to inform the public about a business, service, product, or place.

INSTALL. The action of erecting, re-erecting, constructing, placing, posting, and building.

KIOSK SIGN. A freestanding, multiple-sided structure approved by the city and located in public rights-of-way that displays directional information to residential developments, commercial establishments, and/or public or semi-public facilities.

LOGO. A graphic symbol representing a business, activity, or use.

MAINTENANCE. The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear, or damage beyond the control of the owner.

MANSARD. A sign permanently affixed to a wall or surface designed to protect the edge of a roof, such surface being no more than 30 degrees from vertical.

MASTER SIGN PROGRAM. A total sign program for a specified development or area that integrates all signage into a unified theme and design.

MENU BOARD SIGN. A permanently-mounted sign displaying the bill of fare for a drive-thru restaurant.

MESSAGE BOARD. A portion of a sign displaying an electronic digital message which changes more than once a day.

MULTIPLE TENANT COMPLEX. A non-residential development where two or more separate businesses exist, in which there are appurtenant shared facilities (such as parking or pedestrian mall), and designed to provide a single area that the public can obtain varied products and services.

MURAL. A graphic depiction painted on a section of wall which contains no written advertising.

NONCOMMERCIAL SIGN. A sign which does not contain information or advertising for any business, commodity, service, entertainment, or product.

NON-CONFORMING SIGN. A sign lawfully erected and maintained prior to the adoption of this subchapter which does not conform with the requirements of this subchapter.

OFF-PREMISES SIGN. Any sign that is located on property other than where a business is located, the product is sold, or the service is offered.

ON-PREMISES SIGN. Any sign which is within the legal boundaries of a parcel of property.

OPEN HOUSE DIRECTION SIGN. A temporary sign used to advertise the sale of a single house and direct traffic to the house for sale.

PARAPET. The portion of a building exterior wall projecting above the plate line of the building.

PARCEL. A legal lot, plot, tract, or area of land having fixed boundaries.

PERMANENT SIGN. Any sign that is constructed as lasting and enduring, remaining unchanged in character, condition (beyond normal wear), and position, and in a permanent manner affixed to the ground, wall, or building.

PLANNED AREA DEVELOPMENT. A zoning designation that may allow a development to have one or more principal use(s) or structure(s) and/or variable development standards on a single parcel of ground or contiguous parcel.

PLANNING DIVISION. The City Planning Division.

PLATE LINE. The point at which any part of the main roof structure first touches or bears upon an external wall.

POLITICAL SIGN. A temporary sign that supports candidates for office or urges action on any other matter on the ballot of primary, general, or special elections.

PORTABLE SIGN. Any sign not affixed to a structure or the ground.

PROJECT. Any parcel of land with designated legal boundaries on which development action has been approved by the city.

PROJECTING SIGN. A sign attached to a building or other structure and extending in whole or in part more than 14 inches beyond the building.

PROMOTIONAL SIGN. Any temporary sign used to advertise special sales, new products or services, or promotions, or a business and may include pennants, balloons, streamers, flags, inflatable structures, search lights, character or product likenesses, attention attracting media and devices, and other non-merchandise displays.

PUBLIC SIGN. A sign erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, direct or regulate pedestrian or vehicular traffic.

READER PANEL. The portion of any sign that permits regular change of copy, including electronic copy, which does not change more than once a day.

REAL ESTATE SIGN. Any temporary sign that indicates a single premises, building, or vacant lot that is currently for sale, lease, or rent.

ROOF LINE. The highest point of the main roof structure or the highest point on a parapet but shall not include cupolas, pylons, projections or minor raised portions of the roof.

ROOF SIGN. Any sign erected on a roof, or a sign that projects above the highest point of the roof line, parapet, or fascia of the building.

SANDWICH BOARD. A sign composed of two faces attached to an a-frame.

SHINGLE SIGN. Any sign suspended from and located entirely under a covered porch or walkway.

SIGN. Any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication that attracts the attention of the public and is visible from public or private rights-of-way or other properties; but shall not include any flag, badge, or insignia of any governmental unit nor shall it include any item of merchandise

normally displayed within a show window of a business.

SIGN COPY. The letters, words, or graphics used to convey information on the sign.

SIGN STRUCTURE. The supports and framework of the sign.

SINGLE TENANT BUILDING. Any building which has only one tenant.

SNIPE SIGN. Any sign that is posted on trees, utility poles or structures, street lights, fences, fire hydrants, bridges, curbs, sidewalks, park benches, or other locations on public property.

SPECIAL EVENT. Any community event such as, but not limited to; bazaars, street fairs, shows, exhibitions, sporting events, runs, bicycling events, and block parties.

SPECIAL EVENT SIGN. Any sign promoting a special event and may include pennants, banners, balloons, streamers, flags, and attention-attracting media and devices.

STREET NUMBER SIGN. Any sign which gives the street address number of the building.

SUBDIVISION. A subdivision pursuant to the city Subdivision Ordinance, as it exists or as it may be amended.

SUBDIVISION ADVERTISING SIGN. Any temporary sign promoting the sale of more than one property or buildings in a city-approved subdivision.

SUBDIVISION ENTRANCE SIGN. Any sign designating the name of the subdivision at the entrance of the subdivision.

SUBDIVISION IDENTIFICATION FLAGS. Any flags flown within the legal boundaries of the subdivision to attract persons to the subdivision.

SWOOPER SIGN. A feather-shaped fabric sign attached to a curved frame.

TEMPORARY SIGN. Any sign not designed for permanent display.

TIME AND TEMPERATURE SIGN. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature.

VEHICLE SIGN. Any sign mounted upon, painted, or otherwise erected on trucks, cars, boats, trailers, other motorized vehicles or equipment.

WALL SIGN. A sign mounted flat against and projecting less than 14 inches from, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall, but not including window signs.

WINDOW SIGN. any sign, picture, symbol, or combination thereof, that communicates information about an activity, business, commodity, event, sale, or service, and is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(Prior Code, § 21-6-10.2) (Ord. O11-04-05, passed 4-14-2011; Ord. O12-11-11, passed 11-8-2012; Ord. O14-05-03, passed 5-6-2014)

§ 154.127 GENERAL PROVISIONS.

(A) *Signs prohibited*. No person shall erect, place, establish, paint, create, or perform maintenance on a sign in the city except as provided in this subchapter. All signs which are contrary to the provisions of this subchapter are declared to be in violation, and may be abated as provided by law, except as provided by § 154.134 below. The following signs are prohibited. Any:

(1) Abandoned sign;

(2) Off-premises sign, except as permitted within this subchapter;

(3) Portable sign;

(4) Snipe sign;

(5) Sign which inhibits free ingress to or egress from any door, window, or any exit way required by the adopted building code or

fire code;

(6) Sign that may obstruct the view of any authorized traffic sign, signal, or other traffic control device; or any sign by reason of shape, color, or position that interferes with or may be confused with any authorized traffic signal or device;

(7) Sign placed in a location that will obstruct vision of a vehicle operator while entering, exiting, or traveling upon the public right-of-way;

(8) Sign located in a manner which interferes with pedestrian travel or poses a hazard to pedestrians;

(9) Vehicle sign when mounted or placed on any trailer, boat, or motor vehicle that is parked, stored, or displayed in a manner to attract the attention of the public for advertising purposes;

(10) Sign with flashing, blinking, or rotating lights, laser lights, search lights, or unshielded incandescent, fluorescent, metal halide, or high or low pressure sodium light bulbs or mercury vapor light sources;

(11) Sign placed in rights-of-way, except emergency, public, or kiosk signs;

(12) Tethered balloons or other hazards to aviation; and

(13) Any other sign that is not expressly permitted by this subchapter.

(B) *Signs in the right-of-way*.

(1) It is unlawful for any person to install a sign in any public right-of-way, except the following:

(a) Public signs;

(b) City-owned signs; and

(c) Emergency signs.

(2) The City Manager or designee is authorized to immediately remove any illegal sign located in any public right-of-way.

(C) *Street number signs required*. The owner of any building shall identify every building or group of buildings with a street number sign as approved by the City Manager or designee which shall be clearly visible from the street. This sign shall not be computed as part of the total sign area permitted and shall not require a permit.

(D) *Permits and licenses required.*

(1) No person shall erect, place, establish, paint, create, or maintain any sign in the city without first procuring a permit pursuant to § 154.135, except for those signs not required to obtain a permit pursuant to division (E) of this section.

(2) No person shall erect, place, establish, paint, create, or perform maintenance on any sign in the city without first obtaining all required permits and licenses as regulated by this subchapter or any other laws.

(E) *Signs not requiring a permit*. No person shall be required to have a permit for the following signs, provided however that the signs shall be subject to any and all applicable provisions of this subchapter or any other law:

(1) Temporary decorations or displays celebrating the occasion of patriotic, religious, or local holidays or special events;

(2) Signs displayed during holidays as identification of temporary sales areas for trees and similar holiday items. The signs shall be excepted only when displayed within 30 days of the holiday;

(3) Public signs;

(4) Non-illuminated directional, or information signs of a noncommercial public or quasi-public nature, including street, building, or suite numbers which do not exceed six square feet;

(5) Directional signs. The signs shall be excepted when wall mounted or, if detached, where not exceeding a height of three feet;

(6) Emergency signs;

(7) Political signs;

(8) Real estate signs; and

(9) Kiosk signs.

(F) *Maintenance*. Any person who owns, erects, establishes, paints, creates, or maintains any sign, including a non-conforming sign, shall maintain the sign in good order and repair at all times so that it does not constitute any danger or hazard to public safety, or a visual light, and is free of peeling paint, major cracks, or loose, dangling, or torn materials.

(Prior Code, § 21-6-10.3) (Ord. O11-04-05, passed 4-14-2011) Penalty, see § 154.999

§ 154.128 LOCATION, DESIGN, AND CONSTRUCTION SPECIFICATIONS.

(A) *General regulations*.

(1) All signs shall be structurally designed, constructed, erected, and maintained in accordance with all applicable provisions and requirements of this subchapter and in compliance with all adopted building and electrical codes.

(2) Illuminated signs and flag poles are permitted by this subchapter unless otherwise specified. Illumination may either be direct, internal, or internal direct as allowed herein, and it is unlawful for any person to install illumination which creates any glare or reflection onto any adjacent property, or onto a street or alley, or so as to create a traffic hazard.

(B) *Sign area measurements*. Sign area shall be measured as follows:

(1) Sign copy mounted or painted on background panel or area distinctively painted, textured, or constructed as a background for the sign copy shall be measured as the area contained within the sum of the smallest rectangles that will enclose both the sign copy and the background.

(2) Sign copy mounted as individual words or graphics against a wall, fascia, mansard, or parapet of a building or other structure that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy shall be measured as a sum of the smallest rectangles that will enclose each word and each graphic in the total sign.

(3) Signs with multiple faces shall be measured as follows:

(a) Signs with two faces. If the interior angle between the two sign faces is 60 degrees or less, the area shall be of one face only. If the angle between the two sign faces is greater than 60 degrees, the sign area will be the sum of the areas of the two faces.

(b) Signs with three or more faces. The sign area will be 50% of the sum of the areas of all faces.

(4) Spherical, free-form sculptural, or other non-planar sign area shall be 50% of the sum of the sides of the smallest four-sided polyhedron that will encompass the sign structure.

(C) *Sign height.* Sign heights shall be measured as follows:

(1) Freestanding sign. The height of all signs shall be the vertical distance from the top of the highest element of the sign or sign structure to the top of the curb or crown of the roadway where no curb exists. The height of any monument base or other structure erected to support or ornament the sign shall be measured as part of the sign height (refer to Figure SR-6).

(2) Wall, fascia, mansard, and parapet signs. Height shall be the vertical distance to the top of the sign or sign structure from the base of the wall on which the sign is located.

(D) *Location specifications*.

(1) Sign locations shall be integrated into the design of the building they are attached to and/or with the design of the site and the adjacent streetscape.

(2) Signs shall be placed so they do not block required access areas and so they are not obscured by any landscaping when it has reached its full maturity.

(E) *Design specifications*.

(1) Signs shall be designed to be consistent with the architectural treatment and overall character of the principal building and/or the overall site.

(2) Signs shall use materials or textures which are complementary to those used in the principal building and/or in the overall project.

(3) Signs shall use colors which match or complement the colors used on the building and/or in the overall project.

(4) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

(5) Signs shall be composed of letters and/or logos attached to a wall or background or made an integral part of the sign face rather than painted directly onto a wall or backlit panel.

(F) *Construction specifications*.

(1) Signs attached to masonry, concrete, or steel shall be safely and securely fastened thereto by means of metal anchors, bolts.

(2) There shall be no visible angle iron supports, guy wire, braces, or supports. All sign supports shall be an integral part of the sign design.

(G) *Inspections*. All signs for which a permit is required shall be subject to the following inspections, unless waived by the City Manager or designee:

(1) Footing inspections on all freestanding signs, including situations where square footage or panels are added to existing freestanding signs;

(2) Electrical inspections on all illuminated signs prior to clearance; and

(3) Final inspection which shall cover the sign location, structural members, and placement of the inspection marker in accordance with this subchapter.

(H) *Inspection markings*. Any person installing or erecting a permanent sign as regulated by this subchapter shall ensure that the signs are marked with the maker's name and the person or firm erecting the sign, the date of installation, and the permit number as approved by the City Manager or designee.

(Prior Code, § 21-6-10.4) (Ord. O10-01-01, passed 2-11-2010)

§ 154.129 REGULATIONS BY ZONE.

(A) *Residential zones*. Residential uses in residential zones.

(1) *General*.

(a) *Applicable zones*. This division applies to all signs for residential uses in R zones, and in all residential areas which are vacant or are in a planned area development (P.A.D.) unless otherwise approved.

(b) *Permitted signs*. Only signs which are specifically permitted by this division are allowed. Any sign which is not specifically permitted by this division is prohibited.

(c) *Aggregate sign area allowed*.

1. *Parcels less than or equal to two acres*. Except as otherwise permitted in this subchapter, the aggregate sign area for any parcel located in a residential zone and which is less than two acres shall not exceed one and one-half square feet.

2. *Parcels larger than two acres*. Except as otherwise permitted in this subchapter, the aggregate sign area for any parcel located in a residential zone and which is larger than two acres shall not exceed eight square feet.

(2) *Wall signs*. Wall signs are permitted, but shall not exceed a height of 15 feet.

(3) *Freestanding signs*.

(a) One freestanding sign shall be permitted on each parcel with a maximum height of five feet and a maximum area of one and one-half square feet.

(b) A freestanding sign may include only the name of the occupant and the street address. The sign shall not include any advertising copy.

(c) The base shall have an aggregate width of at least 50% of the width of the sign.

(d) Reader panels are not permitted.

(4) *Identification signs*. Each residence in a residential zone may have one identification sign. The sign may be a wall sign or a freestanding sign. The sign may include only the name of the residence, the name of the occupant, and the street address, and shall not include advertising copy.

(5) *Residential entry sign*. A maximum of two residential entry signs, placed at the entrance to a multi-family or duplex development, manufactured home park, or single-family development only in order to identify the name of the development, and with a maximum aggregate area of 24 square feet shall be permitted at each main entrance. The residential entry signs may be freestanding signs. The residential entry signs may include only the name of the development and the street address, but shall not include advertising copy.

(6) *Temporary signs*. Temporary signs are permitted in accordance with § 154.130(A) of this subchapter.

(B) *Non-residential uses in residential zones*.

(1) *General*.

(a) *Applicable zones*. This division applies to all signs for non-residential uses in residential zones which includes but are not limited to churches, schools, institutions, commercial farms or ranches, public facilities, and similar activities.

(b) *Permitted signs*. Only signs which are specifically permitted by this division are allowed. Any sign which is not specifically permitted by this division is prohibited.

(c) *Maximum aggregate area*. The maximum aggregate area of all signs on a parcel shall not exceed 48 square feet.

(2) *Wall signs*. Wall signs are permitted, but shall not exceed a height of 15 feet.

(3) *Freestanding signs*.

(a) One freestanding sign shall be permitted on each parcel with a maximum height of eight feet and a maximum area of 24 square feet.

(b) A freestanding sign may include only the name of the facility, building, or organization it is intended to identify. The sign shall not include any advertising copy. The sign must include the number of the street address, but the area of these numerals shall not be included in calculating the allowed sign area.

(c) The base shall have an aggregate width of at least 50% of the width of the sign.

(d) No more than one-half of the allowed freestanding sign area shall be used for reader panels.

(4) *Wall, fascia, mansard, and parapet signs*. Wall, fascia, mansard, and parapet signs are permitted, and may identify the facility, building, or organization by name or by name and principal activity when the name alone does not identify the general nature of the use, and may include the street address.

(5) *Directional signs*. Directional signs are permitted when required to assist the flow of traffic. Directional signs shall not exceed six square feet in area or three feet in height.

(6) *Directory signs*. Directory signs are permitted for non-residential uses in multi-residential developments and other multiple tenants facilities.

(a) Each directory shall be illuminated with a maximum area of 18 square feet and a maximum height of six feet.

(b) The number and location of the signs must be approved by the City Manager or designee.

(7) *Temporary signs*. Temporary signs are permitted in accordance with § 154.130(A) of this subchapter.

(8) *Murals*. Murals shall be considered as artwork and thus a part of the design of a structure and approved as a conditional use permit by hearings of the Planning and Zoning Commission and City Council.

(C) *Business and industrial zones*.

(1) *General*.

(a) *Applicable zones*. This division applies to all signs in all B and I zones and in all commercial and industrial areas in a planned area development (P.A.D.), unless otherwise provided in this subchapter.

(b) *Permitted signs*. Only signs which are specified permitted by this section are allowed. Any sign which is not specifically permitted by this subsection is prohibited.

(c) *Aggregate sign area allowed*.

1. Unless otherwise modified by this section, the maximum aggregate sign area for any business is one square foot of signage for each linear foot of the business wall elevation along the street frontage on which the sign is displayed.

2. Businesses shall be permitted sign area as described in this section for any one elevation, plus the sign area on all other elevations not to exceed one-half square foot for each linear foot of elevation where the sign is displayed as long as the elevation does not directly face a residentially zoned property.

(2) *Wall, fascia, mansard, parapet, and shingle signs*.

(a) *General*.

1. Wall, fascia, mansard, and parapet signs are allowed only on the exterior elevation of the space occupied by the business.

2. Wall, fascia, mansard, or parapet signs may identify the individual businesses, building complex, or center by name and may identify up to three principal services when the name alone does not identify the general nature of the business. Any wall, fascia, mansard, or parapet sign may include the street address, but shall not include advertising copy.

(b) *Wall, fascia, mansard, and parapet signs for theaters*.

1. One wall, fascia, mansard, or parapet sign for a theater may contain a reader panel.

2. The area of the reader panel shall not exceed 75 square feet or the maximum wall sign area otherwise allowed, whichever is less.

3. The reader panel shall be used exclusively for the purpose of the identifying entertainment, motion pictures, or special events which occur on the premises.

(c) *Shingle signs*.

1. One shingle sign which is designed and oriented primarily for the aid of pedestrians is permitted per business.

2. The minimum clearance between the bottom of the sign and the nearest grade or sidewalk shall be seven feet, six inches.

3. A shingle sign must be located immediately adjacent to the business it identifies.

(3) *Freestanding signs*.

(a) *General*.

1. Freestanding signs are permitted.

2. The base of any freestanding sign shall have an aggregate width at least 50% of the width of the sign.

3. Single tenant building. Any freestanding sign which identifies a single tenant building shall only bear the name of the business or building it is intended to identify, and shall not include any advertising copy.

4. Any freestanding sign shall include the number of the street address, but the area of these numerals shall not be included in calculating the allowed sign area.

(b) *Maximum number and height of signs allowed*. One freestanding sign shall be permitted per access to any parcel or complex but no more than two signs per street frontage. A freestanding sign shall not exceed a height of 30 feet.

(c) *Aggregate sign area allowed*.

1. *Freestanding signs for multiple tenant complexes.* The maximum aggregate sign area allowed for all freestanding signs for multiple tenant complexes is 150 square feet.

2. *Freestanding signs for single-tenant buildings.* The maximum aggregate area allowed for freestanding signs for single tenant buildings is 75 square feet.

(d) *Identification of tenants in a multiple tenant complex*. Any freestanding sign within a multi-tenant building or shopping

center may identify the name of the building, complex, or center, and the names of tenants within the complex. The signs shall not include any advertising copy.

1. Any freestanding sign for a multiple tenant complex is subject to administrative design review and approval by the Planning Division. Appeals to the Planning and Zoning Commission must be filed within 15 days and shall follow the requirements of § 154.159.

(4) *Reader Panels*.

(a) Gasoline service stations may use up to 66% of the allowed freestanding sign area for a reader panel only to identify the current price of fuel being sold.

