TOWN OF FLORENCE, ARIZONA
CODE OF ORDINANCES

2017 S-14 Supplement contains:
Local legislation current through 3-27-2017

Published by:
American Legal Publishing Corporation
One West Fourth Street, Third Floor
Cincinnati, Ohio 45202
Tel: (800) 445-5588
Fax: (513) 763-3562
Internet: www.amlegal.com

ORGANIZATION AND SPECIAL FEATURES OF THE CODE

Titles. This code of ordinances is divided into eight, numbered *titles* that cover a particular topic of village law. The titles are designated using only odd numbers. Even numbers are reserved to accommodate any needed expansion during future updates. The eight titles of the code are as follows:

Title I: General Provisions. Provides continuity throughout the code and helps curtail the occurrence of duplicate provisions. Title I provisions apply to all other titles and are usually not repeated in the code except where a variation in another provision compels it. The usual content of Title I, are general definitions, rules of construction, reviver clauses, the effect of amendment or repeal, severability, and a general penalty.

Title III: Administration. Contains provisions pertaining to administrative matters, policies and procedures.

Title V: Public Works. Town changed the name of this title to Utilities. Contains provisions regulating types of regulations such as water and sewer use.

Title VII: Traffic Code. Contains provisions relating to traffic and parking.

Title IX: General Regulations. Contains a variety of general, regulatory provisions governing subjects such as animals, fire prevention and the like.

Title XI: Business Regulations. Contains provisions pertaining to businesses, general licensing procedures and other similar types of business regulations.

Title XIII: General Offenses. Contains offense or prohibitory conduct provisions.

Title XV: Land Usage. Contains provisions on the use of land, including zoning, building, subdivision and flood plain regulations.

Tables of Special Ordinances. The Town of Florence elected to exclude the Table of Special Ordinances.

Parallel Reference Tables. These tables are included near the end of the code and provide the following:

A numerical list of all state law provisions and citations that are referred in the code, with a corresponding reference to the section of the code containing that specific state law cite.

A numerical list of all sections of the town's previous code book used to compile this current code of ordinances, with a corresponding reference to the current code section containing that old code provision.

A numerical list of all ordinances used to compile the code of ordinances, which will include the ordinance number, the passage date of the ordinance and the code section where the ordinance is codified.

Index. The index contains a list of entries of all code provisions currently in effect and refers the user to the appropriate section number in the code where the provision may be found. The Index will be generated at the final stage of production.

Division of Titles, Chapters and Section Numbering.

Each title is divided into *chapters* and often further divided into *subchapters*. Numbering is reserved between subchapters to allow for future expansion. (For an example, notice how Chapter 30 is constructed to allow additional provisions to be added to each of the four subchapter categories.) All chapters and subchapters consist of numbered *sections*. The section number identifies the title, chapter and section of the provision cited. (The title and chapter number appear to the left of the decimal point, and the section number appears to the right of the decimal point.) For example, the number"30.20" refers to section 20 of Chapter 30 in Title III, while "92.02 refers to section 02 of Chapter 92 in Title IX. Furthermore, the section- number suffix ".99" is always reserved for penalty provisions. Thus, 150.*999* designates the penalty provision for Chapter 150.

General Penalty.

A general penalty has been supplied in § 10.99. This general penalty applies to areas of the code where a penalty is needed but is not otherwise specifically provided by another provision of the code.

Cross-references and Statutory References.

Cross-references direct the user to another part of the code of ordinances which may be relevant to the topic at hand. *Statutory references* refer the user to certain state law provisions relevant to the topic at hand, and which in most cases are separately published.

Legislative Histories.

Legislative histories are found throughout the code and give the source of origin of particular provisions. Histories are placed in parentheses directly following sections or divisions of the code. Most typically, histories provide the derivation of any ordinances, statutes or prior code sections.

Page Numbering

Each title of the code is separately paginated, which allows individual titles to be amended without having to renumber the entire code. For example, if the village adds more pages to Title III during a supplement, the pages in Title III will be renumbered accordingly. However, the remaining titles (V through XV) will be unaffected because their self-contained pagination is independent from Title III.

Page numbers in the code are located at the top corner of each page, except when at the start of a new title, chapter or the like. In those instances, the lead number is found at the bottom center of the page.

Headers

Bold-printed headers appear at the top of each regular page of the code. Headers on even-numbered pages display the name of the town and of the title being consulted. Headers on odd-numbered pages display the name of the chapter being consulted.

TOWN OFFICIALS

Tom J. Rankin	Mayor
Tara Walter	Vice-Mayor
John Anderson	Councilmember
Rebecca Guilin	Councilmember
Bill Hawkins	Councilmember
Karen Wall	Councilmember
Vallarie Woolridge	Councilmember
Brent Billingsley	Town Manager
Clifford L. Mattice	Town Attorney
Lisa Garcia	Town Clerk

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

§ 10.01 TITLE OF CODE.

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

§ 10.02 INTERPRETATION.

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

ACTS BY AGENTS. A requirement that an act be done which may by law also be done by an agent, include the acts performed by an authorized agent.

CITY, MUNICIPAL CORPORATION, MUNICIPALITY or ***TOWN.*** The Town of Florence, Arizona.

CITY-SCAPE and ***TOWN-SCAPE*** are synonymous.