(b) Other uses in the commercial zones may use up to 33% of the allowed freestanding sign area for a reader panel.

(5) *Directional signs*. Directional signs when required to assist the flow of traffic are permitted, but shall not exceed six square feet in area of three feet in height. The sign may include business identification by word or symbol on up to 25% of the sign area.

(6) *Directory signs*. Directory signs when required to identify the location of the various premises located within a center or complex are permitted as follows:

(a) Each directory sign shall be illuminated with a maximum area of 18 square feet and a maximum height of six feet.

(b) The number and location of the signs must be approved by the City Manager or designee.

(7) *Noncommercial signs*. In all commercial and industrial zones, noncommercial signs shall have a maximum area of 12 square feet and a maximum height of five feet.

(8) *Temporary signs*. Temporary signs are permitted in accordance with § 154.130(A) of this subchapter.

(9) *Menu boards*.

(a) Two menu boards are permitted per drive-thru lane. The signs may be freestanding or wall-mounted.

(b) The maximum aggregate area for a menu board shall not exceed 48 square feet.

(c) The maximum height of freestanding menu boards shall not exceed eight feet.

(10) *Awning signs*.

(a) A maximum of 25% of the front face area of an awning may be used for signage.

(b) The sign area shall be measured according to § 154.129(C)(4)(b) above, unless a distinctive background is provided.

(c) If letters or graphics are placed on the valence, they shall not be placed elsewhere on the awning.

(d) Awning signs are allowed only on the exterior elevation of the space occupied by the business.

(11) *Message boards*.

(a) A maximum of 33% of the allowed freestanding area may be used for a message board.

(b) One message board may be permitted for each principle arterial street frontage to the site.

(12) *Billboards and other off-premises signs*. Billboards may be approved by conditional use permit along Olive Avenue or Northern Avenue (Parkway), but no more than two billboards shall be approved on Olive Avenue and no more than five billboards on Northern Avenue (Parkway) without Council approval of a variance or development agreement. Billboards shall not exceed 400 square feet in area or a height of 40 feet above the nearest curb or 60 feet above grade along Olive Avenue. New digital or static billboards installed along Northern Avenue (Parkway) shall not exceed 672 square feet per face, per direction in area or a height of 65 feet above the nearest curb or grade. Graphics shall not include animated, flashing, scrolling, intermittent, or full motion video elements. There shall be a minimum rotation time of eight seconds between images. The signs shall have the City of El Mirage logo integrated within the design. The appropriate application and amount of city identification is subject to city approval via the conditional use permit process. Network time of one image for at least eight seconds shall be made available to the city for messaging on four digital sign faces. No new billboards shall be permitted within 1,000 feet in any direction from an existing billboard. All permits for billboards must receive prior written approval from Luke Air Force Base and other governmental entities if applicable. A one-time fee of $6,000 per site will be assessed with approval of a digital board and payable to the city. Directional off-premises signs shall not exceed 32 square feet in area or eight feet in height. No off-premises sign shall be located in public rights-of-way (except for kiosks as provided in this

code) or block the clear sight of any intersection or drive;

(13) *Sandwich boards.* Two sandwich boards up to 12 square feet in area shall be permitted on the premises during business hours but shall not be permitted off-premises or in public rights-of-way or allowed to block required access along a sidewalk or clear sight at any intersection or driveway.

(14) *Murals.* Murals shall be considered as artwork and thus a part of the design of a structure and approved as a conditional use permit by hearings of the Planning and Zoning Commission and City Council.

(Prior Code, § 21-6-10.5) (Ord. O10-01-01, passed 2-11-2010; Ord. O11-04-05, passed 4-14-2011; Ord. O12-02-01, passed 2-21-2012; Ord. O12-11-11, passed 11-8-2012; Ord. O14-05-03, passed 5-6-2014)

§ 154.130 TEMPORARY SIGNS.

(A) It is unlawful for any person to place or install a temporary sign in any zone except as permitted within this subchapter and the following regulations.

(B) Upon written request, and for good cause, the City Manager or designee may grant a one-time extension of any time period listed in division (B)(6) of this section.

(1) Real estate signs.

(2) General.

(a) One non-illuminated sign pertaining only to the property on which it is located shall be permitted for each street frontage.

(b) A maximum of two signs may be permitted per parcel.

(3) Residential zones.

(a) Undeveloped land.

1. For sale, lease, or rent signs on parcels of less than five acres: each sign shall have a maximum area of six square feet and a maximum height of five feet.

2. For sale, lease, or rent signs on parcels of five acres or more: each sign shall have a maximum area of 32 square feet and a maximum height of eight feet.

(b) Improved land. Each for sale, lease, or rent sign shall have a maximum area of 12 square feet and a maximum height of six square feet.

(4) Commercial and industrial zones.

(a) Undeveloped land. Each for sale, lease, or rent sign shall have a maximum area of 32 square feet and a maximum height of eight feet.

(b) Improved land. Each for sale, lease, or rent sign shall have a maximum area of 12 square feet and a maximum height of six feet.

(5) Promotional signs.

(a) The following promotional signs shall be allowed for a maximum of 30 consecutive days, no more than four times per year.

(b) 1. One fabric banner attached to wall. Maximum 32 square feet; or

2. One freestanding board per entry with amaximum 12 square feet, 15 feet high; or

3. No more than two swoopers per business, 15 square feet in area, and 15 feet in height with at least 25 feet between each one.

(c) All promotional signs shall be professionally prepared and located on private property and not on public rights-of-way or within clear sights at intersections or drives.

(6) Grand opening signs. One grand opening sign display is allowed per business. A grand opening sign display requires a new

business or change in business name, and shall be allowed for no more than 30 consecutive days.

(7) Special event signs. Special event sign displays shall be allowed for a maximum of 30 consecutive days but no sooner than 15 days before or ten days after the event and no more than three times per calendar year.

(8) Construction and development signs.

(a) Non-illuminated signs are allowed with a maximum area of 32 square feet and a maximum height of eight feet.

(b) If building permits for the project have not been issued within three months after issuance of the sign permit, the sign shall be removed and any new construction and development sign for substantially the same project at the same location will be approved only after a building permit for the project has been issued by the city.

(c) Every construction and development sign shall be removed prior to the issuance of any certificate of occupancy for the site.

(d) Any construction and development sign may identify the name of the project, the names of the developer, contractor, architect, subcontractor, and financier for the project, and the projected completion date.

(9) Open house directional signs.

(a) There shall be a maximum of two off-site open house directional signs for each home for sale, and a maximum of one on-site open house directional sign at the property for sale.

(b) Each open house directional sign shall have a maximum area of three square feet and a maximum height of 30 inches.

(c) Open house directional signs may be posted only when a salesperson is on duty at the home and shall be removed when the open house is over.

(d) Open house directional signs shall not be placed on any sidewalk or in any manner which will interfere with pedestrian travel or pose a hazard to pedestrians.

(e) Open house directional signs shall not obstruct the vision of a vehicular operator while entering, exiting, or traveling upon either private or public right-of-way.

(10) Window signs.

(a) Window signs may be used for business identification or advertising of any service, product, business place, or activity on the premises.

(b) Window signs may include, but are not limited to, the business name, street address, phone number, business hours, meeting times, individual or specific products, services, or merchandise and related price information slogans, and sale announcements.

(c) It is unlawful for any reason to exceed a sign area greater than 50% of window area.

(11) Subdivision advertising signs (on-premises).

(a) One on-premises subdivision advertising sign shall be permitted at each major entry with a maximum of four signs per subdivision.

(b) The maximum aggregate area of all signs shall be 160 square feet.

(c) The maximum height of any on-premises subdivision advertising sign shall be 15 feet.

(d) The edges of the sign shall be boxed.

(e) No sign permits shall be issued until a preliminary plat has been approved by the city.

(f) Upon expiration of a preliminary plat, if no final plat is approved, all on-premises subdivision advertising signs must be removed within ten days.

(g) On-premises subdivision advertising signs are permitted until the sales office is no longer open.

(h) On-premises subdivision advertising signs shall not be located within 100 feet of any property line of an existing residence without the written consent of the owners of all adjacent properties.

(12) Subdivision advertising signs (off-premises).

(a) Off-premises subdivision advertising signs are permitted only on vacant property with the written permission of the property owner.

(b) A maximum of one off-premises subdivision advertising sign is permitted for each subdivision which is equal to or less than 60 acres. A maximum of two off-premises subdivision advertising signs are permitted for each subdivision which is greater than 60 acres. No off-premises subdivision advertising signs shall be located closer than 100 feet from any other subdivision advertising sign.

(c) Each sign shall have a maximum area of 32 square feet and a maximum height of eight feet.

(d) Off-premises subdivision advertising signs are permitted until the sales office is no longer open.

(13) Temporary subdivision identification flags.

(a) A maximum of ten temporary subdivision identification flags per subdivision are allowed.

(b) The area of any flag shall not exceed 15 square feet.

(c) The maximum height of any flag shall be 20 feet.

(d) There shall be a minimum distance of 25 feet between flags.

(e) All flags shall be placed within the boundaries of the subdivision with the permission of the property owner, if this is other than the developer.

(f) Temporary subdivision identification flags are permitted until the sales office is no longer open.

(g) Logos are allowed on the flags, but no flag shall include any advertising copy.

(14) Political signs.

(a) Within residential zones, the maximum aggregate sign area for each parcel shall be 12 square feet. The maximum height of any sign shall be six feet.

(b) Within commercial and industrial zones, the maximum aggregate sign area for each parcel shall be 32 square feet for each street frontage, and the maximum height of any sign shall be eight feet.

(c) The person, party, or organization responsible for the erection or display of the political sign shall not erect or display the signs before 60 days prior to the specific election to which the signs refer except between a primary and general election.

(d) The person, party, or organization responsible for the erection or display of the political signs shall remove the signs within 15 days after the specific election to which the signs refer. The City Manager or designee may remove the signs pursuant to § 154.135(F).

(e) No person shall remove, alter, deface or cover any political sign under the same condition as for a city, town or county as set forth in A.R.S. § 16-1019(C) and as may be amended from time to time.

(15) Garage or yard sale signs. Garage or yard sale signs shall be permitted on a resident's private property or on other private property with the owner's consent up to four times in any calendar year, but such signs shall not exceed six square feet in area or five feet in height and shall be placed no sooner than one day before the sale and removed no later than the end of the last day of the sale [not to exceed three consecutive days]. No such signs shall be allowed in public rights-of-way or within the clear sight of a driveway or intersection.

(Prior Code, § 21-6-10.6) (Ord. O10-01-01, passed 2-11-2010; Ord. O11-04-05, passed 4-14-2011; Ord. O11-10-18, passed 10-13-2011; Ord. O13-07-10, passed 7-2-2013; Ord. O16-05-04, passed 5-17- 2016) Penalty, see § 154.999

§ 154.131 FLAGS AND FLAGPOLES.

(A) It is unlawful for any person to place or install a flag in any zone except as permitted within this subchapter.

(B) Any person placing or installing a flag shall comply with the following provisions.

(1) A maximum of three flags on any one lot or parcel shall be allowed in any business or industrial district.

(2) Parcels zoned R-43, R-1, R-la, R-2, R-3, and R-4 shall not have more than one flagpole per parcel.

(3) No flag pole shall exceed the following heights per specified zone:

(a) Parcels zones R-43, R-1, R-1a shall not exceed 30 feet.

(b) Parcels zoned R-2 and R-3, and R-4 shall not exceed 35 feet.

(c) Parcels zoned B-1, B-2, and B-3 shall not exceed 35 feet.

(d) Parcels zoned I-1, I-2, and I-3 shall not exceed 35 feet.

(4) Flagpoles shall not be placed except within a landscaped setting of not less than 200 square feet.

(5) Illumination of any flag or flagpole shall be in accordance with § 154.128.

(6) Nothing in this section shall apply to any flag or flagpole located on any parcel owned or operated by any federal, state, or local government for a governmental purpose.

(7) *Flagpoles of height in excess of 35 feet.*

(a) A flagpole shall not exceed 35 feet in height, except for those displaying the flags of the Unites States of America or the State of Arizona which may be erected to a height not to exceed 100 feet.

(b) Any lawful flag may be flown in conjunction with the United States and/or the State of Arizona flag(s), shall be flown beneath them and shall not exceed either in size.

(c) No more than one flagpole in excess of 35 feet shall be placed in a mobile home park, a golf course, or on a commercial site.

(d) No flagpole in excess of 35 feet shall be placed on a residential lot.

(Prior Code, § 21-6-10.7) (Ord. O13-07-11, passed 7-9-2013) Penalty, see § 154.999

§ 154.132 MASTER SIGN PROGRAM.

(A) *Purpose*. The master sign program is designed to allow signage which is appropriate to the character of the development, provides adequate identification and information, provides a good visual environment, promotes traffic safety, and is regulated to the extent necessary to be consistent with the purpose and intent of the sign requirements.

(B) *Compliance*. Compliance with an approved master sign program is deemed to be compliance with all other requirements of this subchapter, except as otherwise stated herein.

(C) *Master sign program criteria*.

(1) Master sign programs shall only apply to properties designated within a planned area development as approved by the City Council or multiple tenant complex within a commercial or industrial zone.

(2) Any request for approval of a master sign program shall be submitted on an official conditional use permit application provided by the city. Application shall be submitted to the City Manager or designee and acted upon by the Planning and Zoning Commission in accordance with site plan procedure.

(3) Any master sign program shall be evaluated based upon the following criteria:

(a) *Placement*.

1. *On-premises*. All signs shall be placed where they are sufficiently visible and readable for their function. Factors to be considered shall include the purpose of the sign, its location relative to traffic movement and access points, site features, structures, and sign orientation relative to viewing distances and viewing angles.

2. *Off-premises*. Off-premises signs are permitted only on vacant property with the written permission of the property owner.

(b) *Quantity*.

1. *On-premises*. The number of signs that may be approved within any planned area development or multiple tenant complex

shall be no greater than that required to provide project identification and entry signs, internal circulation and directional information to destinations and development sub-areas, and business identification. Factors to be considered shall include the size of the development, the number of development sub-areas, and the division or integration of sign function.

2. *Off-premises*. A maximum of one off-premises advertising sign is permitted for a planned area development or multiple tenant complex which is equal to or less than 160 acres. A maximum of two off-premises advertising signs are permitted for a planned area development.

(c) *Size*.

1. *On-premises*. All signs shall be no larger than necessary for visibility and readability. Factors to be considered in determining appropriate size shall include topography, volume of traffic, speed of traffic, visibility range, proximity of adjacent uses, amount of sign copy, placement of display (location and height), lettering style, and presence of distractive influences. In no event shall a plan contain a freestanding or wall sign which exceed by more than 50% any maximum height standard.

2. *Off-premises*. Signs shall have a maximum area of 160 square feet and a maximum height of 15 feet. Permitted time is not to exceed 90% of home sales.

(d) *Materials*. Sign materials shall be compatible with architectural and/or natural features of the project.

1. This may be accomplished through similarity of materials for sign structures and faces, the use of complementary colors, similarity of architectural style, and/or the use of a consistent lettering style or copy.

2. Illumination. Illumination shall be in accordance with § 154.128(A)(1).

(Prior Code, § 21-6-10.8) (Ord. O14-05-02, passed 5-6-2014)

§ 154.133 KIOSK SIGNS.

(A) The purpose of a kiosk sign is to provide a uniform, coordinated method of offering owners a means of providing directional signs to their premises and minimize confusion among prospective consumers wishing to locate them while promoting traffic safety and reducing the visual blight of sign proliferation.

(B) The city is permitted to erect kiosk signs in the public right-of-way at sites approved by the City Council or delegated to the City Manager or designee.

(Prior Code, § 21-6-10.9)

§ 154.134 NON-CONFORMING SIGNS.

(A) *Maintenance*. Any person owning or maintaining a legal non-conforming sign shall maintain the sign in good condition pursuant to § 154.127(F).

(B) *Alterations*. It is unlawful for any person owning or maintaining a legal, non-conforming sign or sign structure to alter, reconstruct, replace, or relocate the sign other than to comply with this subchapter, except reasonable repair and maintenance limited to a maximum total of 50% of the sign's or structure's reproduction cost as determined from an appraisal by a competent appraiser.

(C) *Removal.*

(1) Any person owning or maintaining a legal, non-conforming sign shall remove or bring the sign into conformance with this subchapter when:

(a) More than 50% of the reproduction cost of the sign or sign structure has been damaged or destroyed or by any means taken down;

(b) The condition of the sign has deteriorated to such an extent that the cost of repairs exceed 50% of the reproduction cost of the sign or sign structure as determined from an appraisal by a competent appraiser; and/or

(c) The use of the sign or the property on which it is located has ceased, become vacant, or been unoccupied for a period of six months or more.

(2) In the event any of these should occur, the sign shall be presumed to be abandoned and shall be removed by the owner of the property, his or her agent, or person having the beneficial use of the building or structure upon which the sign or sign structure is erected within 30 days after written notification from the City Manager or a designee.

(Prior Code, § 21-6-10.10) Penalty, see § 154.999

§ 154.135 PERMITS, ADMINISTRATION, AND ENFORCEMENT.

(A) *Code Administrator*. The City Manager or designee shall be the authorized Code Administrator for the city. The City Manager or designee shall implement, administer, and enforce this subchapter, and may establish rules, regulations, and procedures to implement, administer, and enforce this subchapter.

(B) *Sign permit applications*.

(1) Application for a permit shall be on the official form provided by the city and accompanied by the following information: scaled drawings; the sign legend or commercial message; sign location and setbacks in relation to property lines; dimensions, construction specifications; electrical components and wiring; method of attachment and design of structural members to which attachment is to be made; and location of the foundation of post hole location in relation to the property line and public right-of-way.

(2) The City Manager or designee shall not issue permits for the use, construction, reconstruction, or alteration of any sign structure until adequate information is submitted to determine the proposed action is in conformance with the provisions of these sign regulations.

(3) The City Manager or designee may, in writing, suspend or revoke a permit issued under provisions of this section whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of this subchapter.

(4) No permit for a sign issued by the city shall be deemed to constitute permission or authorization to maintain a public or private nuisance, nor shall any permit issued hereunder constitute a defense in any action to abate a nuisance.

(5) Whenever any sign for which a permit is required by this subchapter has been placed, erected, or displayed without first obtaining a permit, a special investigation shall be made before a permit may be issued. An investigation fee equal to, and in addition to, the permit fee shall be collected.

(6) Whenever any sign requires an electrical permit, both the sign permit and the electrical permit must be issued and obtained simultaneously or may be included under one sign permit.

(C) *Permit fees and refunds*.

(1) Before the city issues any sign permit required by this subchapter, the applicant shall pay all fees in accordance with the schedule as set by City Council resolution.

(2) For refunds, the applicant must submit a letter of request along with a copy of the sign permit to the City Manager or designee. Refunds shall be permitted in accordance with the provisions of the adopted building codes and city policies.

(D) *Variances, site plan procedures, and administrative appeals*.

(1) An application request for a variance from the provisions of this subchapter shall be submitted to the City Manager or designee and acted upon by the Board of Adjustment in accordance with this chapter, as it exists, or as it may be amended.

(2) An application for conditional use permits required by this subchapter shall be submitted to the City Manager or designee and acted upon by the Planning and Zoning Commission in accordance with this chapter, as it exists, or as it may be amended.

(3) An application for administrative appeal shall be submitted to the City Manager or designee and acted upon by the Board of Adjustment in accordance with this chapter as it exists or as it may be amended.

(E) *Violations and revocations of permits*. The City Manager or designee may revoke any permit authorizing the erection of any sign which is in violation of the permit of this subchapter. The following is the revocation process.

(1) Notice of the City Manager or designee's decision to revoke a sign permit shall be served upon the applicant of the permit:

(a) By delivering in person a copy of the notice to the applicant of the permit or to one of its officers;

(b) By leaving a copy of the notice with any person in charge of the premises;

(c) In the event no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of another copy of the notice to the last known post office address of the applicant of the permit; or

(d) By posting a copy of the notice on the sign in violation and by the certified mailing of another copy of the notice to the last know post office address of the applicant of the permit.

1. The applicant of the permit may appeal the decision of the City Manager or designee to revoke the permit to the Board of Adjustment, in writing, within 15 days from the date when the notice was served.

2. If no appeal has been taken at the end of 15 days, the permit is revoked. The City Manager or designee shall then initiate the process for the removal of the illegal sign in accordance with division (F) below.

(F) *Removal of signs*.

(1) The City Manager or designee is authorized to require removal of any illegal sign under the following provisions.

(2) Before bringing an action to require removal of any illegal sign, the City Manager or designee shall give written notice to the owner of the sign or the owner of the premises on which the sign is located. The notice shall state the violation charged and the reasons and grounds for removal, specifying the deficiencies or defects and what repairs, if any, will make the sign conform to the requirements of this subchapter, and specify that the sign must be removed or made to conform with the provisions of this subchapter with the notice period provided below.

(a) The notice period for permanent signs shall be ten days.

(b) The notice period for temporary signs shall be 48 hours.

(c) Re-erection of any sign or substantially similar sign on the same premises after a compliance notice has been issued shall be deemed a continuation of the original violation.

(3) Service of notice shall be made personally on the owner or lessee, or by certified mail addressed to the owner or lessee at the address specified in the permit or the last know address.

(4) If the owner of lessee of the premises upon which the sign is located has not demonstrated to the satisfaction of the City Manager or designee that the sign has been removed or brought into compliance with the provisions of this subchapter by the end of the notice period, then the City Manager or designee shall certify the violations to the City Attorney for prosecution.

(5) The City Manager or designee may remove any illegal sign which exists or has been re-erected after the expiration date of the notice period, if the owner or lessee of the premises has been issued a compliance notice at least once before for the same violation involving the same or similar sign.

(6) Notwithstanding the above, the City Manager or designee may cause the immediate removal or repair (without notice to the owner of the sign, or of the property on which it is located) of any unsafe or defective sign or signs that creates an immediate hazard to persons or property, or of any sign which is placed in any right-of-way in violation of § 151.002

(7) If the city removes all illegal sign pursuant to this section, the city may petition the court to recover the costs, expenses, and attorney fees which the city incurred in removing the illegal sign and in bringing the petition for recovery. If the court finds by a preponderance of the evidence that the city is entitled to recover, the court may order the defendant to pay to the city the amount of the costs, expenses, and attorney fees reasonably incurred by the city, and may enter judgment in favor of the city and against the defendant in that amount.

(G) *Prosecution of violations*. Every action to prosecute a violation of this subchapter shall be prosecuted in the manner provided in city code.

(H) *Liability for damages*. The provisions of this subchapter shall not be construed to relieve or to limit in any way, the responsibility or liability of any person, firm, or corporation which erects or owns any sign, for personal injury or property damage caused by the sign; nor shall the provision of this subchapter be construed to impose upon the city's officers, City Manager, or the city employees, any responsibility or liability by reasons of the approval of any sign under the provisions of this subchapter.

(Prior Code, § 21-6-10.11)

§ 154.136 CONFLICT.

If any portion of this subchapter is found to be in conflict with any other provision of any zoning, building, fire, safety, or health ordinances of this code, the provision which establishes the higher standard shall prevail.

ADMINISTRATIVE PROCEDURES

§ 154.150 PROCEDURE FOR AMENDMENTS TO THIS CHAPTER.

(A) *Generally*. In accordance with the provisions of Arizona State Statutes, the City Council may from time to time adopt amendments to the zoning ordinance. An amendment to this chapter may involve changes in its text and wording, including but not limited to changes in the regulations regarding uses, setbacks, heights, lot areas, definitions, administration, and/or procedures. Ordinance amendments do not, however, include the rezoning of property. Amendments may be initiated by the Council, the Planning and Zoning Commission, or by petition of a person whose property would be affected by the amendment.

(B) *Application of amendment*. If an individual or other party initiates a request for an amendment to this chapter, the request must be made on a form provided by the Zoning Administrator. The request must state the exact section of the chapter proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted if it will assist in understanding the benefits of the amendment. The submittal must be made to the Zoning Administrator and the processing fee paid at least 30 days prior to the date of the public hearing by the Planning and Zoning Commission.

(C) *Notice of hearing*.

(1) No rezoning may be adopted until a public hearing has been held on the matter by the Planning and Zoning Commission, and if required under § 154.151(E) below by the City Council.

(2) A notice of the time, date, place, and purpose of the hearings shall be given at least 15 and not more than 30 calendar days before the hearing by:

(a) Publication in a newspaper of general circulation published or circulated within the city; and

(b) Posting of the property in a manner that is legible from the public right-of-way. The posting shall comply with the City of El Mirage Planning Department Site Posting Requirements.

(2) Notice shall also be sent by first class mail at least 15 days before the day of the first hearing to each owner of property situated wholly or partly within 300 feet of the property to which the rezoning relates. The Zoning Administrator shall be responsible for placing and mailing the notices. For the purpose of giving mailed notice, the Planning Director may require the applicant to furnish the names and addresses of all owners of property within 300 feet of the property to be rezoned. The Zoning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of the proceedings. The failure to receive notice by individual property owners if notices were published and mailed 15 days prior to the hearing shall not necessarily invalidate the proceedings.

(3) In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of Maricopa County, or a combination thereof, copies of the notice of the public hearing shall be transmitted to the planning agency of such governmental unit abutting the land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facilities as defined in A.R.S. § 28-8461, copies of notice of public hearing shall be sent by first class mail to the military airport.

(4) In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by state law.

(a) A 10% or more increase or decrease in the number of square feet or units that may be developed.

(b) A 10% or more increase or reduction in the allowable height of buildings.

(c) An increase or reduction in the allowable number of stories of buildings.

(d) A 10% or more increase or decrease in setback or open space requirements.

(e) An increase or reduction in permitted uses.

(D) *Hearing and recommendation by the Planning and Zoning Commission*. An amendment not initiated by the Planning and

Zoning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the proposed amendment. The proposed amendment may not be tabled more than two meetings in succession. The Planning and Zoning Commission shall notify the City Council, in writing, of its recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 15 days after the public hearing in which the recommendation was made.

(E) *Hearing and decision by the City Council*. The City Council, after receipt of the report and recommendation of the Planning and Zoning Commission, shall set a date within 30 days for a public hearing on the amendment request. An amendment which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant. In its deliberations on the matter, the Council shall consider oral or written statements from the petitioner, the public, city staff members, and its own members. The Council may approve the request by ordinance, deny the request, or table the request for not more than 60 days.

(Prior Code, § 21-7-1)

Editor's Note:

The City of El Mirage Planning Department Site Posting Requirements, (adopted March 24, 2005), is available from the city upon request.

§ 154.151 PROCEDURE FOR REZONINGS.

(A) *Generally*. In accordance with the provisions of Arizona Revised Statutes, the City Council may from time to time change the zoning of parcels of and within the municipality. These changes in zoning classification are for the purpose of meeting the land use needs of the residents of the city in conformance with the city's general plan. Rezonings may be initiated by the City Council, the Planning and Zoning Commission, the owner of property proposed for rezoning, the lessee having a leasehold interest of not less than five years exclusive of an option to renew, or the agent of any of the foregoing, duly authorized in writing, or by petition of the person whose property would be affected by the rezoning.

(B) *Application for rezoning*. An application for a rezoning shall be made on a form provided by the Zoning Administrator. On the application form shall be indicated the legal description of the property, the present zoning classification, and the recommended use of this property by the city's general plan. With the application, the applicant shall submit a one inch equals 100 foot scale diagram of the rezoning illustrated on a standard section line map. The applicant shall present evidence to the Zoning Administrator of ownership or type of controlling interest in the property (e.g., option to purchase). This application shall be completed, verified by a notary public, and submitted along with the established fee to the Zoning Administrator at least 21 days prior to the public hearing by the Planning and Zoning Commission.

(C) *Notice of hearing*.

(1) No rezoning may be adopted until a public hearing has been held on the matter by the Planning and Zoning Commission, and if required under division (E) below, by the City Council.

(2) A notice of the time, date, place, and purpose of the hearings shall be published in a newspaper of general circulation, published or circulated with the city at least 15 days prior to the date of the first hearing and at least 15 days prior to the date of any subsequent hearing.

(3) A similar notice shall be mailed at least 15 days before the day of the first hearing to each owner of property situated wholly or partially within 200 feet of the property to which the rezoning relates. The Zoning Administrator shall be responsible for placing and mailing such notices. For the purpose of giving mailed notice, the Planning Director shall require the applicant to furnish the names and addresses of all owners or property within 200 feet of the property to be rezoned. The Zoning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of the proceedings. The failure to receive notice by individual property owners if notices were published and mailed 15 days prior to the hearing shall not necessarily invalidate the proceedings.

(4) In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of Maricopa County, or a combination thereof, copies of the notice of the public hearing shall be transmitted to the planning agency of the governmental unit abutting the land.

(D) *Hearing and recommendation by the Planning and Zoning Commission*. A rezoning not initiated by the Planning and

Zoning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the rezoning application. The application may not be tabled more than two meetings in succession. The Planning and Zoning Commission shall notify the City Council, in writing, of its recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 15 days after the public hearing in which the recommendation was made.

(E) *Hearing and decision by the City Council.*

(1) The City Council may, after receipt of the report and recommendation of the Planning and zoning Commission, consider the rezoning request. If requested in writing by any member of the public or of the City Council, the Council shall hold a public hearing on the request. A rezoning which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant, and shall then require a public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for giving of notice of the hearing by the Commission as specified in division (C) above. During any public hearing on the matter, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council may approve any request for rezoning by ordinance, deny the request, or table the request. The application may not be tabled more than two meetings. If approved, the City Engineer shall revise the official zoning map accordingly.

(F) *Duration of zoning approval (conditional rezoning).*

(1) Approval of a rezoning request shall be conditioned upon the start of construction beginning within one year of the date of approval action taken by the City Council. If, at the expiration of this period, the start of construction has not begun for the use based upon the Commission's approved site plan for which the zoning was conditionally approved, the property shall revert to its former zoning classification without Council or Commission action.

(2) The city may authorize extensions when deemed necessary.

(G) *Public protest against amendment*. If there is a written protest against a change in the zoning classification of a parcel of land, signed by the owners of 20% or more of the area of lots included in the proposed change, or of those within a distance of 150 feet, not including street rights-of-way, the change shall not be approved except upon the affirmative vote of three-fourths of all of the members of the City Council. If any members of the governing body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths of the remaining membership of the Council, provided that the required number of votes shall in no event be less than a majority of the full membership of the Council.

(H) *Right-of-way dedication*. The Planning and Zoning Commission may require as a condition to the change of zone, the dedication of right-of-way necessary for roadways as prescribed by the circulation plan contained in the city's general plan. The Commission may also require dedication of land for future roadway construction that is greater than that called for in the circulation plan of the general plan if it is deemed to be in the best interest of the city.

(Prior Code, § 21-7-2)

§ 154.152 CITIZEN REVIEW PROCESS.

(A) *Purpose*. The purpose of the citizen review process is to provide citizens and adjacent land owners with notice of proposed rezoning map amendments and zoning text amendments, and the opportunity to express any issues or concerns that they may have with the proposed rezoning map amendment or zoning text amendment before the public hearing.

(B) *Requirements*. Every application for zoning map amendment and zoning text amendment that requires a public hearing shall include a citizen review process which must be implemented prior to the first public hearing.

(C) *Notice area*. The level of citizen interest and the number of potentially affected parties will vary depending on the nature of the application and, for zoning map amendments, the location of the site. The target area for early notification will be determined by the applicant after consultation with the Planning Department. At a minimum, the target area shall include the following:

(1) Property owners within the public hearing notice area required by other sections of this chapter; and

(2) The head of any homeowners association or registered neighborhood within the public notice area required by other sections of this chapter.

(D) *Submittals*. Applicants for zoning map amendments and zoning text amendments that require a public hearing shall submit to the Planning Department at the time of application for the zoning map amendment or zoning text amendment a citizen review plan

which includes the following:

(1) A list of those residents, property owners, interested parties, political jurisdictions, and public agencies that may be affected by the application;

(2) How those adjacent to and potentially affected by an application will be notified that an application has been made;

(3) How those adjacent to and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application;

(4) How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;

(5) The applicant's schedule for completion of the citizen review process;

(6) How the applicant will keep the Planning Department informed of the status of the citizen review plan; and

(7) Applicants will be responsible for notice and other costs associated with the citizen review process.

(E) *Citizen review report*. Following completion of the citizen review plan, the applicant shall provide to the Planning Department prior to notice of the first public hearing for the zoning map amendment or text amendment, a written report of their efforts. The report shall include a description of the notification process, and a summary of the issues and concerns expressed during the citizen review process. The report shall be included with the Planning Department report provided to the City Council and/or Planning and Zoning Commission.

(F) *Requirements are cumulative*. These requirements apply in addition to any notice provisions required elsewhere in the Zoning Ordinance.

(G) *Early implementation*. The applicant may submit a citizen review plan and begin implementation prior to formal application for the zoning map amendment or text amendment. This shall not occur until after the required pre-application meeting and consultation with the Planning Department staff, and requires the prior written approval of the Planning Department.

(H) *Incomplete citizen review plan and report*. If the citizen review plan and/or report does not meet the requirements of this subchapter, the application for the zoning map amendment or zoning text amendment shall be considered incomplete and shall not be scheduled for public hearing.

(Prior Code, § 21-7-2.2)

§ 154.153 PROCEDURE FOR VARIANCES FROM THIS CHAPTER.

(A) *Generally*. The Board of Adjustment may allow a departure from the terms of these zoning regulations pertaining to height or width of structures or the size of yard and open spaces where the departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of this chapter would deprive the owner of the reasonable use of the land and/or building involved.

(B) *Application for variance*. A request for variance shall be made by filing at least 21 days prior to the Board meeting an application with appropriate fees with the Zoning Administrator; the application shall be accompanied by a development plan showing such information as the Zoning Administrator may reasonably require for purposes of this chapter. The plans shall contain sufficient information for the Board to make a proper decision on the matter. The request shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. In all cases, the application shall include:

(1) Name and address of the applicant;

(2) The legal description of the property involved in the request for variance, including the street address, if any, of the property;

(3) The names and addresses of the owners of the property and any other persons having a legal interest therein;

(4) A site plan drawn to scale showing the property dimensions, grading, landscaping, and location of utilities, as applicable;

(5) Location of all existing and proposed buildings;

(6) Drive accesses, driveways, access roads, parking spaces, off-street loading areas, and sidewalks as applicable;

(7) The variance requested and the reasons for the request;

(8) Justification, in writing, that the following exist:

(a) Special circumstances or conditions exist that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter;

(b) The circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment requested is the minimum adjustment that will accomplish this purpose; and

(c) The granting of the adjustment is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(9) Evidence satisfactory to the Board of Adjustment of the ability and intention of the applicant to proceed with actual construction work in accordance with the plans within six months after issuance of permit.

(C) *Notice of hearing*. Notice of the time, date, place, and purpose of the variance hearing shall be published once in a newspaper of general circulation, published or circulated within the city and posted in a conspicuous place close to the property affected at least 15 days before the hearings, and shall be mailed at least 15 days prior to the Board meeting to each owner of property situated wholly or partially within 200 feet of the property to which the variance relates. The Zoning Administrator shall be responsible for mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator shall require the applicant to furnish the names and addresses of all property owners within 200 feet of the property.

(D) *Evidence required for variance*. At the public hearing on a variance application, the applicant shall present a statement and adequate evidence in such form as the Board may require for the purpose of showing:

(1) There are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that zone;

(2) The strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights; and/or

(3) The granting of the application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements of the neighborhood.

(E) *Board of Adjustment action*. In the event the Board of Adjustment can determine that substantial conformity to the standards previously established in the zone may be secured and that detriment or injury to the neighborhood will not result from the granting of a variance as applied for, it may approve or conditionally approve the issuance of the permit and transmit notice of its action to the Zoning Administrator. Approval may be granted only upon the affirmative vote of three-fourths of all members of the Board. A report of its findings and recommendations and any conditions imposed or required shall also be submitted promptly to the Planning and Zoning Commission and the City Council.

(F) *Disapproved application*. In the event the Board of Adjustment disapproves an application for a variance, no permit shall be issued pending further action thereon by an appeal to the superior court within 30 days from the date the disapproval is officially entered on the minutes of the Board, if the court shall overrule the action of the Board, then the Zoning Administrator shall issue the requested permit without further action by the Board unless the court orders the Board to hold a further hearing to permit the Board to fix conditions or require guarantees as set forth in divisions (G) and (H) below.

(G) *Conditional approval*. In approving any variance the Board of Adjustment may designate the conditions in connection therewith as will in its opinion secure substantially the objectives of the regulation or provision to which the variance is granted, to provide adequately for the maintenance of the integrity and character of the zone in which the permit is granted, and shall provide the Zoning Administrator with a copy of the same.

(H) *Guarantees*. Where necessary, the Board of Adjustment may require guarantees, in such form as it may deem proper under the circumstances, to ensure that the conditions designated in connection therewith are being or will be complied with. Where any condition under which a variance has been granted is violated, the variance shall cease to exist and the permit shall become null and void.

(Prior Code, § 21-7-3)

§ 154.154 PROCEDURE FOR SITE PLAN APPROVAL.

(A) (1) *Generally*. For purposes of this chapter, site plans may be classified as major or minor site plans. All developments within the city except individual single-family and duplex residential units and city-owned facilities shall be subject to this chapter. A major site plan involves one or more of the following:

(a) Forty or more dwelling units in a multiple-family structure or structures.

(b) Fifteen thousand or more square feet of:

1. Office space;

2. Retail commercial space service commercial space; and/or

3. Industrial space.

(c) One or more buildings on one site for:

1. Office use;

2. retail commercial use;

3. Service commercial use; and/or

4. Industrial use.

(c) Twenty thousand or more square feet of exterior storage of materials or goods; and

(d) Parking for more than 80 vehicles.

(2) Any other site plan (except for a Planned Area Development) is considered a minor site plan. Any Planned Area Development shall be reviewed according to the regulations of § 154.158.

(3) The Planning and Zoning Commission has the right to review, and require revisions to, any proposed site plans, major or minor. The purpose of this review is to relieve demonstrable adverse impacts of the development upon public safety, health, or welfare; to protect public investments in roads, drainage facilities, sewage facilities, and the like; and to ensure that the regulations of the city are upheld.

(4) Additionally, the Planning and Zoning Commission may authorize the Zoning Administrator to conduct review of minor site plans. Any needed variances for major or minor site plans must be appealed to the Board of Adjustment.

(B) *Application of these procedures*. These procedures shall apply to all R-2, R-3, R-4, B-1, B-2, B-3, I-1, and I-2 rezonings and all non-single-family and duplex development within the city.

(1) For those rezoning requests that may not comply with the city general plan, the site plan shall be submitted in conjunction with the rezoning application.

(2) For those rezoning requests that may comply with the general plan, the site plan shall be submitted prior to any construction or development and may be submitted with the rezoning application.

(3) For those areas with desired zoning, the site plan shall be submitted prior to any construction or development.

(C) *Application for major or minor site plan approval*. Applications for major or minor site plan approval shall be on a form provided by the Zoning Administrator. Site plans may be submitted at any time; however, major site plans shall be submitted at least 17 days prior to the Planning and Zoning Commission at which they will be heard. The application shall be accompanied by the appropriate fee and development plans showing sufficient information for the Planning and Zoning Commission or city staff to determine whether the proposed development will meet the development requirements of the city. In all cases the application shall contain the following:

(1) General:

(a) Name of project/development;

(b) Location of project/development by street address;

(c) Location map, including area within one-half mile of site;

(d) Name and mailing address of developer/owner;

(e) Name and mailing address of engineer/architect;

(f) Date of plan preparation;

(g) North point indicator;

(h) Scale of not less than one inch to 100 feet; and

(i) Names and addresses of property owners within 200 feet of site.

(2) Site plan, including:

(a) Boundary line of property with dimensions;

(b) Location, identification, and dimension of existing and proposed data, to a distance of 100 feet unless otherwise stated:

1. Topographic contours at a minimum interval of two feet;

2. Adjacent streets and street rights-of-way to a distance of 150 feet, except for sites adjacent to major arterial streets where the distances shall be 200 feet;

3. On-site streets and rights-of-way;

4. Ingress and egress points;

5. Traffic flow on-site;

6. Traffic flow off-site;

7. Utilities and utility rights-of-way or easements:

a. Electric;

b. Natural gas;

c. Telephone, cable TV;

d. Water; and

e. Sewer (sanitary treated effluent and storm)

8. Buildings and structures;

9. Parking facilities;

10. Water bodies;

11. Surface water holding ponds and drainage ditches surface water drainage arrows;

12. Significant rock outcroppings;

13. Sidewalks, walkways, driveways, loading areas and docks, bikeways;

14. Fences and walls;

15. Exterior signs;

16. Exterior refuse collection areas;

17. Exterior lighting; and

18. Landscaping (detailed plan showing plantings, equipment, and the like):

a. Botanical and common names of vegetation to be used;

b. Size of plantings at time of planting and at maturity; and

c. Areas to be irrigated.

(c) Number of employee and non-employee parking spaces, existing and proposed, and total square footage of each;

(d) Site statistics including site square footage, percent of site coverage (building and parking), dwelling unit density, percent park or open space; and

(e) Reproducible copy of the site plan with appropriate signatures shall be submitted upon approval.