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

COMPUTATION OF TIME. The time in which an act is required to be done is computed by excluding the first day and including the last day, unless the last day is a holiday, and then it is also excluded. In cases in which notice of a decision by the municipality must be given to a petitioner and in which the petitioner must file a notice of appeal of the decision within a time certain of less than ten days, the time is computed starting with the day after the day during which the notice of decision is received by the petitioner by personal service or registered or certified mail.

COUNCIL. The Council of the Town of Florence, Arizona.

COUNTY. Pinal County, Arizona.

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

DAYTIME The period of time between sunrise and sunset.

DELEGATION OF AUTHORITY. Any provision requiring a municipal officer or a municipal employee to do some act is to be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the required act.

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

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

EMERGENCY WORK. Any work performed to prevent or alleviate physical trauma or property damage threatened or caused

by an emergency, which has or may result in a disruption of service, and which is necessary to protect the health, safety and welfare of persons or property.

ENGINEER. The Engineer of the municipality.

GENDER. Words of the masculine gender include the feminine.

IN THE MUNICIPALITY or ***WITHIN THE MUNICIPALITY*** includes all territory over which the municipality now has, or hereafter acquires, jurisdiction for the exercise of its police powers or other regulatory powers.

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

JOINT AUTHORITY. All words purporting to give a joint authority to three or more town 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.

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

MAY is to be construed as being permissive.

MONTH. A calendar month.

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

MUNICIPALITY. The Town of Florence, Pinal County, Arizona.

MUST is to be construed as being mandatory.

NIGHTTIME. The period of time between sunset and sunrise.

NUMBER. Words used in the singular include the plural. Words in the plural include the singular.

OATH. Includes affirmation or declaration.

OCCUPANT includes tenant.

OR may be read ***AND*** and ***AND*** may be read ***OR***.

OWNER. As applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of the building or land.

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

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

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

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements and hereditaments.

REASONABLE TIME. Any provision that requires any act to be done in a reasonable time, or reasonable notice to be given, refers to the time only as may be necessary for the prompt performance of the duty, or compliance with the notice.

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

SHALL HAVE BEEN. Includes past and future cases.

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.

STATE. The State of Arizona.

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

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

TENSES. The present tense includes the past and future tenses, and the future includes the present.

TOWN ATTORNEY. The Attorney of the municipality.

TOWN CLERK. The municipal Town Clerk.

TOWN MANAGER. The Town Manager of the municipality.

WEEK consists of seven consecutive days.

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

YEAR. A calendar year, except where otherwise provided.

(Prior Code, Ch. 1, § 1-2)

Statutory references:

Application of municipal ordinances to municipally owned, leased and the like, property, see A.R.S. § 9-401

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

Extraterritorial jurisdiction, see A.R.S. §§ 9-240(B)(21) and 9-402

§ 10.06 RULES OF INTERPRETATION.

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

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

(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.

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

(1) 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.

(2) The present tense includes the past and future tenses, and the future includes the present.

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

§ 10.07 SEVERABILITY.

It is hereby declared to be the intention of the Council that the titles, chapters, subchapters, sections, 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.

§ 10.08 REFERENCE TO CHAPTERS AND SECTIONS.

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

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; CALCULATION OF TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

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

(B) Any ordinance making an appropriation;

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

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

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

(F) Any bond of any public officer;

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

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

§ 10.15 RESERVED.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) 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.

(B) 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.

§ 10.17 CONFLICTING PROVISIONS.

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

§ 10.18 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.19 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. *Example*: (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. *Example*: (A.R.S. § 9-240) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

Inspection of public records, seeA.R.S. § 39-121

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

§ 10.99 GENERAL PENALTY.

(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, upon conviction thereof, may be punished by a fine not to exceed $500, exclusive of any applicable surcharges and penalty assessments required by local or state law, and by up to 30 days in jail, or both. The court may, in its discretion, impose a period of probation upon anyone convicted of a violation of any provisions of this code of up to 12 months.

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

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

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

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

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

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

Statutory reference:

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

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

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: TOWN COUNCIL

Section

GENERAL PROVISIONS

§ 30.01 COMPOSITION.

The Town Council consists of a Mayor and six Council members.

(Prior Code, Ch. 2, Art. II, § 2-26) (Ord. 16, passed 11-15-1979; Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

Statutory reference:

Size of Town Council, see A.R.S. § 9-231

§ 30.02 TERMS.

Council members hold office for staggered terms of four years each and until their successors are elected and qualified.

(Prior Code, Ch. 2, Art. II, § 2-27) (Res. 78, passed 11-15-1979; Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

Statutory reference:

Authority to so provide, see A.R.S. § 9-232.02

§ 30.03 ELECTION OF MAYOR

(A) *Direct election of the Mayor.* Beginning with the election to be held on March 26, 1996, the Mayor of the town shall be directly elected by the qualified electors of the town.

(B) *Term of office.* The term of office of the Mayor shall be four years.

(Prior Code, Ch. 2, Art. II, § 2-32) (Ord. 175-94, passed 2-7-1994; Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

Statutory reference:

Similar provisions, see A.R.S. § 9-232.03

§ 30.04 POWERS, DUTIES OF MAYOR.

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

(A) 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.

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

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

(D) He or she shall perform the other duties required by state statute and this code as well as those duties required as chief

executive officer of the municipality.

(Prior Code, Ch. 2, Art. II, § 2-30) (Ord. 653-2017, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

Statutory reference:

Duties of Mayor, see A.R.S. § 9-236

§ 30.05 SELECTION OF VICE MAYOR.

At the same meeting at which Council is seated, 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.

(Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

§ 30.06 TEMPORARY PRESIDING OFFICER.

(A) In the absence or disability of both the Mayor and Vice Mayor, the Council meeting shall be called to order by the Town Clerk, whereupon, the Town Clerk shall immediately call for the selection of a temporary presiding officer. The Council members present shall, by majority vote, select a temporary presiding officer for that meeting, who shall have all the powers, duties and responsibilities of the Mayor during his or her absence or disability.

(B) Upon arrival of the Mayor or Vice Mayor, the Vice Mayor or temporary presiding officer shall immediately relinquish the chair upon the conclusion of the business immediately before the Town Council.

(Prior Code, Ch. 2, Art. II, § 2-29) (Ord. 381-05, passed 5-16-2005; Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

Statutory reference:

Town Council generally, see A.R.S. §§ 9-232.039-231et seq.

§ 30.07 COMPENSATION OF MAYOR AND COUNCIL.

The Mayor and each Council member shall receive the following compensation on a monthly basis:

(A) The Mayor shall receive $650 for each month of service.

(B) Each Council member shall receive $450 for each month of service.

(Prior Code, Ch. 2, Art. II, § 2-31) (Res. 181, passed 7-2-1984; Ord. 178-94, passed 4-4-1994; Ord. 395-05, passed 7-19-2005; Ord. 560-11, passed 6-6-2011; Ord. 572-12, passed 3-5-2012; Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

§ 30.08 TRAVEL REIMBURSEMENT.

In addition to monthly compensation, each Council member shall be reimbursed for the following:

(A) Gasoline for liaison duties outside the town limits on the same basis as town employees and as allowed by the annual budget.

(B) Training and conferences as are deemed beneficial to the town and as allowed by the annual budget.

(Ord. 653-17, passed 4-3-2017; Ord. 653-17A, passed 4-17-2017)

RULES OF ORDER AND PROCEDURE

§ 30.20 SUSPENSION OF RULES.

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

(Prior Code, Ch. 2, Art. II, § 2-41)

§ 30.21 REGULAR MEETINGS.

The Council shall hold regular meetings on the first and third Monday of each month at 6:00 p.m., provided that when the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal holiday, the meeting shall be held at the same hour on the next succeeding day not a holiday. The Council will not hold regular meetings on the first Monday in July nor the third Monday in December. If town business requires the town to hold a meeting on either of these dates, the meeting will be a special meeting.

(Prior Code, Ch. 2, Art. II, § 2-42) (Ord. 44, passed 5-5-1983; Ord. 66, passed 2-13-1985; Ord. 201-95, passed 8-21-1995; Ord. 305-01, passed 4-16-2001; Ord. 496-08, passed 12-1-2008; Ord. 654-17, passed 4-17-2017)

Statutory reference:

Authority to prescribe rules of order, see A.R.S. § 9-234

Regular meeting time to be established by ordinance, see A.R.S. § 9-233

§ 30.22 LOCATION OF MEETINGS.

All Council meetings, whether regular or special, shall be held in the Town Hall unless the Council shall determine that it is necessary or expeditious to hold a meeting in another location, in which case the date, hour, agenda and location of the meeting shall be posted in accordance with A.R.S. Title 38, Chapter 3, Art. 3.1, §§ 38-431 *et seq*.

(Prior Code, Ch. 2, Art. II, § 2-43) (Ord. 66, passed 2-13-1985)

Statutory reference:

Place of meetings to be determined by ordinance, see A.R.S. § 9-233

§ 30.23 SPECIAL MEETINGS.

(A) The Mayor or the Town Manager, or at the request of two Council members, may call a special meeting of the Town Council for a time not earlier than 24 hours after the later of:

(1) The notice being given to all Council members; or

(2) The agenda being posted, except in the case of an actual emergency. In the event of an actual emergency, such notice as is practicable under the circumstances shall be given. Notice of all the Town Council meetings must be made pursuant to state law.

(B) Special meetings are held for the purpose of presentation, discussion, citizens comment or action of the Town Council on issues deemed necessary to further the business of the town.

(Prior Code, Ch. 2, Art. II, § 2-44) (Ord. 15, passed 10-12-1979; Ord. 381-05, passed 5-16-2005; Ord. 626-15, passed 4-6-2015)

Statutory references:

Authority of Mayor to call meeting, see A.R.S. § 9-233

Notice of meetings, see A.R.S. § 38-431.02

§ 30.24 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 Town Clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the Council, and prepare an agenda according to the order of business and shall furnish each Council member, the Mayor and the Town Attorney with a copy.

(Prior Code, Ch. 2, Art. II, § 2-45)

§ 30.25 ORDER OF BUSINESS.

The business of the Council shall be taken for consideration and disposition in the following order.

(A) *Call to Order.* The Mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the Council to order. In the absence of the Mayor, the Vice-Mayor shall call the Council to order. In the absence of both the Mayor and Vice-Mayor, the Town Clerk shall call the Council to order and an acting Mayor shall be selected to chair the meeting. Upon the arrival of the Mayor or the Vice-Mayor, the Vice-Mayor or acting Mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the Council. The Mayor shall preserve order and decorum, decide all questions of order and conduct of the meeting, using as a guideline only the parliamentary rules contained in town's adopted rules of order, or *Robert's Rules of Order*, or the Town of Florence Council rules of procedure. Strict adherence to *Robert's Rules of Order* is not necessary.

(B) *Roll call.* Before proceeding with the business of the Council, the Town Clerk, or his or her deputy, shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present must adjourn.