(3) Building information (on-site), including:

(a) Height above mean sea level of the lowest floor when the structure is proposed to be located in a floodway or floodplain area;

(b) Gross square footage of existing and proposed structures; and

(c) Front, rear, and side elevations, with a description of exterior materials to be used.

(4) Permits:

(a) A listing of all required federal, state, and city permits and status of applications;

(b) Certificate of 100-year assured water supply; and

(c) Certificate showing compliance with minimum county and state water quality standards.

(D) *Notification of site plan review.*

(1) *Major site plan*. A notice of major site plan review shall be mailed at least ten days prior to the Planning and Zoning Commission meeting to each owner of property situated wholly or partially within 200 feet of the property to which the site plan relates. The Zoning Administrator shall be responsible for mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator shall require the owner of the property affected to furnish the names and addresses of all property owners within 200 feet of the property.

(2) *Minor site plan review*. A notice of minor site plan review shall be mailed within two working days of the date of the site plan approval application to each owner of property situated wholly or partially within 200 feet of the property to which the site plan relates. The Zoning Administrator shall be responsible for mailing the notices. For purpose of giving mailed notice, the Zoning Administrator shall require the owner of the property affected to furnish the names and addresses of all property owners within 200 feet of the property.

(a) If written protest to any minor site plan is received from any notified property owner within ten days of the mailing date of notification, the minor site plan shall become reclassified a major site plan.

(b) No additional application shall be required, however, all requirements and procedures governing major site plan shall then apply.

(E) *Minor site plan review.*

(1) In considering applications for minor site plan approval under this chapter, the city staff, if authorized by the Commission, shall consider the following: relationship of the plan elements to conditions both on and off the property; conformance to the city's zoning ordinance; conformance to the city's general plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters.

(2) The city staff shall meet with the applicant upon request. The city staff shall also consider oral or written statements from the public or other city staff members. A decision shall be made on a minor site plan within 15 days of the date of application.

(3) If the city staff shall determine that the proposed site plan will not be detrimental to the health, safety, or welfare of the community nor will cause traffic congestion or seriously depreciate surrounding property values and at the same time is in harmony with the purposes and intent of this chapter, the plan for the area, and the general plan, the staff will recommend to the City Council, to grant the site plan approval, and the conditions and safeguards be imposed as they deem necessary. Staff shall notify the Planning and Zoning Commission at its next regular meeting of any site plan approvals.

(4) Minor site plan approval applications may be denied by city staff upon finding and determination by the staff that the

conditions required for approval do not exist.

(5) When a minor site plan approval application is denied by city staff, an appeal may be taken to the Planning and Zoning Commission. If unusual or significantly difficult conditions exist which affect the site plan, the Zoning Administrator may determine and require that the site plan be reviewed and acted upon by the Planning and Zoning Commission.

(F) *Major site plan review.*

(1) In considering applications for major site plan approval under this chapter, the Planning and Zoning Commission shall consider the following: relationship of the plan elements to conditions both on and off the property; conformance to the city's zoning ordinance; conformance to the city's general plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters.

(2) The Planning and Zoning Commission shall consider oral or written statements from the applicant, the public, city staff members, or its own members. It may question the applicant and approve, deny, or table the development proposal. The application may not be tabled for more than two regular meetings of the Commission.

(3) If the Commission shall determine by motion that the proposed site plan will not be detrimental to the health, safety, or welfare of the community nor will cause traffic congestion or seriously depreciate surrounding property values and at the same time is in harmony with the purposes and intent of this chapter, the plan for the area, and the comprehensive plan, the Commission will recommend to the City Council to grant the site plan approval and impose such conditions and safeguards as they deem necessary.

(4) Site plan approval applications may be denied by motion of the Commission when the motion or consent shall constitute a finding and determination by the Commission or staff that the conditions required for approval do not exist.

(G) *Duration of site plan approval.* An approved site plan shall be valid for one year from its date of approval, or until the zoning on a particular site lapses, whichever occurs first.

(H) *Amendments to approved site plans.*

(1) Any amendment or modification to an approved site plan shall be submitted for approval. All amendments shall be shown on a revised site plan drawing.

(2) Amendments to minor site plans shall be submitted to city staff who may, if authorized by the Commission, approve the amendment(s) if they determine that the amendment(s) are acceptable to the city.

(3) Amendments to major site plans previously approved by the Planning and Zoning Commission may be approved by the Chairperson and Secretary of the Commission upon finding by the Chairperson and Secretary of the Commission that the amended site plan is in substantial compliance with the originally approved site plan. If it is determined that the amended site plan is not in substantial compliance with the originally approved site plan, the application shall be resubmitted and shall be subject to divisions (C), (D), and (F) above.

(Prior Code, § 12-7-4) (Ord. O11-09-17, passed 9-22-2011)

§ 154.155 PROCEDURE FOR CONDITIONAL USE PERMIT.

(A) *Generally.* Certain uses, while generally not suitable in a particular zoning district, may, under certain circumstances, be acceptable. When these circumstances exist, a conditional use permit may be granted. Conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person or firm. No conditional use permit shall be granted for a use which is not specifically designed as such in this chapter.

(B) *Application for conditional use permit.* The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator the appropriate form together with the required fee. The request for a conditional use permit shall follow the procedures and applicable requirements for major site plans of § 154.154, Procedure for Site Plan Review, of this chapter.

(C) *Planning and Zoning Commission consideration and findings.*

(1) Within 30 days after the conclusion of the public hearing, the Commission shall approve, conditionally approve, or deny the conditional use permit application.

(2) The Commission, in approving a conditional use permit, shall, by resolution adopted by an affirmative vote of not less than the majority of all its voting members, find as follows.

(a) The site for the proposed use is adequate in size and topography to accommodate the use, and all yards, spaces, walls and fences, parking, loading, and landscaping are adequate to properly relate the use with the land and uses in the vicinity.

(b) The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

(c) The proposed use will have no adverse effect upon the abutting property.

(d) The proposed use shall be in conformance with the general plan.

(e) The conditions stated in the approval are deemed necessary to protect the public health, safety, and general welfare. The conditions may include but are not limited to:

1. Regulation of use;
2. Special yards, spaces, and buffers;
3. Special fences, solid fences, and walls;
4. Surfacing of parking areas;
5. Requiring street, service road, or alley dedications and improvements or appropriate bonds;
6. Regulations of points of vehicular ingress and egress;
7. Regulation of signs;
8. Requiring maintenance of the grounds;
9. Regulation of noise, vibrations, odors;
10. Regulation of hours for certain activities;
11. Time period within which the proposed use shall be developed;
12. Duration of use;
13. Requiring the dedication of access rights; and/or
14. Other such conditions as will make possible the development of the city in an orderly and efficient manner.

(f) The Commission shall, in addition to any other conditions, impose the following general conditions upon every conditional use permit granted.

1. The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure.

2. All of the special conditions shall constitute restrictions running with the land and shall be binding upon the owner of the land, his or her successors or assigns.

3. All conditions specifically stated under any conditional use listed in this chapter shall apply and be adhered to by the owner of the land, his or her successors or assigns.

4. All of the special conditions shall be consented to in writing by the applicant.

5. The resolution granting the application, together with all consent forms, shall be recorded by the Recorder of Maricopa County.

(3) Applications for conditional use permits may be approved or denied by motion of the Commission. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Commission.

(D) *Notification of Commission action*. The applicant shall be notified of the action taken by the Commission within seven days

of its action. If the application has been granted, the permit shall be issued upon the signature of the Chairperson of the Planning and Zoning Commission and the Zoning Administrator, and any conditions, automatic termination date, or period of review shall be stated on the permit.

(E) *Appeals to the City Council.*

(1) A written appeal may be taken to the City Council by the applicant or any person, firm, corporation, group, or association owning real property within 150 feet of the conditional use applicant's property, aggrieved or affected by the decision of the Commission with respect to any conditional use.

The appeal shall be filed in duplicate with the Zoning Administrator within ten days from the date of action by the Commission.

(2) The appeal shall specifically state the grounds therefore and wherein the Commission failed to conform to the requirements of these regulations or appellate has otherwise been aggrieved or affected by the actions of the Commission.

(3) The Zoning Administrator shall immediately transmit one copy of the appeal to the Commission.

(4) The Zoning Administrator shall inspect the appeal for defects and validate the appeal within 48 hours of receipt. If the appeal is defective in any particular for non-compliance, the Zoning Administrator shall immediately send notice to the applicant of the fact and the type and nature of the defect or defects.

(F) *City Council decision*. The City Council may by resolution reverse or affirm, wholly or in part, or may modify any decision, determination, or requirement of the Commission, but before doing so, the City Council must set the matter for hearing, give notice of the hearing as is provided in § 154.151(E) and must make a written finding of fact setting forth wherein the Commission's findings were in error. A majority vote of the membership of the Council shall be required to grant in whole or in part any appealed application for conditional use permit acted upon by the Commission.

(G) *Modification or enlargement of structures authorized under a conditional use permit.* Any proposed additions, enlargements, or modifications of the structures approved in any conditional use permit or any proposed extension of the use into areas not approved in any such permit shall be subject to §§ 154.154(C), (D) and (F) and 154.155 of this chapter.

(Prior Code, § 21-7-5) Penalty, see § 154.999

§ 154.156 PROCEDURE FOR OPERATING A HOME OCCUPATION.

(A) *Notice of intent to operate a home occupation*. Any individual wishing to apply for a business license with the intent of operating the business from his or her home shall acknowledge by signature his or her understanding of the requirements and conditions of § 154.108 of this chapter, and shall agree to abide by those requirements and conditions.

(B) *Complaints by citizens or residents*. Complaints by citizens or residents may be cause for termination of the home occupation. Upon receipt of a complaint, a home occupation may be ordered terminated by the Zoning Administrator upon a finding that the home occupation is incompatible or disruptive to the neighborhood in which it is located.

(C) *Appeal to Board of Adjustment*. Any person may appeal the Zoning Administrator's action to the Board of Adjustment within 15 days as per § 154.159 of this chapter.

(Prior Code, § 21-7-6)

§ 154.157 PROCEDURE FOR SPECIAL TEMPORARY USE PERMIT.

(A) *Generally*. Uses permitted subject to special temporary use permit are those temporary uses which are required for the proper function of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. The uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community. Uses permitted subject to a special temporary use permit may include:

(1) Christmas tree sales;

(2) Carnivals, circuses, special events of not over 72 consecutive hours;

(3) Garage sales (limited to 60 consecutive hours);

(4) Parking and storage of earth moving or construction equipment;

(5) Storage of materials incidental to the carrying on of a public works project, subdivision, or construction project;

(6) Tent revival meetings;

(7) Tract home or lot sales office;

(8) Construction; garage or shed for subdivision construction; and/or

(9) Such other uses as the Board may, by resolution, deem to be within the intent and purpose of this section.

(B) *Application and filing fees*. Application for a special temporary use permit may be made by the property owner or his or her authorized agent. The application shall be filed with the Zoning Administrator who shall charge and collect a filing fee for each such application, as provided in this chapter. The Zoning Administrator may also require any information deemed necessary to support the approval of a special temporary use permit including site plans as per § 154.154(C) of this chapter.

(C) *Decision*. Application for special temporary use permit shall be reviewed by the Zoning Administrator who shall approve, conditionally approve, or disapprove the application. Approval or conditional approval shall be given only when in the judgment of the Zoning Administrator the approval is within the intent and purposes of this section. Any person aggrieved by the decision of the Zoning Administrator may file an appeal with the Board of Adjustment.

(D) *Conditions*. In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. The conditions may include the following:

(1) Regulation of hours;

(2) Regulation of lights;

(3) Requirement of bonds or other guarantees for cleanup or removal of structure or equipment;

(4) Parking requirements; and/or

(5) Such other conditions deemed necessary to carry out the intent and purpose of this section.

(Prior Code, § 21-7-7)

§ 154.158 PROCEDURE FOR PLANNED AREA DEVELOPMENT (P.A.D.) APPROVAL.

(A) *Generally*. Any development proposal which meets the requirements of § 154.065 shall be reviewed according to the provisions of this section. All P.A.D. applications shall be reviewed and approved by the Planning and Zoning Commission and City Council prior to any physical development on the subject property.

(B) *Application*.

(1) The applicant is encouraged to meet with appropriate city staff prior to making application for P.A.D. approval to discuss the development concept, the review and approval process, and the submittal requirements.

(2) The applicant shall obtain the necessary application forms from the Zoning Administrator. Application forms shall be properly completed and submitted to the Zoning Administrator. Concept plan exhibits shall accompany the application. The concept plan shall be submitted at least seven days prior to meeting with city staff.

(C) *Concept plan submittal requirements*. The concept plan shall indicate proposed land uses, general circulation patterns, property boundaries, existing land uses on adjacent properties, special site conditions or problems. A computation table showing proposed land use allocations in acres and percent of total site area shall be included on the concept plan.

(D) *Preliminary development plan*.

(1) *Submittal requirements*. Based upon comments received regarding the concept plan, the applicant shall prepare a preliminary development plan. A preliminary development plan shall be submitted at least 30 days prior to the hearing by the Planning and Zoning Commission. The following information shall be submitted to the Zoning Administrator:

(a) Legal description of property and indication of gross area;

(b) Nature of the applicant's interest in the land to be developed;

(c) A generalized location map showing surrounding land use and traffic circulation patterns;

(d) Site conditions: an analysis of the existing site conditions which indicates at a minimum:

1. Topographic contours with intervals of no more than two feet, to a distance of 1,900 feet beyond the property boundary;

2. Location and extent of major vegetative cover (if any);

3. Location and extent of perennial or intermittent streams and water ponding areas;

4. Existing drainage patterns; and

5. Other information considered relevant by the applicant or city staff.

(e) Proposed allocations of land use expressed as a percentage of the total area, as well as in acres. Uses to be indicated include:

1. Arterial streets;

2. Open space (public);

3. Open space (private);

4. Residential (if appropriate);

5. A stratification of residential uses in terms of single-family detached units, patio homes, townhouses, garden apartments, and the like;

6. Commercial (if appropriate); and

7. Industrial (if appropriate).

(f) A land use plan at a scale not smaller than one inch equals 100 feet, indicating land uses, acres, and development densities of each land use and the most nearly equivalent zoning categories; all arterial and collector street circulation elements, pedestrian and/or bicycle circulation elements, exact perimeter locations of any/all arterial streets and major collector streets; open spaces; and recreational areas;

(g) Plans indicating the approximate alignment and sizing of water lines, sanitary sewers, and storm sewers (if any), as well as easements for all utilities, if necessary. Also indicated should be proposed surface drainage patterns;

(h) A preliminary plat of the proposed development if land subdivision is proposed;

(i) Conceptual architectural renderings indicating the elevations and exterior wall finishes of proposed building types;

(j) Conceptual landscaping plans, indicating landscaping theme character of the development;

(k) A traffic analysis report, if deemed necessary by the city; and

(l) Phasing plan, if development is to take more than one year.

(2) *Planning and Zoning Commission review and hearing.*

(a) *Notice of hearing.*

1. The Commission shall hold a public hearing on the preliminary development plan. A notice of the time, date, place, and purpose of the hearing shall be published in a newspaper of general circulation, published or circulated within the city at least 15 days prior to the date of the hearing.

2. A similar notice shall be mailed at least 15 days before the day of the hearing to each owner of the property situated wholly or partially within 200 feet of the property to which the P.A.D. relates. The Zoning Administrator shall be responsible for placing and mailing the notices. For purposes of giving mailed notice, the Zoning Administrator shall require the applicant to furnish the names and addresses of all property owners within 200 feet of the property.

(b) *Review.*

1. In considering applications for P.A.D. approval, the Commission shall consider the following:

a. Interrelationship with the plan elements to conditions both on and off the property;

b. Conformance to the general plan guide;

c. The impact of the plan on the existing and anticipated traffic and parking conditions;

d. The adequacy of the plan with respect to land use;

e. Pedestrian and vehicular ingress and egress;

f. Architectural design;

g. Landscaping;

h. Provisions for utilities;

i. Site drainage;

j. Open space and/or public land dedications;

k. Grading; and

l. Other related matters.

2. The Commission shall consider oral or written statements from the applicant, the public, city staff, or its own members. It may question the applicant and approve, disapprove, or table the preliminary development plan. The application may not be tabled for more than two regular meetings of the Commission.

3. If the Commission shall determine by motion that the proposed preliminary development plan will not be detrimental to the health, safety, or welfare of the community, will not cause traffic congestion or depreciate surrounding property values and, at the same time, is in harmony with the purposes and intent of this chapter, the plan for the area, and the general plan, the Commission may recommend granting preliminary development plan approval, along with necessary conditions and safeguards, including provisions, as applicable, for public land dedications.

4. The Commission shall notify the City Council, in writing, of its recommendation.

(3) *City Council consideration and hearing*.

(a) *Consideration and hearing*.

1. The City Council, after receipt of the report and recommendation of the Planning and Zoning Commission, may consider the P.A.D. request. If requested in writing by any member of the public or the City Council, the Council shall hold a public hearing on the request. A notice of the time, date, place, and purpose of the hearing shall be published in the official newspaper of the city at least 15 days prior to the date of the hearing.

2. A preliminary development plan which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant and shall require a public hearing.

(b) *Review and approval*.

1. In its deliberations on the preliminary development plan, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council's review shall encompass the same spectrum of considerations as did the Commission's. The City Council may approve the preliminary development plan, deny the request, or table the request. The application may not be tabled for more than two meetings in succession.

2. Conditions may be applied to the approval and/or periodic review of the approval may be required. Approvals, if granted, shall be for a particular development, not for a particular applicant.

(c) *Public protests against P.A.D*. If there is written protest against the preliminary development plan signed by the owners of 20% or more of the property within 150 feet of the proposed P.A.D., the preliminary development plan shall not be approved except upon the affirmative vote of three-fourths of all members of the City Council. If the above protest requirements are not met, approval may be by majority vote of the membership of the City Council.

(d) *Duration of P.A.D. zoning*.

1. Approval of a P.A.D. rezoning request shall be conditioned upon the start of construction beginning within one year of the date of approval action taken by the City Council. If, at the expiration of this period, the start of construction has not begun, the property shall revert to its former zoning classification without Council or Commission action.

2. In the case of a proposed phased development, start of construction for the first phase must commence within one year, with the remaining phases commencing according to the approved phasing plan.

3. The city may authorize extensions when deemed necessary.

(E) *Final development plan*.

(1) *Approval*. Final P.A.D. development plan approval and the issuance of a development permit for any portion of a P.A.D. shall occur only when:

(a) A reproducible copy of the approved preliminary development plan with appropriate signatures has been supplied to the Community Development Department;

(b) The design and construction specifications for all utilities, property, and street improvements have been approved by the City Engineer;

(c) A site plan, subject to the requirements of § 154.154, for the specific portion of the P.A.D. in question has been submitted and has been approved by the Planning and Zoning Commission, as in conformance with the preliminary development plan. (Upon approval of the site plan, a reproducible copy shall be submitted);

(d) Architectural elevations of the buildings, with materials lists, are submitted and approved by the Planning and Zoning Commission;

(e) A landscaping plan is submitted and approved by the Planning and Zoning Commission;

(f) A performance bond, cash escrow agreement, or other acceptable instrument has been deposited with the city in an amount as set by the City Council based upon the City Engineer's recommendation. This financial guarantee shall be used to ensure the full completion, as specified, of:

1. Public and private streets and utilities;

2. Landscaping; and

3. Publicly- and privately-owned and maintained recreational facilities;

(g) Any land dedication agreements made as part of the preliminary development plan approval are fulfilled.

(2) *Platting requirements*. All applicants for a Planned Area Development permit shall be required to file with Maricopa County a final plat of the Planned Area Development complying with all of the requirements of the subdivision ordinance of the city except to the extent that the Council may give specific permission to the effect that specific portions of the subdivision ordinance need not be complied with. The required plats shall contain on their face a cross-reference to the P.A.D. development plan.

(F) *Method of withdrawing an application for P.A.D. approval*. Any application for a planned area development permit may be withdrawn by the applicant at any time prior to filing the final plat upon written notification to the Zoning Administrator and/or City Clerk. The P.A.D. shall be null and void upon receipt of the notice by the city.

(G) *Amendments to P.A.D. approval*.

(1) *Minor changes*. Minor changes in the location and placement of buildings may be authorized by the Zoning Administrator and City Engineer where unforeseen circumstances such as engineering requirements, dictate the change. When in question, the Zoning Administrator and the City Engineer may determine whether the changes shall be classified as a minor or major, or may refer the question to the Planning and Zoning Commission, if they deem it necessary.

(2) *Major changes*. Major changes, such as alterations in structural types, in the shapes and arrangements of lots and blocks, in the allocation of open space or other land uses which increase density and/or intensity of the project, and all other changes which significantly affect the overall design or intent of the project shall be referred to the Planning and Zoning Commission, after which the Commission shall consider and shall either approve or deny the changes in the final development plan. If the changes are authorized, the developer shall submit a revised plan showing the authorized changes. Requirements of divisions (D) and (E) above shall apply to requests for major changes.

(H) *Denial of P.A.D. approval*. If an application for planned area development approval is denied at either the preliminary development plan or final development plan stage, a new application for a P.A.D. approval by the same applicant on the same site or portion of the site cannot be filed prior to 90 days after the date of denial.

(Prior Code, § 21-7-8)

§ 154.159 PROCEDURE FOR APPEALS TO BOARD OF ADJUSTMENT.

(A) *Application for appeal*. Any aggrieved person or any officer or department of the city affected by a decision of an administrative officer, pertaining to this chapter, may appeal to the Board of Adjustment by filing an application with the Zoning Administrator. The application shall state the name and address (or city office) of the applicant and the reasons for filing the appeal. The application shall be made within 21 days of the date of the decision which is being appealed. The Zoning Administrator shall then transmit to the Board the complete record of the action for which the appeal is made. Appeals to the Board may be made only in conjunction with an action.

(B) *Stay of proceedings*. An appeal to the Board stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board that by reason of facts stated in the certificate of stay, the stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order granted by the Superior Court on notice to the Zoning Administrator, with due cause shown.

(C) *Notice of hearing*.

(1) No appeal may be granted by the Board until a public hearing has been held on the application. A notice of time, date, place, and purpose of the hearing shall be published in a newspaper of general circulation, published or circulated within the city at least 15 days prior to the date of the hearing.

(2) If the appeal relates to a decision on a specific site, a similar notice shall be posted in conspicuous places close to the site affected and shall be mailed at least 15 days prior to the date of the hearing to each owner of the property situated within 200 feet of the property to which the appeal relates. The Zoning Administrator shall be responsible for mailing the notice. For the purpose of giving mailed notice, the Board may require the applicant to furnish the names and addresses of all property owners within 200 feet of the property. The failure to receive notice by individual property owners will not necessarily invalidate the proceedings.

(D) *Review and decision by the Board*. Within 45 days of the date of application, but no sooner than 15 days from the date of public notice, the Board shall hear and decide arguments for appeal to the decision in question. The Board shall consider oral or written statements from the appellant, his or her agent or attorney, the public, and city staff members. The Board shall also study the record of the action from which the appeal is taken. The Board may, by three-fourths majority of the entire Board, approve an appeal or by simple majority, table the appeal. If tabled, the Board shall make a decision on the appeal at its next regularly scheduled meeting. The Board may impose such conditions and safeguards on its decision as it deems necessary to satisfactorily correct the situation in question, but it shall not attempt to infringe upon matters not specifically contained in the appeal.

(E) *Notice of Board decision*. The Board shall issue a written notice of its decision to all concerned parties and to the Zoning Administrator and the City Clerk, who shall notify the City Council and make official record of the decision. The notice shall state the facts of the matter as determined by the Board, the reasons for its decision, and any conditions applied to the decision.

(Prior Code, § 21-7-9)

§ 154.160 FEES.

(A) *Purpose*. It is the intent of this section to require petitioners to pay a portion of the public services that are necessary for processing their request. While the city is not expecting 100% recovery of all costs, it does feel that all required publication and mailing costs, plus a portion of administrative costs, should be borne by the petitioner.

(B) *Application fees*.

(1) Fees, for matters pertinent to the administration of this chapter, will be set from time to time by resolution of the City Council of the city, including fees for:

(a) Zoning text amendments;

(b) Zoning map amendment (rezonings);

(c) P.A.D. concept plan;

(d) P.A.D. preliminary development plan;

(e) Site plans;

(f) Variances;

(g) Conditional uses;

(h) Special temporary uses;

(i) Appeals to Board of Adjustment;

(j) Appeals to City Council or Planning and Zoning Commission; and

(k) Amendments to previously approved P.A.D.s and site plans.

Application Type	***Fees***
Zoning text amendment	$1,000
Zoning map amendment (rezoning)	
R-1, R-la, R-2, R-3, R-4	$650, plus $30/acre
B-1, B-2, B-3	$700, plus $35/acre
I-1, I-2, I-3	$750, plus $40/acre
P.A.D.	
Preliminary development plan	$1,000, plus $2/acre
Amendment (Major)	50% of original fee
Amendment (Minor)	20% of original fee
Site Plan	$300, plus $15/acre
Amendment (Major)	50% of original fee
Amendment (Minor)	20% of original fee
Variance	$250
Conditional use	Same as required by Site Plan Fee
Appeal to Board of Adjustment	$200, per appeal
Appeal to Planning and Zoning Commission or City Council	$200, per appeal

(2) For purposes of this chapter, the first site plan filed for a site developed prior to the effective date of this chapter or for a site developed prior to annexation shall be considered an amendment to a previously approved site plan.

(3) No filing fee shall be required for any application filed by any agency or department of the city of any government organized under the laws of the State of Arizona or of the United States. This exception shall not apply to non-governmental leases of government land.

(4) The City Council may waive fees to avoid duplication of charges or undue hardship.

(Prior Code, § 21-8-2)

§ 154.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) No person shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or structure, or use any land in violation of this chapter.

(C) The Zoning Administrator shall order, in writing, the correction of any violation. The order shall state the nature of the violation, the code provision violated, and the time by which the violation must be corrected. After the order has been served, no work shall proceed on any structure or tract of land covered by such an order except to correct the violation or to comply with the order.

(D) Decisions of the Zoning Administrator may be appealed to the Board of Adjustment in accordance with § 154.159.

(E) In addition to or in lieu of the procedures outlined above, this chapter shall be enforceable in a court of proper jurisdiction, and any or all appropriate remedies at law or in equity shall be available for the enforcement thereof.

(F) Any and all persons who shall violate any of the provisions of this chapter or fail to comply therewith, or who shall fail to comply with any lawful order or regulation made thereunder, shall severally for each and every such violation and non-compliance respectively, forfeit and pay a fine of not less than $50, not more than $750, and/or be imprisoned not to exceed the time of four months for each offense, the violation constituting a Class 2 misdemeanor under the Criminal Code of the laws of the State of Arizona. In addition, the costs of any such action may be imposed at the discretion of the court. The imposition of one penalty for any violation of this chapter shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy the violations and defects within a reasonable time; and each day that the prohibited condition is not corrected or remedied shall constitute a separate offense; and the court shall impose a fine on a per diem basis for each day that the violation is maintained. Application of the above penalty shall not be held to preclude the forced removal of prohibited conditions.

(G) This chapter shall not be construed to hold the city, its Zoning Administrator, City Engineer, or any other city official responsible for any damage to persons or property by reason of any inspection or reinspection authorized herein or the failure to so inspect or reinspect or by reason of the issuance to a building permit as herein required.

(Prior Code, § 21-8-1)

(H) Any person in control of any premises who fails to correct a violation of this chapter within 30 days after notice thereof by the City Manager or his or her designee shall be liable to the city for a civil fine in the amount of $1,000 for each and every day beyond such 30-day period for which the violation remains uncorrected. The City Attorney shall collect the fines by complaint filed in the City Court pursuant to the procedures prescribed in the city code.

(Prior Code, § 21-6-9)

(I) *Violation of conditional use permits*. Violations to the conditions of a conditional use permit shall constitute a violation of this chapter and shall be subject to the regulations of divisions (B) through (G) above.

(Prior Code, § 21-7-5)

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Appendix A: Subdivision Processes; Preliminary Plat Process; Final Plat Process

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GENERAL PROVISIONS

§ 155.001 TITLE.

These regulations shall hereafter be known, cited and referred to as the El Mirage Subdivision Regulations except as referred to herein, where it shall be known as "this chapter."

(Prior Code, § 15-1-1) (Ord. O88-06-007, passed 10-13-1988)

§ 155.002 POLICY.

(A) It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the City of El Mirage General Plan and Zoning Ordinance (Chapter 154 of this code) for the orderly, planned, efficient, and economical development of the city.

(B) Land to be subdivided shall be of the character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and other public improvements.

(Prior Code, § 15-1-2) (Ord. O88-06-007, passed 10-13-1988)

§ 155.003 PURPOSE.

The purpose of this chapter is that of assuring sites suitable for building purposes and human habitation, of providing for the harmonious development of the city of providing adequate open spaces for traffic, recreation, light and air, of providing proper distribution of population and of creating conditions favorable to the health, safety, and general welfare of the residents of El Mirage.

(Prior Code, § 15-1-3) (Ord. O88-06-007, passed 10-13-1988)

§ 155.004 AUTHORITY; JURISDICTION.

(A) Authorization for the city to adopt subdivision regulations is given in A.R.S. § 9-463.01, 1977 compilation, *Municipal Subdivision Regulations*.

(B) Platting jurisdiction for the city shall encompass all the territory within the incorporated limits of the city which may be from time to time amended through annexation.

(Prior Code, § 15-1-4) (Ord. O88-06-007, passed 10-13-1988)

§ 155.005 DEFINITIONS.

(A) *Construction of terms; usage.*

(1) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.

(2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word ***HEREIN*** means in.

(3) A ***PERSON*** includes a corporation, a partnership, and an incorporated association of persons such as a club; ***SHALL*** is always mandatory; a ***BUILDING*** includes a structure; a ***BUILDING*** or ***STRUCTURE*** includes any part thereof; ***USED*** or ***OCCUPIED*** as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

(4) Except as specifically defined herein or, if not defined herein but defined in the Zoning Ordinance (Chapter 154 of this code), all words in this chapter shall have their customary dictionary definition.

(Prior Code, § 15-2-1)

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

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT. The owner of land proposed to be subdivided, or his or her representative.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of the municipality.

BOND. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council

BUILDING. Any structure built for support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

CAPITAL IMPROVEMENTS PROGRAM. A proposed schedule of all future municipal improvement projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

COMMISSION. The Planning and Zoning Commission of the city. Also referred to as ***PLANNING AND ZONING COMMISSION*** or ***PLANNING COMMISSION***.

CONSTRUCTION PLAN. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the city as a condition of the approval of the plat.

COUNCIL. The ***CITY COUNCIL*** of the City of El Mirage. Also referred to as the ***GOVERNING BODY***.

CUL-DE-SAC. A local street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

DEVELOPER. The owner of land proposed to be subdivided, or his or her representative.

EASEMENT. Authorization by a property owner for the use by another, and for specific purpose, of any designated part of his or her property.

ENGINEER, CITY. The ***PROFESSIONAL ENGINEER*** engaged by the city.

ESCROW. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

FINAL PLAT. The map or plan or a record of a subdivision and any accompanying material, as described in these regulations.

FRONTAGE. That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered what would be the side of a corner lot.

GENERAL PLAN. The document (El Mirage General Plan), or part thereof, officially adopted by the City Council which provides for the development of the city and which indicates the general locations recommended for major roadways, parks, public utilities and buildings, and land uses.

GRADE. The slope of a road, street, or other public way, specified in percentage terms.

LOT. A piece, parcel, plot, tract, or area of land separated from other pieces, parcels, plots, tracts, or areas by description, as in

subdivision or on a record survey map or by metes and bounds, for purposes of sale, lease, or separate use.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property.

MODEL HOME. A dwelling unit used initially for display purposes which typifies the units that will be constructed in a subdivision.

MUNICIPALITY. The City of El Mirage, as incorporated by state law.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial.

OFF-SITE. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

ORDINANCE. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PERIMETER STREET. Any existing street to which the parcel of land to be subdivided abuts on only one side.

PLANNING DIRECTOR. The individual charged by the governing body to administer this chapter.

PLAT. A map, chart, survey, plan, or replat certified by a licensed, registered land surveyor containing a description of the subdivided land with ties to permanent monuments.

PRELIMINARY PLAT. The preliminary drawing or drawings, described in this chapter, indicating the proposed manner of layout of the subdivision.

PROTECTIVE COVENANT. The term ***PROTECTIVE COVENANT*** shall mean a restriction on the use of private property within a subdivision for the purpose of providing mutual protection against undesirable aspects of development. ***PROTECTIVE COVENANTS*** regulating the use of land represent an express agreement between the subdivider and the lot purchasers. Also referred to as ***COVENANTS, CONDITIONS AND RESTRICTIONS*** or ***CCRs***.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, trees, lawn, off-street parking area, lot of improvement, or other facility for which the city may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement where the responsibility rests with the city.

REGISTERED ARCHITECT. An architect registered in the State of Arizona.

REGISTERED ENGINEER. An engineer registered in the State of Arizona.

RESUBDIVISION. A change in a map of an approved or recorded subdivision plat, if the change affects any street layout on the map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trees, or for another special use.

ROADWAY. That portion of a street right-of-way intended for driving or parking.

SALE or ***LEASE.*** Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, intestate succession, or transfer of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, intestate succession, or other written instrument.

SKETCH PLAT. A sketch preparatory to the preparation of the preliminary plat (or final plat when deemed appropriate) to enable the subdivider to save time and expense in reaching general agreement with the Planning and Zoning Commission as to the form of the plat and the objectives of these regulations.

STREET. A general term used to describe a paved right-of-way, municipally or privately owned, serving as a means of vehicular

travel. ***STREETS*** are classified by function as follows:

(a) ***LOCAL STREET.*** A ***STREET*** intended to serve and provide access exclusively to the properties abutting thereon, and not connecting with other streets in such a manner as to encourage through traffic.

(b) ***COLLECTOR STREET.*** A ***STREET*** connecting local residential streets to each other, to community facilities, and to principal, major, or minor arterial streets.

(c) ***PRINCIPAL***, ***MAJOR,*** and ***MINOR ARTERIAL STREETS.*** ***STREETS*** designed to carry large amounts of traffic across or through the city and designated as such by the General Plan.

(d) ***SERVICE STREET.*** A ***STREET*** running parallel to a freeway, expressway, or other roadway, and serving abutting properties. Also called ***FRONTAGE ROAD***.

STREET, DEAD-END. A ***STREET*** or portion of a street with only one vehicular-traffic outlet.

SUBDIVIDE. The act of dividing land into two or more parts by platting, or by metes and bounds description, into tracts of less than 36 acres in any one calendar year, for the purpose of:

(a) Sale for building purposes;

(b) Laying out a municipality or any part thereof;

(c) Adding to a municipality;

(d) Laying out suburban lots; or

(e) Resubdivision.

SUBDIVIDER. Any person who:

(a) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or

(b) Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plat in a subdivision; or

(c) Engaging directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, or plat in a subdivision; and

(d) Is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

SUBDIVISION. Any land, vacant or improved, which is divided or proposed to be divided into four or more lots, parcels, sites, units, plots, or interests or, if a new street is involved, any such property which is divided into two or more lots, tracts, or parcels of land or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into two or more parts, for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, (including resubdivisions). ***SUBDIVISION*** includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. ***SUBDIVISION*** also includes and condominium, cooperative, community apartment, townhouse or similar project containing four or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of the projects need not show the buildings or manner in which the buildings or airspace above the property shown on the plat are to be divided.

SUBDIVISION AGENT. Any person who represents or acts for or on behalf of a subdivider.

SUBDIVISION PLAT. The final map or drawings, described herein, on which the subdivider's plan of subdivision is presented to the Planning and Zoning Commission and City Council for approval and which, if approved, may be submitted to the County Recorder for filing.

TEMPORARY IMPROVEMENT. ***IMPROVEMENTS*** built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

TRACT. The word ***TRACT*** shall mean a defined area of land regardless of size.

UTILITIES. ***UTILITIES*** means installations or facilities, underground or overhead, furnishing of the use of the public: electricity, gas, steam, communication, water, drainage, sewage disposal or flood control, owned and operated by any person, firm, corporation,

municipal department or board, duly authorized by state or municipal regulations. ***UTILITY*** or ***UTILITIES*** may also refer to the persons, firms, corporations, departments, or boards as tense requires.

VACATION, PUBLIC LAND. An official action taken by the governing body to give up public ownership of previously owned public land, including streets, parks or easements.

ZONING. The word ***ZONING*** shall mean the regulation by districts of the height, area, and use of buildings; use of land and density of population.

(Prior Code, § 15-2-2) (Ord. O88-06-007, passed 10-13-1988)

PLATTING PROCEDURES AND REQUIREMENTS

§ 155.030 PRE-APPLICATION; CONTACT; SKETCH PLAT.

(A) Prior to the submission of a preliminary plat as required by this chapter, the subdivider shall contact the Planning director and any other administrative personnel or private agencies to determine:

(1) Procedures and requirements for filing the sketch plat and preliminary and final plats.

(2) Availability of public water and sewer or requirements when public systems are not readily available.

(3) Zoning requirements on the property.

(4) Requirements of the duly adopted General Plan for major and minor streets, land use, drainage, schools, parks, and other public open space.

(5) The location and extent of any floodplains.

(B) As a part of this contact, the subdivider may discuss with the Planning Director, his or her tentative proposals for the development of the property.

(C) The subdivider shall submit, and the Planning Director shall review and comment on, a sketch plat prior to the preparation of a preliminary plat. the Planning Director shall make the review and make its comments known to the subdivider within five days from the date of the review. The sketch plat shall contain or show two-foot contours and shall address the requirements of division (A)(1) to (5) above.

(D) The purpose of this pre-application procedure is to determine any problems with the proposed development before expenses are incurred in the preparation of a preliminary plat. No official action is required other than to offer appropriate comments on the proposal and indicating suitability for proceeding through the platting process.

(Prior Code, § 15-3-1) (Ord. O88-06-007, passed 10-13-1988)

§ 155.031 PRELIMINARY PLAT; REQUIREMENTS AND REVIEW.

(A) *Submittal requirements.* Copies of the preliminary plat, the number to be determined by the Planning Director, shall be submitted, with a reproducible copy, to the Planning Director. The preliminary plat shall consist of a drawing or drawings and supporting material and information a prescribed by these regulations.

(1) *Preliminary plat.* The preliminary plat drawing shall be prepared at a scale of one inch equals 100 feet or larger for subdivisions where the majority of the lots are less than five acres in size. The scale may be reduced to one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. The face of the drawing shall contain the following information:

(a) The name of the subdivision. The name shall not duplicate or too closely resemble the name of any subdivision previously filed in the city.

(b) Date of preparation, scale, and north arrow. The top of each sheet shall represent north wherever possible.

(c) A vicinity map drawn at a scale of one inch equals 1,000 feet or one inch equals 2,000 feet, showing the location of the

proposed subdivision in the city and its relationship to surrounding development.

(d) The names, addresses, and phone numbers of the developer or subdivider, and the individual or firm responsible for the preparation of the preliminary plat.

(e) A legal description of the subdivision boundary.

(f) The boundary lines of the subdivision in a heavy, solid line and referenced to section or quarter section lines.

(g) A description of all monuments, both found and set, which mark the boundary of the subdivision, and a description of all control monuments used in the survey.

(h) Existing contours at a maximum interval of one foot unless waived by the Planning Director.

(i) General location and extent of any significant natural features such as streams, or drainage ways.

(j) Floodplains as delineated on maps available form the Maricopa County Flood Control District Office.

(k) Location, dimensions, and names of existing roads, streets, alleys, railroad rights-of-way and structures withing 200 feet immediately adjacent to the property showing how they relate to the proposed subdivision layout.

(l) Location, size, and grades of existing sanitary and storm sewers and location and size of water mains, gas lines, pipelines, or other underground utilities or installations within the proposed subdivision and within 200 feet immediately adjacent thereto.

(m) Location and dimensions of all easements of record.

(n) Existing zoning and land use of the proposed subdivision and immediately adjacent areas.

(o) Location and width of proposed streets, alleys, pedestrian ways and easements, with proposed names for streets.

(p) Layout, numbers, and approximate dimensions of proposed lots and blocks.

(q) Location of proposed fire hydrants, light standards, stop signs, traffic signals, and gang mailboxes.

(r) Location, dimension and size in acres of all sites proposed to be used for commercial, industrial, multi-family residential, public or quasi-public use, with the use noted.

(s) A summary of the total number of acres, number of lots, acreage of commercial or industrial areas, acreage of open space, amount of land in rights-of-way and other descriptive material useful in reviewing the proposed subdivision.

(2) *Supporting material.* The following information and material shall be a part of any preliminary plat submittal and shall accompany the preliminary plat drawing:

(a) Payment of the total amount of the preliminary plat fee.

(b) A statement explaining the proposed design and function of the water, sewage, paving, sidewalk, stormwater collection and retention systems, including preliminary drainage calculations and storm drainage systems, their compatibility with existing systems and the timing and/or phasing of installation. Approximate size and location of the above may be required on the plat, as determined by the City Engineer.

(c) A statement describing the development and maintenance responsibility for any private streets, ways, or open spaces.

(d) The recommendations of a qualified professional engineer regarding soil suitability, erosion control, sedimentation and flooding problems.

(e) A description of the phasing and scheduling of phase for the development, if the final plat is to be submitted in separate phases.