(C) *Moment of silence.*

(D) *Pledge of Allegiance.*

(E) *Call to the public.* Oral comments or suggestions from the citizens of the town who are present at Council meetings and wish to comment on issues before the Council involving the establishment of policies, procedures, programs, the expenditure of public funds and acquisition, use and maintenance of public facilities and improvements, shall be heard by the Council. All remarks shall be addressed to the Council as a whole and shall be limited to three minutes per person, unless additional time is granted by the Mayor or by consensus of the Council. No person other than the individual recognized by the Council shall be allowed to speak either in person or by proxy through the reading of written documents. However, the Council shall receive and later consider, at its discretion, any and all written petitions or communications which any member of the public wishes to present to it. At the conclusion of all public comments, the Mayor or any Council member may:

(1) Respond to citizen criticism;

(2) Ask staff to review the matter;

(3) Ask the matter be placed on a future Council agenda; and

(4) Thank the individual for his or her comments.

(F) *Public hearings/presentation.*

(G) *Consent agenda.* Routine matters requiring Council approval, but which do not require discussion, may be approved during the portion of the meeting by one all-encompassing motion, provided however, that any item may be removed from the consent agenda and shall be separately heard at the start of the unfinished or new business agenda. If any member of the Council or public requests.

(H) *Unfinished business.* The Council shall consider any business that has been previously considered and which is still unfinished.

(I) *New business.* The Council shall consider any business not heretofore considered, including introduction of ordinances.

(J) *Reports by officers.* Municipal officials and committees shall present any report required by the Council.

(K) *Call to the public.* Oral comments or suggestions from the citizens of the town who are present at Council meetings and wish to comment on issues within the jurisdiction of the Town Council, shall be heard by the Council. All remarks shall be addressed to the Council as a whole and shall be limited to three minutes per person, unless additional time is granted by the Mayor or by consensus of the Council. No person other than the individual recognized by the Council shall be allowed to speak either in person or by proxy through the reading of written documents. However, the Council shall receive and later consider, at its discretion, any and all written petitions or communications which any member of the public wishes to present to it. At the conclusion of all public comments, the

Mayor or any Council member may:

(1) Respond to citizen criticism;

(2) Ask staff to review the matter;

(3) Ask the matter be placed on a future Council agenda; and

(4) Thank the individual for his or her comments.

(L) *Call to the Council.* Oral comments or suggestions from individual Council members reading items or staff action will be allowed at this time. This is not intended to allow discussion or action on any item, but merely to provide the Council a chance to express its opinions regarding the need for future action by Council or staff.

(Ord. 585-12, passed 9-17-2012; Ord. 626-15, passed 4-6-2015)

§ 30.26 ADJOURNMENT.

The Council may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

(Prior Code, Ch. 2, Art. II, § 2-47)

§ 30.27 VOTING.

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

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

(C) All members of the Council in attendance at a duly called meeting that requires formal Council action must vote, unless the issue involves the conduct of that Council member or a matter in which that Council member has declared a conflict of interest. In all other cases, a failure to vote shall be recorded as an affirmative vote.

(D) Any member of the Council who voted with the majority may move for reconsideration of any action at the same or next available Council meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without the unanimous consent of the Council.

(E) On a tie vote, a motion requiring a majority vote for adoption is a lost motion. When all members of Council are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of the appeal, unless the Council takes other action to further consider the matter.

(Prior Code, Ch. 2, Art. II, § 2-48) (Ord. 381-05, passed 5-16-2005)

Statutory reference:

Similar provisions, see A.R.S. § 9-234

ORDINANCES AND CONTRACTS

§ 30.45 ACTION TAKEN BY ORDINANCE.

In addition to other acts required by law or by specific provision in the Code of Ordinances of the Town of Florence, those acts of the town shall be by ordinance which:

(A) Adopt, amend, or repeal another ordinance or Town Code or establish, alter or abolish any town department, office or agency;

(B) Provide for a fine or penalty or establish rules or regulations for violation of which a fine or other penalty is imposed;

(C) Levy any tax or assessment; and/or

(D) Sell or lease public property.

(Ord. 639-15, passed 9-21-2015)

§ 30.46 ADOPTING ORDINANCE BY REFERENCE.

(A) The Council may enact the provisions of a code or public record theretofore in existence without setting forth such provisions, but the adopting ordinance shall be published in full. At least three paper copies of the code or public record shall be filed in the Office of the Town Clerk and kept available for public use and inspection. A code or public record enacted by reference may be amended in the same manner.

(B) No penalty clause may be enacted by reference thereto. A penalty clause contained in a code or public record adopted by reference shall be set forth in full in the adopting ordinance.

(Ord. 639-15, passed 9-21-2015)

§ 30.47 READING AND PASSAGE OF ORDINANCES AND RESOLUTIONS.

(A) All proposed ordinances and resolutions shall be subject to the following requirements for passage at any meeting of the Council:

(1) Copies of proposed ordinances and proposed resolutions shall be in the possession of the Mayor and Council at least 72 hours prior to the meeting;

(2) By request of the Mayor or any member of Council, a full reading of the ordinances or resolution heretofore mentioned shall be ordered, otherwise such ordinance or resolution heretofore mentioned shall be read by number and title only. The measure may be passed and adopted after the required reading(s); and

(3) Copies of titles of proposed ordinances and resolutions heretofore mentioned shall be available to the public for examination at Town Hall 72-hours prior to when the Council convenes to act upon the ordinance or resolution.