(f) A petition for annexation to the city and if the and to be subdivided is contiguous to, and outside, either by itself or a s a part of a larger tract, the boundaries of the city.

(g) An application for appropriate zoning for the subdivided area if the area is to be annexed or if the existing zoning district does not allow the type of use proposed.

(h) The names and addresses of all owner of subdivided lots and unplatted land contiguous to or within 200 feet of the boundary of the proposed subdivision.

(i) Letters of certification and/or signed copies of the proposed preliminary plat from appropriate agencies and utility companies approving the proposed preliminary plat and confirming availability of services.

(B) *Review process.*

(1) After receipt of the preliminary plat and all required supporting material, the Planning Director shall schedule the plat for consideration at the next regular meeting of the Planning and Zoning Commission which occurs after 21 days from the date on which the plat was submitted.

(2) The Planning Director will review the preliminary plat, summarize the agency comments, add his or her written comments and recommendations and present the material and recommendations to the Planning and Zoning Commission for its consideration.

(3) At least seven days prior to the date of the Planning and Zoning Commission meeting at which the plat is to be considered, the Planning Director shall, from information provided by the subdivider as a part of his or her preliminary plat submittal, notify the owners of subdivided lots and owners of unplatted land within 200 feet of the boundaries of the proposed subdivision of the time and date of the meeting.

(4) The subdivider, or duly authorized representative, shall attend the Commission meeting at which his or her proposal is scheduled for consideration.

(5) At the Commission meeting the subdivider and all other interested or affected parties shall be allowed to offer comments. Upon the Commission's approval or disapproval of the preliminary plat, it shall notify the subdivider and City Council of its decision. If conditions are attached to its approval, the subdivider and City Council shall be informed of the conditions. No preliminary plat may be continued (tabled) for more than two consecutive meetings.

(6) Approval of the preliminary plat by the Planning and Zoning Commission shall be effective for one year from the date of approval. The subdivider may apply in writing for, and the Planning and Zoning Commission may for cause shown, grant up to a six-month extension. If a final plat has not been submitted within this specified period on all or a portion of the land area included in the preliminary plat, a preliminary plat must again be submitted for approval. In a phased development, any land area for which a preliminary plat has been approved and for which a final plat has not been submitted within 24 months from the date of the approval of the preliminary plat, shall not be allowed to proceed with final platting until a new preliminary pat is submitted and approved.

(Prior Code, § 15-3-2) (Ord. O88-06-007, passed 10-13-1988)

§ 155.032 FINAL PLAT; REQUIREMENTS AND REVIEW.

(A) *Submittal requirements.*

(1) *Certification of accuracy.* After approval of the preliminary plat, a final plat and required supporting material (see division (B) below) may be prepared and submitted to the Planning Director. The final plat shall be prepared and certified as to its accuracy by a land surveyor registered to do the work in the State of Arizona. The final plat and required supporting material shall conform to the design and engineering standards set forth in these regulations and to any conditions of approval specified by the Planning and Zoning Commission and/or City Council (see division (F) below) during approval of the preliminary plat.

(2) *Staged approval.* Final platting may be accomplished in stages covering reasonable portions of the area of an approved preliminary plat. When this is done, each sheet of the final plat shall contain a vicinity map showing the location of the portion being submitted in relationship to the area for which the preliminary plat was submitted. All final plats so submitted shall be of the same scale, shall have identical titles, legends and other information, and shall have match lines so that mosaics of the entire subdivision can be developed. Each stage of the subdivision shall be as nearly self-sustaining and complete as possible and shall by itself, or in conjunction with the previous stages, meet the deign standards set forth in these regulations so that if development of the entire subdivision is interrupted or discontinued after one or more stages is completed, a viable development will result.

(3) *Final plat format.* The final plat shall be clearly and legibly drawn in black, waterproof India ink upon mylar of .003 inch in thickness (minimum). Required affidavits, certificates and acknowledgments shall be legibly printed on the plat in opaque ink. The sheet size of all final plats shall be 24 inches high by 36 inches wide. Information on the plat should be so positioned that a one and one-half-inch margin is on the left hand side and a one-half-inch margin is shown on the remaining sides. The final plat shall be prepared at a scale of one inch equals 100 feet or larger, or at a scale of one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. Each sheet of the final plat shall be numbered and the total number of sheets comprising the plat shall be stated on each sheet (for example: Sheet 2 of 4). The relationship of one sheet to the other shall be shown by key maps and by match lines.

(4) *Final plat materials.* The original mylar, two reproducible copies (sepia not acceptable), and prints of the final plat and copies of all required supporting material shall be submitted to the Planning Director.

(5) *Required signatures.* The submitted final plat shall contain the notarized signatures of the owner or owners of any and all equitable or legal interest in the land of whatever nature and the signature of the registered land surveyor.

(6) *Final plat information.* All final plats shall include the following information on the face of the plat:

(a) The name of the subdivision, centered at the top of each sheet.

(b) General location of the subdivision by section, township, range, county, and state, entered under the name of the subdivision on each sheet.

(c) North arrow, date, and scale on each sheet.

(d) Boundary lines of the subdivision in a heavy solid line on each sheet.

(e) Legal description of the subdivision boundary based on an accurate traverse, giving bearing and linear dimensions that result in a maximum allowable error of closure of one part in 10,000.

(f) The location and description of the point of beginning and its proper reference to the monumented boundary survey.

(g) Location and description of all monuments, found or set.

(h) Bearings, distances, and curve data of all perimeter boundary lines indicated outside of the boundary lines.

(i) Adjoining parcel subdivision names, parcel number and recording information, or if not subdivided and/or not recorded, so marked.

(j) On curved boundaries and on all curves within the plat, sufficient data to allow the reestablishment of the curves on the ground.

(k) The location and layout of lots, blocks, tracts, streets, alleys, easements, and other public grounds within and immediately adjoining the plat, with accurate dimensions in feet and one-hundredths of feet, bearings, curve data, length of radii, and/or arcs of all curves.

(l) All drainage ways shall be shown on the plat. Dedication of drainage way rights-of-way or easements may be required when it is deemed by the city to be in the best interest of the city.

(m) All 65, 70, 75, 80, and 85 ldn noise level contours generated by activities from Luke Air Force Base.

(n) The names of all streets.

(o) All lots logically and consecutively numbered in the center of the lot with the appropriate address for each lot or parcel of ground.

(p) All dimensions shown on irregularly shaped lots, with lot area calculations.

(q) Parcels completely or partially surrounded by the area being subdivided shall be clearly marked "Excepted," and the common boundary with the subdivision shown in a heavy solid line with bearings and distances.

(r) A notation of the total acreage of the subdivision and the total number of lots.

(s) A notarized certificate by all parties having any titled interest in or lien upon the land, consenting to the recording of the plat and dedicating public ways, grounds, and easements. Dedication shall include a written description by section, township, and range of the tract. If the plat contains private streets, public utilities shall be reserved the right to install and maintain utilities in the street right-of-way.

(t) In cases involving vacation of public or private streets or public ways, easements or grounds, a notarized certificate of all parties having any titled interest in, or lien upon, the land or other pertinent interest, consenting to the vacation shall be provided.

(u) A notarized certificate of a registered land surveyor, registered under the laws of Arizona, stating that the plat is true, accurate, and complete and that the described monuments have been found or set as described.

(v) Certificate of approval of the City Engineer as follows:

Data on this plat reviewed and approved this _____day of _____, 20_, by the City Engineer of El Mirage, Arizona.

_____

City Engineer

(w) Certificate of compliance with the preliminary plat as approved by the City Planning and Zoning Commission as follows:

This plat is in full compliance with the original preliminary plat approved by the City of El Mirage Planning and Zoning Commission on the _____day of _____, 20__. The final plat reviewed and approved this _____day of _____, 20.

_____

Planning and Zoning Commission Chairperson

Planning Director

_____

(x) Certificate of acceptance and approval by the City Council as follows:

Approved by the City Council of the City of El Mirage, Arizona, this _____day of _____, 20____.

_____

Mayor

Attest:

_____

City Clerk

(y) Certificate for recording by the County Recorder as follows:

This plat was filed for record in the Office of the County Recorder at _____o'clock ____.m., _____, 20____, and is duly recorded in Book _____, Page No. _____

_____

County Recorder

(7) *Final plat fee.* The final plat shall be accompanied by the total amount of the final plat fee.

(B) *Required final plat supporting material.* The required final plat supporting material submittal shall consist of the final plat and all information as follows:

(1) *Drainage collection and retention plan and report.*

(a) A drainage plan and report for the site in question and all pertinent off-site areas shall be prepared by a registered engineer. The report shall examine 100-year storm flows (Q 100's), the 100-year high-water mark of any river, creek, arroyo, gully, diversion ditch, spillway, reservoir, etc., that may in any way affect the project area, along with the depth of flow for 100-year runoff. The watershed in all off-site areas shall be considered fully developed. Intensities shall be for this area's one-hour, 100-year storm based upon two and one-half inches per hour. A certificate shall be provided, signed, and sealed by a registered professional engineer that all drainage facilities, utilizing gutters and streets, are designed and sized to handle 100% of the Q 100 run-off.

(b) Every effort shall be made to utilize the natural slope of the land for the storm water collection system. Subsurface drainage systems shall be discouraged, but where necessary shall be a minimum of 18 inches in diameter. Wherever possible, run-off shall be collected in depressed open areas throughout the proposed land development project. The plan shall include but not be limited to the following:

1. Method of collection (surface and/or subsurface.)
2. Depth, side slopes, and area of retention.
3. Calculations of volume held and required.

4. High water elevation.

5. Method of disposal of water within 36 hours.

6. Any other data to form a complete plan.

(c) The point or points in which natural drainage flows from a property prior to development shall remain the same after the property has been altered for the development.

(2) *Soils report.* A soils report for the site in question and pertinent off-site areas shall be prepared by a registered engineer. The report shall indicate the type and location of soils, using the unified soil classification system, shall contain drill logs and swell consolidation curves, and shall contain a discussion of any present or potential hazards, associated with soils on the site along with measures which could be taken to mitigate the hazards. In addition the soils report shall contain recommendations on subsurface area drains and peripheral drains, foundation design, erosion control measures and surface drainage.

(3) *Grading, drainage, and development plan.*

(a) A grading, drainage, and development shall be prepared by a registered engineer at a scale of one inch equals 100 feet or larger, showing proposed rights-of-way, easements, walkways, parks, common areas, roadways, waterlines and reservoirs, sewer lines, manholes and treatment facilities, curbs and gutters, culverts, drains, storm water detention and retention basins, swales, ditches and other drainage devices, spot top of curb elevations, high and low street points, drainage arrows, street plans, all drainage areas and acreages, all 100-year storm flow (Q 100's) adjacent to and/or flowing onto the development and on-site at each surface flow junction, storm water pick-up and take-off points designed to handle 100-year flow on the surface, cross sections and high water elevations for all 100-year flows. Spot elevations shall be given for all inverts, low points and flowing entry and exit points.

(b) All minimum building setbacks shall be shown. No 100-year flow line shall encroach upon any minimum setback line and all lowest habitable floor elevations shall be, at a minimum, one foot above the 100-year flood elevation.

(4) *Construction plans and details.* Construction plans and details must be prepared by a registered professional engineer in the State of Arizona and shall provide for all improvements indicated on the grading, drainage, and development plan, including right-of-way and easement cross-sections showing construction and placement of streets, walks, curbs, gutters, medians, lighting standards, swales, ditches, utilities, planting strips and property lines; details of hydrants, valves, manholes, pipe junctions, pumps, thrust-blocking, catch basins, etc.; street profiles showing natural and finish grades, center line and both curbs, with a minimum vertical scale of one inch equals two feet and a horizontal scale of one inch equals 20 feet; sanitary sewer line and manhole profiles with natural and finish grades, showing area underdrains, if applicable, and the location of gravity outfall lines; storm drainage system profiles showing natural and finish grade; erosion control and revegetation details and other details as necessary to adequately convey the design intent. Quantity take-offs shall also be provided.

(5) *Deeds.* When required by the city, a warranty deed or other acceptable instrument conveying to the city or other appropriate or other appropriate agency any public lands other than streets, alleys, or easements shown on the final plat and title insurance, if required by the city on the subject parcel, shall be presented to the city upon approval of the final plat. The method of assurance will be approved by the City Attorney.

(6) *Title opinion.* Evidence satisfactory to the city must be submitted showing all taxes and assessments due on the property to be subdivided to be paid in full, showing title or control of the property to be subdivided, and showing the property to be subdivided as fee and clear of any liens. An attorney's title opinion or ownership and encumbrance report from a land title company shall be considered satisfactory evidence.

(7) *Floodplain.* If a subdivision lies within a 100-year floodplain, the following statement shall appear on the face of the final plat and all contracts and agreements relating to the subdivision: "THIS SUBDIVISION IS (OR THE FOLLOWING LOTS ARE) LOCATED IN THE ONE HUNDRED-YEAR FLOODPLAIN AS DEFINED BY THE UNITED STATES FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)."

(8) *Financial guarantee.* A contractor's performance bond or other financial guarantee acceptable to the city to guarantee the complete and timely development of any facilities or improvements which are the subdivider's responsibility shall be submitted as described in § 155.080 below.

(9) *Letters of utility approval.* Letters of certification and/or signed copies of the proposed final plat from appropriate agencies and utility companies approving the final plat.

(10) *Covenants, conditions, and restrictions.* Any covenants, conditions, restrictions (CCRs) for the subdivision shall be submitted for review to assure that the CCRs do not conflict with any city regulations.

(C) *Review process.*

(1) *Planning Director review.* After receipt of the final plat, the Planning Director shall review the submittal with the Chairperson of the Planning and Zoning Commission for the completeness and for compliance with the approved preliminary plat. The Director may refer copies of the final plat to an seek comment from other officials and agencies.

(2) *Staff review of supporting information.* Upon submittal of all required supporting materials, the Planning Director shall review them for completeness to determine whether a complete final plat submittal has been made and shall refer the material to appropriate agencies for review and comment. Upon being notified of the comments and any necessary approvals of reviewing agencies, the Planning Director shall forward the final plat, comments and approvals of reviewing agencies and pertinent supporting materials to the Council. Incomplete final plats, or final plats for which necessary approvals have not been secured, shall not be forwarded to Council for action.

(3) *City Council action.* Following receipt of the final plat, the recommendation from the Planning Director and Chairperson of the Planning and Zoning Commission that the final plat complies with the preliminary plat, and required supporting materials, the City Council shall either approve the final plat or disapprove the final plat and notify the subdivider of the conditions to be met to gain approval. If disapproved final plat is modified and resubmitted to the City Council at a later date for their consideration, the Council may require the concurrent submittal of an updated ownership and encumbrance report or title opinion.

(4) *Filing with County Recorder.* Upon approval by the City Council of the final plat, the subdivider shall be notified to be submit payment for the recording fee to the Planning Director who shall transmit the subdivider's recording fee and the duly approved and executed final plat to the County Recorder for the filing of the final plat among the official records of the county.

(5) *Alternate approval procedure.* As an alternate procedure and at the request of the subdivider, the City Council may approval a final plat and instruct the Planning Director to withhold the approved final plat from recording for a period of time to allow the subdivider to install all of the required public improvements according to the plans and specifications approved by the City Engineer. This procedure, when approved by the Council, shall be in lieu of the guarantees for installation of improvements as set forth in division (B)(8) above. An executed standard contract as approved by the City Attorney regarding installation of improvements shall be submitted with the final plat. The contract shall require that all improvements be completed no later than 12 months from the date of the final plat was approved by the City Council and that no lot may be sold. When the completed improvements are inspected and approved by the City Engineer, the plat shall be recorded by the Planning Director, and the sale of lots may then proceed according to the approved and recorded plat, provided that a one-year warranty shall be submitted covering the completed improvements.

(D) *Simultaneous submittal of preliminary and final plats.* For certain subdivisions, the subdivider may, afer discussion with the Planning Director, simultaneously submit both the preliminary plat and the final plat. Depending on the size and complexity of the subdivision and the amount of street dedication, any or all of the information required in the preliminary and final plat processes may be submitted. The Director shall determine which information must be submitted for adequate review of the subdivision. The preliminary and final plats may then be processed concurrently. It is possible for the preliminary and final plats to be one and the same instrument.

(E) *Corrected plats and subdivisions.*

(1) If, after the approval and recording of a final plat, errors are found in the language or numbers on the recorded plat, the subdivider shall file a properly signed, corrected, or revised original mylar with the Planning Director. The plat shall be noted "Corrected Plat" under the name of the subdivision. Notations shall be made on the face of the plat listing all corrections made and the book and page numbers where the original plat was recorded. The director shall review the plat for corrections, secure the signatures of the proper public officials on the corrected plat and present the plat to the City Council for the reaffirmation of their approval and the County Clerk for recording. The recoding of the corrected plat shall void the incorrect original plat, and the County Clerk shall note "Void" across the face of the incorrect plat.

(2) If, after the approval and recording of the final plat, a subdivider wishes to modify the location of lot lines on part or all of the recorded plat, and if there is no change in the location or size of dedicated streets or other dedicated public land, the subdivider shall submit a new final plat drawing with the lotting arrangement revised. The Planning Director shall determine which of the required supporting materials shall be resubmitted with the revised final plat. The plat shall be marked the "Resubdivision of _____ _____" under the name of the subdivision and shall be processed as a final plat.

(3) If, after the approval and recording of a final plat, a subdivider wishes to change the street or public land location, size, or arrangement of a part or all of the platted area, the resulting subdivision shall be treated as a new submittal with both a preliminary plat and a final plat required. Based on the currency of the information submitted with the original plat and the magnitude of the change(s), the procedure described in division (D) may be applied. the subdivision shall be identified as the "Resubdivision of _____". Any action of the City Council approving the resubdivision shall contain clear reference to the vacation of public lands as appropriate.

(F) *Variances from these regulations.*

(1) When it can be shown that in the case of a particular subdivision, strict compliance with the provisions of these regulations would cause undue hardship, the City Council may authorize a variance to these regulations provided that the general intent of these regulations are preserved, that public interest is protected, and that the variances do not have the effect of nullifying the intent and purpose of the General Plan or the zoning ordinance (Chapter 154 of this code). The granting of a variance shall be based upon findings by the Council that:

(a) The subdivider is proceeding in good faith.

(b) There are unusual topographical or other special circumstances associated with the property which are not the result of any action of the subdivider and which prohibit the use of the property in a manner similar to the use of adjacent or nearby properties.

(c) The variance is necessary for reasonable development of the property in question and will alleviate a clearly demonstrable hardship.

(d) The variance will not nullify the intent or purpose of these regulations.

(e) Granting the variance will not be detrimental to the general public health, safety, and welfare.

(2) An variance granted shall constitute the minimum adjustment necessary to alleviate the hardship.

(3) A request for variance may be submitted only after the Planning and Zoning Commission has formally reviewed the preliminary plat and has either:

(a) Recommended disapproval because the plat does not conform to these regulations; or

(b) Conditionally approved the plat specifying those amendments which must appear on the final plat in order for it to be approved. The subdivider may then seek relief from the specific provisions of these regulations with which he or she cannot comply.

(4) All requests for variances shall be submitted in writing to the Planning Director and the Planning and Zoning Commission for their comments and recommendations. The Planning and Zoning Commission shall make a recommendation which shall be submitted to the City Council for their approval, denial, or modification. In granting a variance, compliance with the intent of the objectives and standards of these regulations shall be maintained. The findings and action on each variance and any conditions imposed shall be recorded in the minutes of the Council and a copy thereof provided to the Planning Director.

(5) If the subdivision variance is granted by the City Council, the subdivider may incorporate the provisions of the variance into the final plat to be submitted to the Planning and Zoning Commission and to the Council for approval. In its review of the final plat, the Planning and Zoning Commission shall be bound by the decision of the Council regarding the variance and shall review and approve the final plat with the variance if the plat in all other respects conforms to the preliminary plat and any other conditions imposed by the Planning and Zoning Commission.

(G) *Vacating public lands.*

(1) Any plat may be vacated by the owners or proprietors thereof at any time before sale of any lots, or before any substantial improvements have been made in the subdivision, by submitting a copy of the plat to the City Council along with a written request for a vacation. In cases where lots have been sold, the written request shall be by all of the owners of lots within the plat. The Planning and Zoning Commission shall make a recommendation on the vacation to the City Council, and the Council shall approve or disapprove the vacation. The recording of an instrument vacating the plat shall operate to destroy the force and effect of the recording of the original plat and to divest all public rights in the streets, alleys, common and public grounds laid out or described in the plat.

(2) Streets and alleys platted and laid out under the provisions of these regulations or laid out under any prior law of the State of Arizona may be altered or vacated in the manner provided by law for the alteration or discontinuance of streets and highways.