(B) No ordinance, except those that are budgetary, otherwise statutorily required, or those declared to be an emergency, shall be put on an agenda for final passage on the same day on which it was introduced. All ordinances, except those that are budgetary, otherwise statutorily required, or those declared to be an emergency, shall have two separate readings, each on different days.

(Ord. 639-15, passed 9-21-2015)

§ 30.48 EMERGENCY MEASURES: EFFECTIVE DATE.

An emergency measure must be passed by the affirmative vote of three-fourths of all members of the Council for the immediate preservation of the public peace, health or safety of the town. An emergency measure shall take effect immediately upon its passage. Approval must be by a vote taken by ayes and noes, and approved by the Mayor. The emergency measure shall state in a separate section the reasons why it is necessary that it should become immediately operative.

(Ord. 639-15, passed 9-21-2015)

§ 30.49 SIGNATURES REQUIRED ON ORDINANCE.

Every ordinance passed by the Council shall, before it becomes effective, be signed by the Mayor, approved as to form by the Town Attorney, and attested by the Town Clerk.

(Ord. 639-15, passed 9-21-2015)

§ 30.50 PUBLISHING ORDINANCES.

(A) All ordinances, except those necessary for the immediate preservation of the peace, health or safety of the town, and resolutions having the effect of ordinances, shall be published for two consecutive weeks in the official newspaper of the town before they become effective and operative.

(B) Emergency ordinances necessary for the immediate preservation of the peace, health or safety of the town which have been passed by the necessary three-fourths vote of all members of the Council and become effective and operative immediately shall also be published two consecutive weeks in the official newspaper of the town within 20 days after their passage.

(Ord. 639-15, passed 9-21-2015)

§ 30.51 POSTING OF ORDINANCE WITH PENALTIES.

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

(Ord. 639-15, passed 9-21-2015)

§ 30.52 RECORDING OF CERTAIN ORDINANCES.

Ordinances that extend or change the boundaries of the town, zoning, or establish or vacate streets, alleys, or subdivisions, after publication and adoption shall be recorded in the office of the Pinal County Recorder, after being so recorded, the same shall constitute public notice to all parties.

(Ord. 639-15, passed 9-21-2015)

§ 30.53 CODIFICATION OF ORDINANCES.

Ordinances affecting town rules and operations shall be codified in the Florence Code of Ordinances, more commonly known as Town Code.

(Ord. 639-15, passed 9-21-2015)

ELECTIONS

§ 30.70 PRIMARY ELECTION.

Any candidate for a municipal office who shall receive at the primary election a majority of all the votes 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 the candidate. Nothing on the ballot in any election shall be indicative of the support of the candidate.

(Prior Code, Ch. 6, § 6-1)

Statutory reference:

Authority to so provide, see A.R.S. § 9-821.01

§ 30.71 GENERAL ELECTION NOMINATION.

If at any primary election held as provided in § 30.70, there be any office or offices for which no candidate is elected, then as to the office or offices, the election shall be considered to be a primary election for nomination of candidates for the office or offices, and the second or general municipal election shall be held to vote for candidates to fill the office or offices. Candidates to be placed on the ballot at the second or general municipal election shall be those not elected at the first election, shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election

ballot, and persons who receive the highest number of votes for the respective offices at the first election shall be the only candidates at the second 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, all the persons receiving an equal number of votes shall likewise become candidates for the office.

(Prior Code, Ch. 6, § 6-2)

§ 30.72 ELECTION TO OFFICE.

The candidates equal in number to the persons to be elected who receive the highest number of votes shall be declared elected.

(Prior Code, Ch. 6, § 6-3)

§ 30.73 DATES OF ELECTION.

Beginning with elections held in 2014 and later and notwithstanding any other law to the contrary, a candidate election other than a special election to fill a vacancy or a recall election may only be held on the following dates and only in even-numbered years:

(A) Primary Election will be the tenth Tuesday before the first Tuesday after the first Monday in November.

(B) General Elections, if required, will be the first Tuesday after the first Monday in November.

(C) Beginning with elections held in 2014 and later that are not candidate elections, including a special election to fill a vacancy or a recall election, may only be held on the following dates:

(1) The second Tuesday in March.

(2) The third Tuesday in May.

(3) The tenth Tuesday before the first Tuesday after the first Monday in November.

(4) The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes, except as provided by A.R.S. Title 48.

(Prior Code, Ch. 6, § 6-4) (Ord. 242-97, passed 7-21-1997; Ord. 627-15, passed 3-16-2015)

Statutory reference:

Authority to establish election date, see A.R.S. § 9-231

§ 30.74 INITIATIVE AND REFERENDUM.

This section shall comply with and be automatically updated to current applicable Arizona Revised Statutes to include A.R.S. §§ 19-124 and 19-141 and other relevant sections as they may apply.

(A) *Power reserved; time of election.* There is reserved to the qualified electors of the town, the power of the initiative and the referendum as prescribed by the state Constitution. Any initiative or referendum matter may be voted on at the next ensuing primary or general election, or at a special election called by the Mayor and Council.

(B) *Time of filing.*

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

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

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

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

(2) The pamphlet shall contain the proposition as it will appear on the ballot together with a summary of each proposition. Each summary shall be followed by any arguments supporting the proposition followed by any arguments opposing the proposition.