(3) Any part of a plat may be vacated under the provision and subject to the conditions of division (A)(6) above and this division (G), provided the vacating does not abridge or destroy any of the rights and privileges of other proprietors in the plat and provided further that nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law. The request for vacation shall be made by all of the owner of lots within that portion of the overall plat sought to be vacated.

(4) When any part of a plat shall be vacated as aforesaid, streets, alleys, and other public grounds shall be assigned to all lots or parcels adjacent to the public area being vacated in equal proportions.

(5) The County Clerk shall write in plain, legible letters across that part of the plat so vacated, the word "vacated" and also make a reference on it to the volume and page in which the instrument of vacation is recorded.

(6) Land covered by a vacated plat may be replatted as described by these regulations. Any replatting of an area already platted and not vacated shall be construed to be a request for the vacation of the original plat or portion thereof. Any such plat, once approved and recorded, shall act to vacate the original plat which it replaces.

(Prior Code, § 15-3-3) (Ord. O88-06-007, passed 10-13-1988)

DESIGN STANDARDS

§ 155.050 GENERAL IMPROVEMENTS.

(A) *Generally.* All subdivision improvements shall be in conformance to the following rules and regulations:

(1) The city zoning ordinance (Chapter 154 of this code);

(2) The General Plan of the city including all streets, drainage systems, and parks shown on the General Plan as adopted;

(3) The rules of the Arizona Department of Transportation if the subdivision or any lot contained therein abuts a state highway or connecting street;

(4) The rules of the Maricopa County Flood Control District;

(5) The rules of the Arizona Department of Health Services and the Maricopa County Department of Health Services relative to water and sanitary sewage disposal; and

(6) The design standards and regulations adopted by the city, which shall include, but not be limited to, the *Uniform Standard Specifications for Public Works Construction* and the *Uniform Standard Details for Public Works Construction*, as sponsored and distributed by Maricopa Association of Governments.

(B) *Self-imposed restrictions.* If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning ordinance (Chapter 154 of this code) or this chapter, the restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Planning and Zoning Commission may require that protective covenants be recorded with the County Clerk.

(C) *Monuments.* The applicant shall place permanent reference monuments in the subdivision as approved by a registered land surveyor and the City Engineer.

(D) *Character of the land; land unsuitable for development.* Land which the Planning Zoning Commission finds to be unsuitable for subdivision of development because of flooding, improper drainage, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning and Zoning Commission, upon recommendation of the City Engineer, to solve the problems created by the unsuitable land conditions. The land shall be set aside for uses that shall not involve such a danger.

(E) *Subdivision name.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by this chapter. The Planning and Zoning Commission shall have the final authority to designate the name of the subdivision which shall be determined at sketch plat approval.

(Prior Code, § 15-4-1) (Ord. O88-06-007, passed 10-13-1988)

§ 155.051 LOT IMPROVEMENTS.

(A) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance (Chapter 154 of this code) or in providing driveway access to buildings on the lots from an approved street.

(B) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning ordinance (Chapter 154 of this code). Where lots are more than double the minimum required area for the zoning district, the Planning and Zoning Commission may require that the lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve

the potential lots, all in compliance with the zoning ordinance (Chapter 154 of this code) and this chapter. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum set backs from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning ordinance (Chapter 154 of this code).

(C) *Double frontage lots and access to lots.*

(1) *Double frontage lots.* Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

(2) *Access from major and minor arterials.* Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the Planning and Zoning Commission may require that the lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterial streets.

(D) *Soil preservation, grading, and seeding.*

(1) *Soil preservation and final grading.* No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat.

(2) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot onto adjacent lots.

(E) *Debris and waste.* No cut trees, debris, rocks, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy.

(F) *Fencing and screen walls.* Each subdivider and/or developer shall be required to furnish and install fences and/or screen walls wherever the City Council determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the zoning ordinance (Chapter 154 of this code) and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until the fence improvements have been duly installed.

(G) *Performance bond to include lot improvement.*

(1) The performance bond or other financial guarantee shall include an amount to guarantee completion of all requirements contained in this section, including but not limited to, soil preservation, final grading, lot drainage, removal of debris and waste, fencing, and all other lot improvements required by the City Council.

(2) Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond, the city may enforce the provision of the bond where th provision of this section or any other applicable law, ordinance, or regulation have not been satisfied.

(Prior Code, § 15-4-2) (Ord. O88-06-007, passed 10-13-1988)

§ 155.052 STREETS.

(A) *General requirements.*

(1) *Frontage on improved streets.* No subdivision shall be approved unless the area to be subdivided shall have frontage on, and access from, an existing street and unless the street is: A street shown upon a plat approved by the City Council and recorded in the County Recorder's office. The street or highway must be suitably improved as required by Maricopa Association on Governments (MAG) Specifications, or be secured by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations or the General Plan. Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided herein.

(2) *Grading and improvement plan.* Roads shall be graded and improved and conform to the city construction standards and specifications by the City Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.

(3) *Topography and arrangement.*

(a) Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity

of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. Specific standards are contained in the design standards of these regulations.

(b) All streets shall be properly integrated with the existing and proposed system of thoroughfares and the dedicated rights-of-way as established in the General Plan.

(c) Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(d) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the City Council, the extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

(4) *Blocks.*

(a) Blocks shall have sufficient width to provide for two tiers of lots or appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, waterways, or parks.

(b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 1,000 feet or 15 times the minimum lot width required in the zoning district.

(c) In long blocks the City Council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, emergency access, or pedestrian traffic.

(5) *Access to arterial streets.* Where a residential subdivision borders on or contains an existing or proposed arterial street, the city may require that access to the streets be limited by one of the following means:

(a) The subdivision of lots so that the lots back onto the arterial street and front onto a parallel local street; no direct access shall be provided from the arterial street.

(b) A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to a parallel street, with the rear line of their terminal lots backing onto the arterial street.

(c) A marginal access or service road (separated from the arterial street by a planting or landscaped strip and having access thereto at suitable points.)

(6) *Street names.* Street names shall be sufficiently different in sound and spelling from other street names in the city so as not to cause confusion. A street which exists or is planned as a continuation of an existing street shall bear the same name.

(7) *Street names and regulatory signs.* The applicant shall deposit with the city at the time of final subdivision approval an amount equal to the cost of each street sign required by the City Engineer at all road intersections. The city shall install all street signs before issuance of certificates of occupancy for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which are to be approved by the City Engineer.

(8) *Street lights.* Installation of street lights shall be required in accordance with the design and specification standards approved by the City Engineer. All street lights shall utilize luminaries that minimize reflection into the night sky. Lighting on local and collector streets shall maintain a minimum of .4 lumens at any given point along the street right-of-way while .7 lumens shall be maintained along arterial streets. In addition, light standards shall be spaced such that each intersection is provided at least one light standard.

(9) *Construction of streets and dead-end streets.*

(a) *Construction of streets.* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the condition is in accordance with the city General Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line and there shall be a notation on the subdivision plat that land outside the normal street right-of-way shall revert to abuttors whenever the street is continued. The city may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

(b) *Dead-end streets (permanent).*

1. Where a street does not extend to the boundary of the subdivision and its continuation is not required by the city for access

to adjoining property, its terminus shall normally not be nearer to the boundary than 50 feet. However, the city may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac shall be provided at the end of a permanent dead-end street in accordance with city construction standards and specifications.

2. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

(B) *Design standards.*

(1) *General.* In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire protection, sanitation, and street-maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties. Table 1 below sets forth design standards for streets.

Table 1		
Design Standards for Streets		
Improvements/Standards		***Dimensions in Feet***
Minimum width of right-of-way		
Local		50
Minor collector		60
Major collector		80
Minor arterial		110
Major arterial		
- Multi-land roadway		130
- Parkway		150
Minimum width pavement (defined as face of curb to face of curb)		
Local		32
Minor collector		44
Major collector		64
Minor arterial		68
Major arterial		
- Multi-lane roadway		92
- Parkway		102
Maximum posted speed limit		
Local	25 mph	-
Minor collector	30 mph	-
Major collector	35 mph	-
Minor arterial	40 mph	-
Major arterial	45 mph	-
Minimum radius of curve		

Local	300
Minor collector	300
Major collector	450
Minor arterial	575
Major arterial	750
Minimum length of tangents between reverse curves	
Local	150
Minor collector	150
Major collector	200
Minor arterial	270
Major arterial	280
Minimum sight distance	
Local	175
Minor collector	260
Major collector	325
Minor arterial	400
Major arterial	475
Minimum turn around (local streets only)	
Right-of-way diameter	120
Pavement	100
Center island (if required)	40
Maximum length of cul-de-sac	
Permanent	600
Temporary	100
Source: BRW, Inc., 1987; *Guidelines for Urban Major Street Design*, ITE	

(2) *Street and sidewalk surfacing and improvements.*

(a) After sewer, water, and other utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in this chapter. The surfacing shall be of the character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the City Engineer. Adequate provision shall be made for culverts, drains, and bridges.

(b) All street pavements, shoulders, drainage, and utility improvements and structures, curbs, turnarounds, and sidewalks shall conform to the *Uniform Standard Details Specifications* adopted by the City Council and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

(3) *Railroads and limited access highways.* Railroad rights-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

(a) In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures, except for street signs and lighting is prohibited."

(b) In districts zoned for business, commercial, or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

(c) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be a distance of at least 150 feet from the railroad right-of-way. The distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(4) *Intersections, angles of.* Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the Planning and Zoning Commission.

(5) *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow street or when the General Plan or zoning ordinance (Chapter 154 of this code) indicates plans for realignment or widening of a street that would require the use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his or her expense the areas for widening or realignment of the streets. The streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any road purposes may be counted in satisfying yard requirements of the zoning ordinance (Chapter 154 of this code), whether the land is to be dedicated to the municipality in fee simple or as an easement for future expansion or as a private street.

(Prior Code, § 15-4-3) (Ord. O88-06-007, passed 10-13-1988)

§ 155.053 SIDEWALKS AND CURBS.

The following are required improvements:

(A) Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets as illustrated on Table 2 below.

(B) Concrete curbs and gutters are required for all streets. Collector and arterial streets shall require six-inch vertical curbs.

(C) Sidewalks shall be improved as required in § 155.052(B) above.

Table 2	
Sidewalk Requirements	
Type of Street	***Sidewalk Requirement***
Local	Optional (at Council directive)*
Collector	Both sides, four feet wide, or, as bike route, eight feet wide; one foot inside right-of-way line
Arterial	Both sides, five feet wide, or, as bike route, eight feet wide; one foot inside right-of-way line
Note to table: *But where provided, four feet wide	
Source: BRW, Inc., 1987	

(Prior Code, § 15-4-4) (Ord. O88-06-007, passed 10-13-1988)

§ 155.054 DRAINAGE; STORM SEWERS; RETENTION BASINS.

(A) *General requirements.* The city will not recommend for approval any plat of a subdivision which does not make adequate provision for storm or flood water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm drainage shall be accommodated in the streets, gutters, or retention basins unless otherwise indicted by the City Engineer. Sub-surface drainage systems shall be discouraged, but where storm sewers are required, the cost shall be born by the developer for storm sewers to a size of 24 inches; if over 24 inches in size and determined to be for benefit outside of the subdivision, the costs may be shared, as determined by the City Council, but only for that portion determined to be of benefit outside the subdivision.

(1) *Use of street for drainage.* Curbed streets shall be designed and constructed to carry the storm water run-off from a ten-year storm between curbs. When peak flows form the designated storm exceed the street capacity, an open area drainage and retention system shall be designed to carry the excess storm water. The rational method based on the run-off factors in division (B) below shall be used to determine the peak flows. Fifteen minutes maximum may be used for the time of concentration for the runoff across the lots.

(2) *Peak flows in streets.* Peak flows from a 100-year storm shall be carried within the cross section between buildings (front yards and streets). The finish floor elevation of all buildings shall be one foot above the 100-year storm. All finished floors shall be a minimum of 14 inches across the low outfall of the site.

(3) *Accommodation of upstream drainage areas.* A culvert, gutter, or other drainage facility shall in each case be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the zoning ordinance (Chapter 154 of this code.)

(4) *Effect on downstream drainage areas.* The City Engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies together with the other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility, the City Council may withhold approval of the subdivision until provision has been made for the improvement of the potential condition in a sum as the City Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage will be provided to an adequate drainage watercourse or facility.

(5) *Areas of poor drainage.* Whenever a plat is submitted for an area which is subject to flooding, the City Council may approve the subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of 12 inches above the elevation of the maximum probable 100-year flood, as determined by the City Engineer. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, of a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the City Engineer.

(6) *Floodplain areas.* The City Council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and the sanitary facilities, prohibit the subdivision of any portion of the property which lies within any 100-year floodplain as determined in the zoning ordinance (Chapter 154 of this code.) These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the City Council.

(B) *Retention requirements.*

(1) *Areas for retention.* All water from a 100-year storm of a one-hour duration (approximately 2.4 inches), which falls within the area being developed, including the respective one-half of all abutting streets (whether or not it is a dedicated street which may exist by an improvement district and owned by the city) shall be retained within the boundaries of the developed land. No retention shall be allowed in public rights-of-way. The method of collection and retention shall be approved by the Department of Public Works. The method of retention calculation, drainage flows, and removal of storm water within 36 hours shall conform to division (B)(5) and (6) below.

(2) *Retention basin capabilities.* All retention basins shall have a design capacity to preclude a water depth in excess of three feet resulting from a 100-year, one-hour storm. The depth of retention basins shall be measured from lowest adjacent top of curb. In no event shall storm water stand in the retention basins longer than 36 hours. Drywells (or other approved methods of removing storm water within 36 hours) shall be required for any depth of retention over one foot, provided a volume greater than1,000 cubic feet is being retained in a single retention area. However equalizer pipes from smaller to larger retention areas may be required by the City Engineer.

(3) *Dedication.* No retention basins will be controlled or owned by the city unless dedicated as part of the city's park and open

space system. Non-dedicated retention basins shall be maintained by the owner. All retention basin areas shall be designated as easement areas for retention purposes and shall have a recorded protective covenant requiring perpetual maintenance.

(4) *Residential lots for retention.* On-lot retention is permissible in single-family developments to a maximum of six inches, but shall not be used for calculating development retention requirements.

(5) *Retention calculations.*

Total volume required = (2.4 in/12) x (drainage area) x (average run-off coefficient)

(6) *Run-off factors.*

(a) The run-off factor used in computation must be justified by a typical cross section of actual area calculation.

Concrete pavement (concrete, brick, etc.)	0.95
Roofs/asphalt pavement	0.85
Grass lawn	0.15
Desert lawn or rock lawn	0.70

(b) Infiltration into the dry well cannot be considered to reduce the size of the retention area. The property owner of record shall be responsible for the design, performance, operation, or maintenance of dry wells used with on-site retention. A percolation rate of 0.8 cfs per dry well over a 36-hour period shall be used in calculating the number of dry wells.

(7) *Joint development.* Two or more developers may join together to provide a common retention facility. A letter of agreement signed by all developers participating in the common retention area must be presented to the City Engineer, and the recorded plat shall indicate that the retention area is a joint facility. The joint retention area must meet all criteria as a single area.

(C) *Dedication of drainage easements.*

(1) *General requirements.* Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, a storm water easement or drainage right-of-way shall be provided conforming substantially to the lines of the watercourse, and of the width and construction, or both as will be adequate for the purpose. Wherever possible it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(2) *Drainage easements.*

(a) Where topography or other conditions make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least 15 feet in width for the drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be included on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

(b) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(c) The applicant shall dedicate, either in fee or by drainage or conservation easement, land on both sides of existing watercourses, to a distance to be determined by the City Council.

(d) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

(Prior Code, § 15-4-5) (Ord. O88-06-007, passed 10-13-1988)

§ 155.055 WATER FACILITIES.

(A) *General requirements.*

(1) The subdivider shall connect to the city water system and install adequate water facilities (including fire hydrants) subject to the specifications of the City Engineer. All water mains shall be at least six inches in diameter.

(2) Water main extensions shall be approved by the City Engineer.

(3) To facilitate the above, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing them shall be included in the performance bond to be furnished by the developer.

(B) *Fire hydrants.* Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 300 feet apart in multi-family, commercial, and industrial developments and no more than 500 feet apart in single-family developments, and shall be within 300 feet of any structure and shall be approved by the City Fire Chief. To eliminate future street openings, all underground utilities for fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

(Prior Code, § 15-4-6) (Ord. O88-06-007, passed 10-13-1988)

§ 155.056 SEWER FACILITIES.

(A) *General requirements.* The applicant shall install sanitary sewer facilities in a manner prescribed by the *Uniform Standard Details and Specifications* and the City Engineer.

(B) *Public sewerage required.* For all subdivisions, sanitary sewer facilities shall connect with public sanitary sewage system. Sewers shall be installed to serve each lot and to grades and sizes required by the *Uniform Standard Details and Specifications* and the City Engineer.

(C) *Mandatory connection to public sewer system.* If a public sanitary sewer is installed within 200 feet of an individual lot, the owner thereof shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any owner or occupant to maintain upon any property the use of an individual sewage disposal system thereafter.

(D) *Design criteria for sanitary sewers.*

(1) *Design factors.*

(a) Sanitary sewer systems should be designed for the ultimate drainage basin population. Consideration should be given to current zoning regulations, and should be given to current zoning regulations, and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented hereinafter should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

One- and two-family dwellings	.02 cfs/acre*
Apartments, townhouses, condominiums	
One- and two-story	.02 cfs/acre
Three- though six-story	.03 cfs/acres
Commercial - small stores, offices and miscellaneous businesses	.02 cfs/acre
Shopping centers	.02 cfs/acre
Industrial buildings	As directed by the City Engineer
Note to table * Cubic feet per second per acres	

(b) These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres

and smaller than 1,000 acres shall be computed on the bases of a linear decrease from the applicable design factor for an area of 300 acres to a design factor for .01 cfs/acre for an area of 1,000 acres unless otherwise directed by the City Engineer. Design factors for watersheds larger than 1,000 acres shall be .01 cfs/acre unless otherwise directed by the City Engineer.

(2) *Maximum size.* The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the City Engineer.

(3) *Minimum size.* No public sanitary sewer shall be less than eight inches in diameter.

(4) *Minimum slope.* All sewers shall be designed to give mean velocities, when flowing full, of not less than 2.0 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an "N" value of 0.013. The slopes shall be minimum for size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving less than 30 houses. The sewers shall have a minimum slope of 0.76%. Where lateral sewers serve less than ten houses, the minimum slope shall be not less than 1%. Table 3, below, lists minimum slopes for various sewer sizes:

Table 3	
Minimum Slope by Sewer Size	
Sewer Size (in Inches)	***Minimum Slope in Feet per 100 Feet***
8	0.33
10	0.24
12	0.19
15	0.14
18	0.11
21	0.093
24	0.077
Source: BRW, Inc., 1987; Arizona Department of Health Services Bulletin Number 11	

(5) *Alignment.* All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the City Engineer.

(6) *Manhole location.* Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet for sewers less than 18 inches, and 500 feet for sewers 18 inches in diameter and larger.

(7) *Manholes.* The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by the City Engineer. The minimum inside diameter of the manholes shall conform to those specified by the City Engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the small sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

(8) *Sanitary sewer locations.* Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley rights-of-way where possible. Imposed loading shall be considered in all locations. Not less than three feet of cover shall be provided over top of pipe in street and alley rights-of-way or three feet in all other areas.

(9) *Cleanout and lampholes.* Cleanouts and lampholes will not be permitted.

(10) *Water supply interconnections.* There shall be no physical connection between a public or private potable water supply system and sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(11) *Relationship of sewers to water mains.* A minimum horizontal distance of six feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two feet above the sewer line.

(12) *Extraordinary situations.* These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the City Engineer.

(Prior Code, § 15-4-7) (Ord. O88-06-007, passed 10-13-1988)

§ 155.057 UTILITIES.

(A) *Location.* All utility facilities, including but not limited to gas, electric power, except electrical lines exceeding 13,000 KV capacity, telephone, and cable television shall be located underground throughout the subdivision. All utility facilities existing throughout the subdivision shall be located in either the street right-of-way and its adjacent easement of in a dedicated alley except, where easements between alleys and street rights-of-way are necessary to connect the utilities, as approved by the city. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the City Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(B) *Easements.*

(1) Proper coordination shall be established between the subdivider and the applicable utility companies for the continuation of utility easements established in adjoining properties, when rights-of-way or dedicated alleys are not appropriate.

(2) Where topographical, locational, or other conditions are such as to make impractical the inclusion of utilities within rights-of-way or dedicated alleys, perpetual unobstructed easements of at least ten feet in width shall be provided. Easements shall be indicated on the plat.

(Prior Code, § 15-4-8) (Ord. O88-06-007, passed 10-13-1988)

§ 155.058 PUBLIC LAND RESERVATION; PARKS; OPEN SPACES.