(3) Arguments supporting and opposing the propositions appearing on the ballot shall be filed with the office of the Town Clerk not less than 90 days prior to the election at which the propositions are to be voted upon. Arguments supporting or opposing propositions appearing on the ballot shall meet the following requirements:

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

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

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

(d) Arguments must be signed by the person submitting them. Arguments submitted by organizations shall be signed on behalf of the organization by one executive officer of the organization authorized to take the action, or if a political committee, by the Chairperson or Treasurer. All persons signing documents shall indicate their residence or post office address and a telephone number.

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

(f) Each argument shall be accompanied by a deposit to offset proportional costs of printing. This requirement shall not be waived on any account. For deposit amount, see Town of Florence Schedule of Fees.

(Prior Code, Ch. 6, § 6-5) (Ord. 334-03, passed 3-3-2003)

§ 30.75 CIRCULATION OF INITIATIVE AND REFERENDUM PETITIONS.

(A) No person shall circulate an initiative or referendum petition relating to a municipality issue unless that person is a qualified elector within the municipality.

(B) In determining the number of signatures required to file an initiative petition, the computation shall be based upon the total number of electors of the municipality registered to vote on the date that the initiative petition is filed with the municipality Town Clerk.

(Prior Code, Ch. 11, Art. I, § 11-3) (Ord. 263-98, passed 9-21-1998) Penalty, see § 10.99

CHAPTER 31: TOWN OFFICIALS

Section

GENERAL PROVISIONS

§ 31.001 OFFICES CREATED.

There are hereby created the Offices of Town Clerk, Town Attorney, Magistrate, Associate Magistrate and Town Manager.

(A) The following position(s) shall be appointed by the Council and shall serve "at will" at the pleasure of the Council and shall have only the rights and benefits as established in their individual employment contracts and as otherwise established under state and federal law and town ordinance.

(1) Town Manager;

(2) Town Magistrate;

(3) Town Attorney; and

(4) Town Clerk.

(B) The following position(s) shall be appointed and removed by the Town Manager and shall perform the duties of the office under the direction and supervision of the Magistrate. These positions shall have no term of office, shall be "at will", and shall report directly to the Magistrate: Associate Magistrate.

(C) The Council may create other offices as it may deem necessary and that are not provided for in this code or state statutes.

(Prior Code, Ch. 2, Art. III, § 2-86) (Ord. 29, passed 5-21-1981; Ord. 192-95, passed 4-17-1995; Ord. 340-03, passed 6-2-2003; Ord. 381-05, passed 5-16-2005; Ord. 439-06, passed 8-21-2006; Ord. 452-06, passed 1-2-2007 ; Ord. 506-09, passed 5-18-2009)

§ 31.002 VACANCIES; HOLDING MORE THAN ONE OFFICE.

Any vacancy that shall occur in any municipal 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 municipal official may be validly performed and discharged by a deputy or another municipal official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

(Prior Code, Ch. 2, Art. III, § 2-87)

§ 31.003 ADDITIONAL POWERS AND DUTIES.

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

(Prior Code, Ch. 2, Art. III, § 2-88)

TOWN CLERK

§ 31.020 RECORDS GENERALLY.

The Town 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 municipality or that the Council directs. The Town Clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.

(Prior Code, Ch. 2, Art. III, § 2-101)

§ 31.021 PUBLIC INSPECTION OF RECORDS.

The Town Clerk shall keep convenient for public inspection all public records and public documents under his or her control, as provided by state statute.

(Prior Code, Ch. 2, Art. III, § 2-102)

Statutory reference:

Inspection of public records, see A.R.S. § 39-121

§ 31.022 MONTHLY REPORTS.

The Town Clerk shall prepare and collect from municipal officers and employees, the monthly reports prepared in the manner and to include the information as may serve the Council.

(Prior Code, Ch. 2, Art. III, § 2-103) (Ord. 381-05, passed 5-16-2005)

§ 31.023 MINUTES.

The Town Clerk shall prepare, or cause to be prepared, all minutes of Council proceedings and ensure their correctness and accuracy.

(Prior Code, Ch. 2, Art. III, § 2-104)

Statutory reference:

Council journal required, see A.R.S. § 9-234

§ 31.024 ORDINANCES, RESOLUTIONS, BUDGETS AND NOTICES.

The Town 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.

(Prior Code, Ch. 2, Art. III, § 2-105)

Statutory reference:

Publication of proceedings and ordinances, see A.R.S. §§ 9-811et seq. and 39-204

§ 31.025 ELECTION OFFICIAL.

The Town Clerk shall be the municipal election official and perform those duties required by state statute.

(Prior Code, Ch. 2, Art. III, § 2-107)

§ 31.026 ADMINISTRATIVE DUTIES.

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

(Prior Code, Ch. 2, Art. III, § 2-109)

TOWN ATTORNEY

§ 31.045 DUTIES GENERALLY.

The Town Attorney shall act as the legal counselor and advisor of the Council and other municipal officials, and shall give his or her opinion in writing when requested.

(Prior Code, Ch. 2, Art. III, § 2-131)

§ 31.046 DRAFTING, APPROVAL OF DOCUMENTS.

The Town Attorney shall draft or approve all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the Council. 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.

(Prior Code, Ch. 2, Art. III, § 2-132)

§ 31.047 RECOMMENDATIONS ON LEGISLATION.

The Town Attorney shall return, within ten 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 thereof.

(Prior Code, Ch. 2, Art. III, § 2-133) (Ord. 381-05, passed 5-16-2005)

§ 31.048 LITIGATION.