(A) Where a proposed park, playground, open space, or other public use shown on the General Plan is located in whole or in part in a subdivision, the Commission and City Council shall require that the area or areas be shown on plats in accordance with the requirements specified in this section. The area or areas shall be reserved to the city by the subdivider if the City Council approves the reservation.

(B) The Commission shall require that plats show sites of a character, extent, and location suitable for the development of a park, playground, or other stated public purposes.

(C) In all new residential subdivisions the city may require that 7% of the gross area be reserved for public recreation space, school sites, or other public use with the percentage bing in addition to property reserved for streets, alleys, easements, or other public ways.

(D) The city or other public agency shall enter into an agreement on the method of acquiring the reserved land area prior to approval of the final plat.

(Prior Code, § 15-4-9) (Ord. O88-06-007, passed 10-13-1988)

COMPLETION; ASSURANCE

§ 155.080 FINANCIAL GUARANTEES AND IMPROVEMENTS.

(A) *Financial guarantees.*

(1) The City Council shall require that the applicant provide a financial guarantee such as a performance bond, an irrevocable letter of credit, assurance of completion, funds in escrow, or other guarantee acceptable to the city prior to recording the final subdivision plat in an amount sufficient to secure to the city the satisfactory construction, installation, and dedication of the required improvements. The financial guarantee shall also secure all lot improvements on the individual lots of the subdivision as required in this chapter. The amount of the financial guarantee shall be 100% of the cost of the installation and materials necessary to complete the subdivision, including street lights, street name signs, street regulatory signs and all grading.

(2) (a) The financial guarantee shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution, as set forth in this chapter. The period within which required improvements must be completed shall be specified by the City Council in the resolution approving the final subdivision plat and shall be incorporated in the financial guarantee and shall not, in any event, exceed two years from the date of final approval.

(b) The financial guarantee shall be approved by the city as to amount and surety and conditions satisfactory to the governing body. The City Council may, upon proof of difficulty, grant an extension of the completion date set forth in the guarantee for a maximum period of one additional year.

(B) *Completion of improvements.* As an alternative to requiring a contractor's performance bond, the City Council, at its discretion, may allow the procedures for completion of improvements described in § 155.032(B) above.

(C) *Temporary improvement.* The applicant shall build and pay for all costs of temporary improvements required by the City Council and shall maintain them for the period specified by the City Council. Prior to construction of any temporary facility or improvement, the developer shall file with the City Engineer a separate, suitable, financial guarantee for temporary facilities, which guarantee shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

(D) *Governmental units.* Governmental units to which these financial guarantees and contract provisions apply may file in lieu of the contract or financial guarantee a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.

(E) *Failure to complete improvements.* For subdivisions for which no financial guarantee has been posted, if the improvements are not completed within the period specified by the City Council in the resolution approving the plat, subject to § 155.032(B) above, the approval shall be deemed to have expired. In those cases where a financial guarantee has been posted and required improvements have not been installed within the terms of the guarantee, the city may thereupon declare the guarantee to be in default, call on the guarantee, and require that all the improvements be installed regardless of the extent of the building development at the time the financial guarantee is declared to be in default.

(F) *Acceptance of dedication and maintenance.* Acceptance of dedication of land for streets, public areas, and easements shall be by resolution of the City Council. The resolution approving the final plat shall constitute the acceptance, provided a statement of dedication is placed on the plat. The approval by the City Council of a subdivision plat shall not be deemed to constitute or imply the acceptance of maintenance by the city of any street or easement improvements shown on the plat. The City Council may require the plat to be endorsed with appropriate notes to this effect. A separate resolution accepting improvements and maintenance shall be required following installation of all improvements.

(Prior Code, § 15-5-1) (Ord. O88-06-007, passed 10-13-1988)

§ 155.081 INSPECTION OF IMPROVEMENTS.

(A) *General procedures and fees.* The City Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The applicant shall pay to the city an inspection fee of 2% of the amount of the financial guarantee or the estimated cost of required improvements, and the subdivision plat shall not be signed by the Mayor unless the fee has been paid at the time of approval. If the City Engineer finds, upon inspection that any of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to the specifications.

(B) *On-site representative.* The developer shall designate, in writing, the name of the agent who shall be available at all times during its progress and who shall not be replaced without a written notice to the City Engineer. The agent will be the developer's representative at the site and shall have the authority to act on the developer's behalf.

(C) *Release or reduction of the financial guarantee.*

(1) *Certificate of satisfactory completion.* The City Council will not accept dedication of required improvements, nor release nor reduce any financial guarantee, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the City Engineer through submission of detailed "as-built" construction plans of the subdivision, prepared on mylar, indicating location, dimensions, materials, and other information required by the City Council or City Engineer, that the layout of the line and grade of all public improvements is in accordance with the construction plans for the subdivision and that a title insurance policy has been furnished to, and approved by, the City Attorney indicating that the improvements shall have been completed, are ready for dedication to the city and are free and clear of any and all liens and encumbrances. Upon the approval and recommendation, the City Council shall thereafter accept the improvements for dedication and maintenance in accordance with established procedure.

(2) *Reduction of financial guarantees.* A financial guarantee may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a financial guarantee be reduced below 25% of the principal amount, unless all improvements have been dedicated in which case it may be reduced to zero, provided a maintenance bond is posted.

(3) *Maintenance of improvements; warranty.*

(a) The applicant shall be required to maintain all improvements within the subdivision and/or on the individual subdivided lots, until acceptance of the improvements by the City Council. If there are any certificates of occupancy on a street where improvements have not been dedicated to the city, the city may on 12-hours' notice effect emergency repairs and charge them to the applicant.

(b) The applicant shall be required to file a maintenance guarantee with the City Council prior to dedication of the improvements, in the amount of 10% of the improvements costs in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements, including all lot improvements on the individual subdivided lots for a period of one year after the date of their acceptance by the City Council and dedication of the improvements to the City Council.

(Prior Code, § 15-5-2) (Ord. O88-06-007, passed 10-13-1988)

§ 155.082 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.

(A) The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all improvements as, in its judgement, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

(B) Whenever it is deemed necessary by the City Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons identified by the city, the applicant shall pay his or her share of the costs of the future improvements to the city prior to signing of the final subdivision plat, or the applicant my post a bond insuring completion of the improvements upon demand of the City Council.

(Prior Code, § 15-5-3) (Ord. O88-06-007, passed 10-13-1988)

§ 155.083 BUILDING PERMITS; OCCUPANCY PERMITS; ISSUANCE.

(A) No certificate of occupancy for any building in the subdivision shall be issued prior to completion, inspection, and approval by the City Engineer, and dedication of it to the city of all utilities required to serve the building for which a certificate of occupancy is requested.

(B) The extent of street improvements shall be adequate for vehicular access by the prospective occupant and by police and fire protection equipment, prior to the issuance of an occupancy permit.

(C) No building permit shall be issued for the final 10% of lots in a subdivision (or if 10% is less than two, for the final two lots of a subdivision), until all public improvements required by the City Council for the plat have been fully completed and dedicated to the city.

(Prior Code, § 15-5-4) (Ord. O88-06-007, passed 10-13-1988)

§ 155.084 LOTS OUTSIDE APPROVED SUBDIVISIONS; BUILDING PERMITS.

(A) *Planning Directorreview.* If any lot or parcel is to be created within the city where the creation of the lot or parcel does not require the use of the requirements and procedures of §§ 155.030*et seq.* and §§ 155.050*et seq.*, the owner of the lot or parcels to be created shall be required to discus with the Planning Director the lot or parcel creation to determine the eventual ability to receive a building permit for the lot or parcel.

(B) *Subject to other city requirements.* Regardless of subjectivity to §§ 155.030*et seq.* and §§ 155.050*et seq.*, any newly created lot or parcel shall be subject to the provisions of other city regulations, including the zoning ordinance (Chapter 154 of this code.)

(C) *Planning Director certification.* The Planning Director shall certify whether or not the newly created lot or parcel meets all city requirements relative to receiving a building permit, noting any conditions, if they exist.

(Prior Code, § 15-5-5) (Ord. O88-06-007, passed 10-13-1988)

ADMINISTRATION AND ENFORCEMENT

§ 155.100 ADMINISTRATION.

(A) These regulations shall be administered and enforced by the Planning and Development Department of the city, or other agency as designated by the City Council, through the Planning Director.

(B) All subdivision plats submitted to the city shall first have been examined by Planning Director and the El Mirage Planning and Zoning Commission in accordance with the procedures established by these regulations. As part of their examination, the Director and the Commission may consult with other public or private agencies to determine whether or not the plat, as proposed, will contribute to the orderly growth and development of the city. The actions of the Department, the Commission and the Council shall be governed by the procedures and schedules set forth above.

(Prior Code, § 15-1-5) (Ord. O88-06-007, passed 10-13-1988)

§ 155.101 LIABILITY.

The city shall hold harmless the Planning Director, other city agencies and officials, and their official agents and representatives, when acting in good faith and without malice, from all personal liability for any damage that may accrue to any person or property as a result of any act required by these regulations, or for the omission of any act on the part of the Department, agency or official or their authorized agents in the discharge of their duties hereunder. Any suit brought against the city or the city administration because of any act or omission in the carrying out of the provisions of these regulations shall be defended by the city's legal department through final determination of the proceedings.

(Prior Code, § 15-1-6) (Ord. O88-06-007, passed 10-13-1988)

§ 155.102 INTERPRETATION; CONFLICTS; SEVERABILITY.

(A) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements necessary for the promotion of the public health, safety, and general welfare.

(B) *Conflicts with public and private provisions.*

(1) *Public provisions.* This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as noted herein. Where any provisions of this chapter impose restrictions different from those imposed by any other provision of this chapter or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions.* This chapter is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this chapter are more restrictive or impose higher standards or regulations than the easement, covenant, or other private agreement or restriction, the requirements of this chapter shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive than this chapter, and the private provisions are not inconsistent with this chapter or determinations thereunder, then the private provisions shall be operative and

supplemental to this chapter and determinations made thereunder.

(C) *Separability.* If any part or provision of this chapter or application thereof to any person or circumstances is judged invalid by any court of competent jurisdiction, the judgement shall be confined in its operation to the part, provision, or application directly involved in all controversy in which the judgement shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances.

(Prior Code, § 15-1-7) (Ord. O88-06-007, passed 10-13-1988)

§ 155.103 SAVING PROVISION.

This chapter shall not be construed as abating any action now pending under or by virtue of, prior existing subdivision regulations, or discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this chapter or as vacating and annulling any rights obtained by any person, firm, or corporation, by lawful action of the municipality except as shall be expressly provided for in this chapter.

(Prior Code, § 15-1-8) (Ord. O88-06-007, passed 10-13-1988)

§ 155.104 AMENDMENTS.

For the purpose of providing for the public health, safety and general welfare, the governing body may from time to time amend the provisions imposed by this chapter.

(Prior Code, § 15-1-9) (Ord. O88-06-007, passed 10-13-1988)

§ 155.105 FEES.

(A) *Preliminary plat.* The fees for preliminary plats are incorporated by reference.

(B) *Final plat.* The fees for final plats are incorporated by reference.

(C) *Recording fee.* As determined by the County Recorder. To be submitted to the Planning Director after approval of the final plat and made payable to Maricopa County.

(D) *Variances.* The fees for variances are incorporated by reference.

(E) *Annexation plats.* The fees for annexation plats are incorporated by reference.

(Prior Code, § 15-6-1) (Ord. O88-06-007, passed 10-13-1988; Res. R97-11-32, passed 11-13-1997; Res. R07-12-31, passed 12-13-2007)

§ 155.999 PENALTY.

Any and all persons who shall violate any of the provisions of this chapter or fail to comply therewith, or who shall fail to comply with any lawful order or regulation made thereunder, shall severally for each and every violation and noncompliance respectively, forfeit and pay a fine of not less than $50, nor more than $750 and/or be imprisoned not to exceed to the time of four months for each offense, the violation constituting a Class 2 misdemeanor under the Criminal Code of the laws of the State of Arizona. In addition, the costs of any action may be imposed at the discretion of the court. The imposition of one penalty for any violation of this chapter shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy it to continue; and all such persons shall be required to correct or remedy the violations and defects within a reasonable time; and each day that the prohibited condition is not corrected or remedied shall constitute a separate offense; and the court shall impose a fine on a per diem basis for each day that the violation is maintained. Application of the above penalty shall not be held to preclude the forced removal of prohibited conditions.

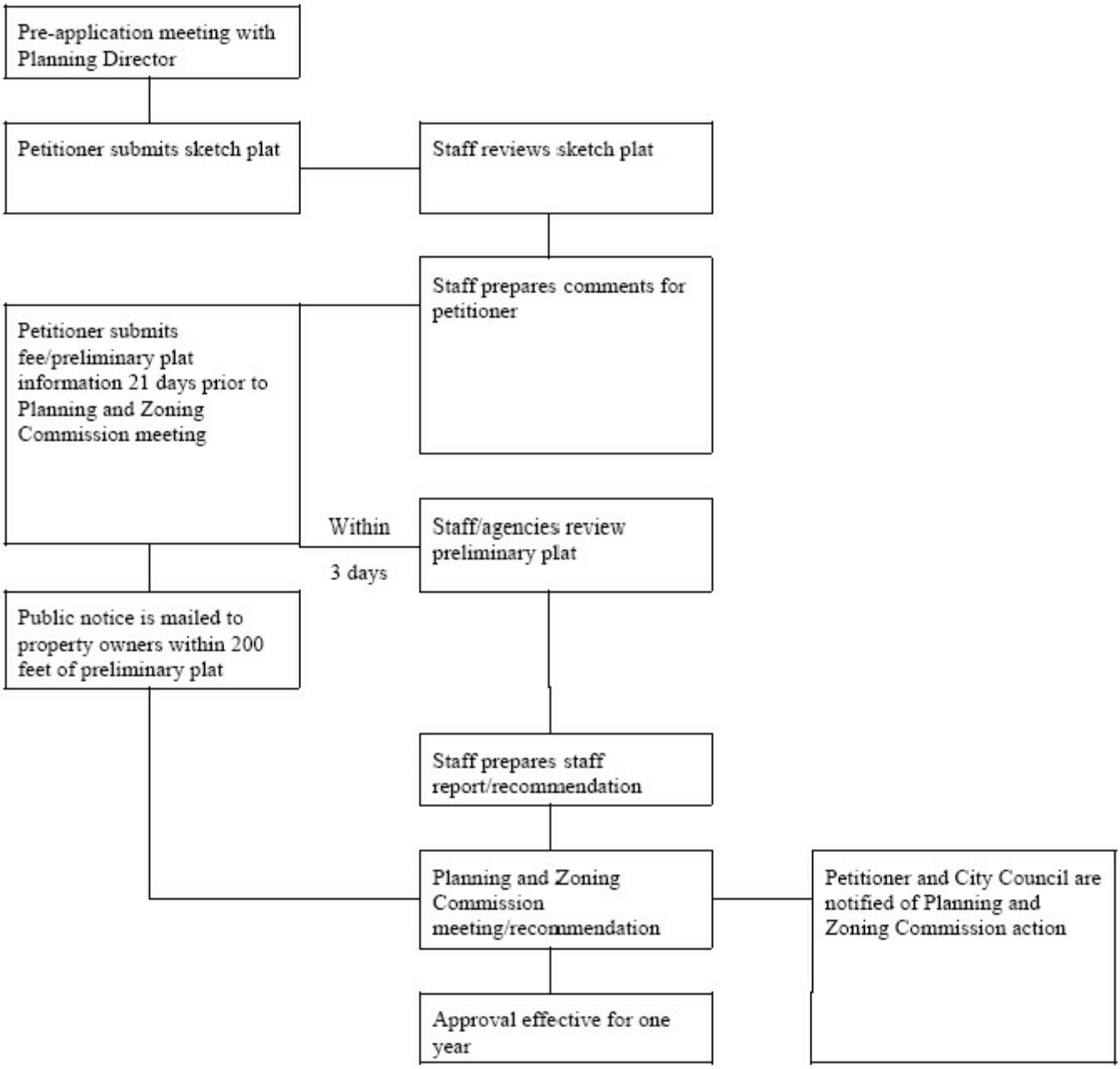
(Prior Code, § 15-6-2) (Ord. O88-06-007, passed 10-13-1988)

APPENDIX A: SUBDIVISION PROCESSES, PRELIMINARY PLAT PROCESSES; FINAL PLAT PROCESS

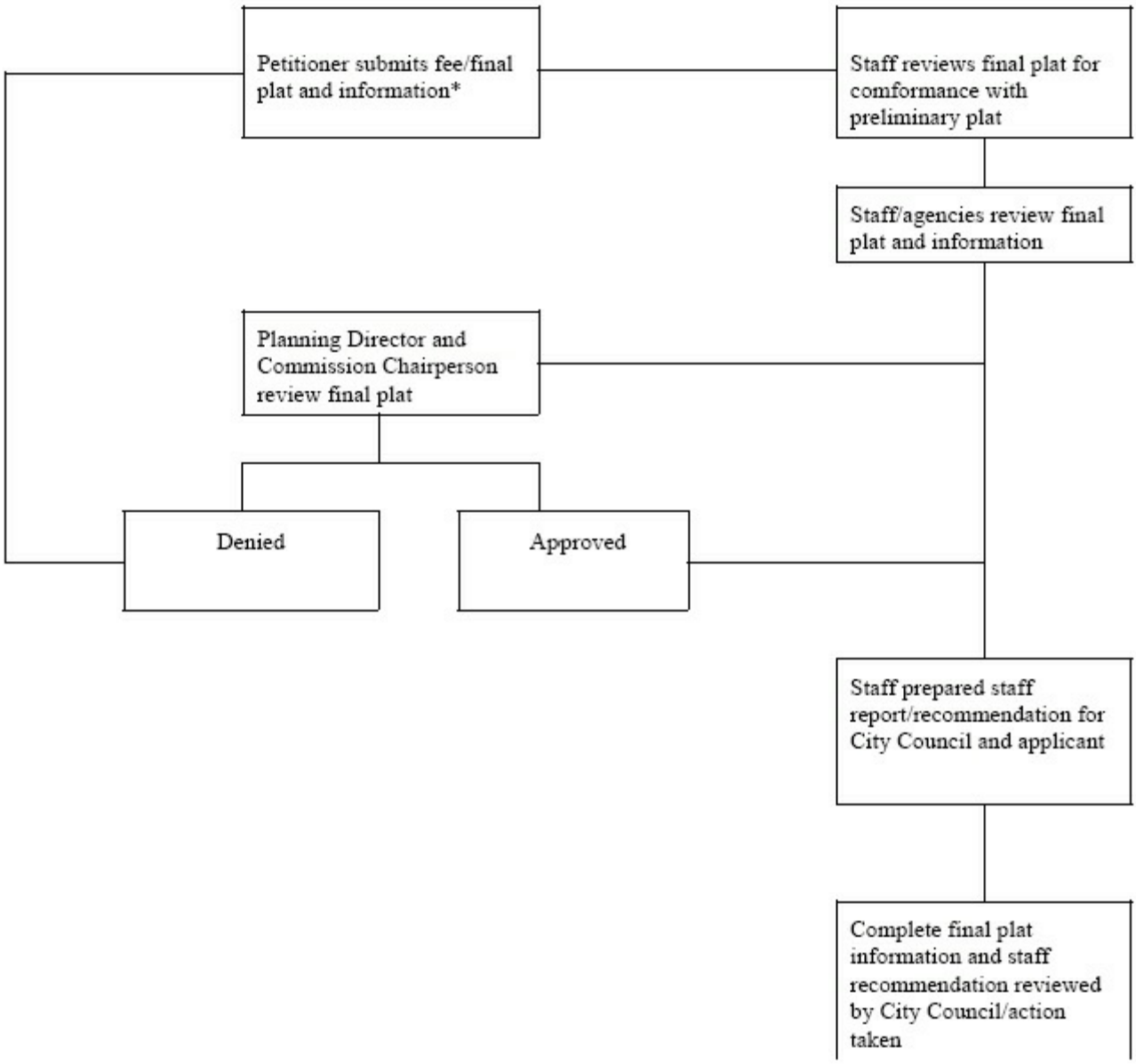
Subdivision Processes

Before any property is divided into four or more parcels, whether for sale of property or to build on the property, a subdivision plat must be approved by the City Council and recorded in the County Recorder's office. The owner of the property to be subdivided must give his or her consent in writing before the City Council can approve the final plat.

Preliminary Plat Process



Final Plat Process



*Final plat supporting information consists of final plat and required final plat material as per § 155.032(B)

(Prior Code, Appendix A) (Ord. O88-06-007, passed 10-13-1988)

APPENDIX B: ZONING FEES

The zoning fees are adopted by reference.

(Prior Code, Appendix B) (Ord. O88-06-007, passed 10-13-1988)