The Town Attorney shall prosecute and defend all suits, actions or causes where the municipality is a party, and shall report to the Council, when required, the condition of any suit or action to which the municipality is a party.

(Prior Code, Ch. 2, Art. III, § 2-134)

TOWN MANAGER

§ 31.065 OFFICE CREATED.

The Office of Town Manager is created.

(Prior Code, Ch. 2, Art. III, § 2-156) (Ord. 230-97, passed 2-10-1997)

§ 31.066 APPOINTMENT AND QUALIFICATIONS.

The Town Manager shall be appointed by a majority vote of the Town Council for an indefinite term. He or she shall be chosen by the Council solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in or his or her knowledge of accepted practices in respect to the duties of his or her office hereinafter set forth. At the time of his or her appointment, he or she need not be a resident of the municipality or the state, but during his or her tenure of office he or she shall reside within the municipality. No Council member shall receive the appointment during the term for which he or she shall have been elected.

(Prior Code, Ch. 2, Art. III, § 2-157) (Ord. 230-97, passed 2-10-1997; Ord. 381-05, passed 5-16-2005)

§ 31.067 OFFICIAL BOND.

The Town Manager shall furnish a surety bond in the sum as fixed by the Council. To be approved by the Council, the bond to be conditioned on the faithful performance of his or her duties. The premium of the bond shall be paid by the municipality.

(Prior Code, Ch. 2, Art. III, § 2-158) (Ord. 230-97, passed 2-10-1997)

Statutory reference:

Town Manager authorized, see A.R.S. § 9-303

§ 31.068 COMPENSATION.

The Town Manager shall receive the compensation as the Council shall fix from time to time.

(Prior Code, Ch. 2, Art. III, § 2-159) (Ord. 230-97, passed 2-10-1997)

§ 31.069 COUNCIL INTERFERENCE WITH APPOINTMENTS OR REMOVALS.

Neither the Council nor any of its members shall direct or request the appointment of any person to, or his or her removal from, office by the Town Manager or any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the municipality under the jurisdiction of the Town Manager. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Town Manager and neither the Council nor any Member thereof shall give orders to any subordinates of the Town Manager, either publicly or privately.

(Prior Code, Ch. 2, Art. III, § 2-160) (Ord. 230-97, passed 2-10-1997)

§ 31.070 REMOVAL OF TOWN MANAGER.

The Town Council may remove the Town Manager at any time by a majority vote of its members without cause. The Town Manager has the right per A.R.S. § 38-431.03(A)(1) to have the matter heard in a public meeting. The Town Council shall give the Town Manager seven days written notice of the meeting.

(Prior Code, Ch. 2, Art. III, § 2-161) (Ord. 381-05, passed 5-16-2005)

§ 31.071 POWER AND DUTIES OF TOWN MANAGER.

(A) The Town Manager shall be the chief administrative officer of the town, may head one or more departments and shall be responsible to the Town Council for the proper administration of all affairs of the town.

(B) To that end, the Town Manager shall have the power and shall be required to:

(1) Appoint and, when necessary for the good of the public, suspend or remove all officers and employees of the town pursuant to § 31.001. The Town Manager may authorize the head of a department or office to appoint, suspend or remove subordinates in the department or office. All appointments and removals of officers and employees shall be based solely on the merit, qualifications or disqualifications of the official concerned without regard to political beliefs or affiliations;

(2) Oversee the preparation of the budget annually and submit it to the Town Council together with a message describing the important features and be responsible for its administration after adoption;

(3) Prepare and submit to the Town Council as of the end of the fiscal year a complete report on the finances and administrative activities of the Town Council for the preceding year;

(4) Keep the Town Council advised of the financial condition and future needs of the town, and make recommendations as may be deemed desirable;

(5) Recommend to the Town Council a standard schedule of pay for each appointed office and position in the town service, including minimum, intermediate and maximum rates;

(6) Recommend to the Town Council, from time to time, adoption of the measure as may be deemed necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services;

(7) Direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by ordinance or law;

(8) Consolidate or combine offices, positions, departments or units under his or her jurisdiction, with the approval of the Town Council;

(9) Attend all meetings of the Town Council unless excused there from and take part in the discussion of all matters coming before the Town Council. The Town Manager shall be entitled to notice of all regular and special meetings of the Town Council;

(10) Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget, let contracts necessary for operation or maintenance of the town services for amounts identified in the town's purchasing policy;

(11) See that all laws and ordinances are duly enforced;

(12) Investigate the affairs of the town or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the town, and in regard to service maintained by the public utilities in the town, and see that all franchises, permits and privileges granted by the town are faithfully observed;

(13) Devote his or her entire time to the discharge of all official duties; and

(14) Perform other duties as may be required by the Town Council, not inconsistent with law or ordinances.

(C) Authority to receive criminal justice record information:

(1) The Town Manager or designee is authorized to request and receive criminal history information from the Arizona Department of Public Safety, as provided in A.R.S. § 41-1750, for the purpose of evaluating the fitness of any and all prospective employees, contract employees and for town volunteers.

(2) Each candidate for any paid town position, prospective town employee, contract employee and town volunteers who work at on-site town locations and have duties that include working with youths or potentially vulnerable populations, or who may have access

to confidential information or town assets, shall submit a full set of fingerprints to the town for the purpose of obtaining a state and federal criminal records check, pursuant to A.R.S. § 41-1750 and Pub. Law 92-544, being 86 Stat. 1115. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. The contract employees and volunteers to which this section applies are those who will provide services at on-site town locations and/or will have duties that include working with youth or potentially vulnerable populations, or who may have access to confidential information or town assets.

(3) The Town Manager or designee shall submit the fingerprints of the individuals for whom criminal history is sought to the Arizona Department of Public Safety, along with any and all prescribed fees. The Florence Police Department shall assist, as necessary, in obtaining the fingerprints required by this section.

(4) The town will comply with any relevant state and federal laws, rules and regulations that may relate to the dissemination of the criminal history information, which is the subject of this section.

(Prior Code, Ch. 2, Art. III, § 2-162) (Ord. 381-05, passed 5-16-2005; Ord. 458-07, passed 2-20-2007; Ord. 582-12, passed 8-20-2012)

§ 31.072 EMERGENCY EXPENDITURES.

In case of a circumstance creating a public emergency, the Town Manager may award contracts and make purchases for the purpose of meeting the emergency, but the Town Manager shall file promptly with the Town Council a report showing the emergency and the necessity for the action, together with an itemized account of all expenditures.

(Prior Code, Ch. 2, Art. III, § 2-163) (Ord. 381-05, passed 5-16-2005)

§ 31.073 ABSENCE OF TOWN MANAGER.

To perform his or her duties during his or her temporary absence or disability, the Town Manager may designate by letter filed with the Town Clerk, and distributed to Council, a qualified administrative officer of the town. In the event of failure of the Town Manager to make the designation, the Council may, by resolution, appoint any administrative officer of the town to perform the duties of the Town Manager until he or she shall return or his or her disability shall cease.

(Prior Code, Ch. 2, Art. III, § 2-164) (Ord. 381-05, passed 5-16-2005)

§ 31.074 VACANCY.

Any vacancy in the Office of the Town Manager shall be filled within 90 days after the effective date of the vacancy.

(Prior Code, Ch. 2, Art. III, § 2-165) (Ord. 381-05, passed 5-16-2005)

CHAPTER 32: TOWN ORGANIZATIONS

Section

General Provisions

Cross-reference:

Board of Adjustment, see § 150.008

GENERAL PROVISIONS

§ 32.001 POWERS OF COUNCIL.

(A) The Council may create the boards, commissions and committees, standing or special, as it deems necessary. In addition, the

Council may provide aid and assistance from the administrative staff of the municipality to any board, commission or committee as may be necessary.

(B) Any board, commission and committee created by the Council shall be responsible to the Council and shall function in an advisory capacity to the Council.

(C) Any board, commission and committee created by the Council shall serve at the will of the Council and may be dissolved by the Council at any time that the Council determines that the board, commission or committee has fulfilled the function for which it was created or that its advice and service is no longer needed by the Council.

(D) There shall be the following boards, commissions and committees:

(1) Library Advisory Board;

(2) Redevelopment Commission;

(3) Historic District Advisory Commission;

(4) Parks and Recreation Advisory Board;

(5) Planning and Zoning Commission;and

(6) Arts and Culture Commission.

(Prior Code, Ch. 6, Art. V, § 2-211) (Ord. 99, passed 9-21-1987; Ord. 381-05, passed 5-16-2005; Ord. 628-15, passed 4-6-2015)

§ 32.002 MEMBERSHIP.

(A) All boards, commissions and committees of the municipality shall have five members unless a motion, resolution or ordinance creating the board, commission or committee specifies a different number of members.

(B) Each board, commission or committee shall as nearly as possible have an integrated or balanced membership with representatives of each race, sex and geographical area of the municipality.

(C) The Council shall, in making the appointment, take into consideration each person's knowledge, background, interest, experience and availability to perform the work and duties of the board, commission or committee. The applicant's political affiliation shall also be considered in making the appointment.

(D) No member of any board, commission or committee may concurrently serve on any other board, commission or committee of the municipality.

(E) All members shall be bona fide residents of the municipality and a registered voter, if 18 years of age or older, unless a motion, resolution or ordinance creating a board, commission or committee specifies otherwise, and shall serve without pay or compensation, except that a member shall be reimbursed for his or her actual and necessary expenses incurred in the performance of his or her official duties, provided that the expenses are approved by the Council prior to being incurred. Town employees or appointed officers shall not be eligible for appointment to any board, commission and committee, but may be requested to provide staff support thereto.

(Prior Code, Ch. 6, Art. V, § 2-212) (Ord. 99, passed 9-21-1987; Ord. 266-98, passed 10-19-1998; Ord. 381-05, passed 5-16-2005; Ord. 628-15, passed 4-6-2015)

§ 32.003 APPOINTING COMMITTEE AND APPOINTMENTS.

(A) The Mayor may create an Appointing Committee, and designate a Chairperson for board, commission and committee appointments. This subcommittee shall be made up of three members of the Council or appropriate board, commission or committee. The Mayor may appoint himself or herself to the Appointing Committee. The purpose of the Appointing Committee is to interview applicants and recommend candidates to the Council.

(B) If no subcommittee is created, the Council shall conduct interviews and appoint individuals to the appropriate board, commission or committee. All members of boards, commissions and committees created under this subchapter shall be appointed by members of the Council.

(C) Upon a vacancy occurring on any board, commission or committee for any reason, a new member shall be appointed by the Council to fill only the unexpired term.

(D) The Council may appoint alternates to serve on boards, commissions and committees when a vacancy occurs. Alternates may attend meetings but shall not participate until the times as a vacancy has occurred and the alternate has filled the vacancy. If the Council appoints more than one alternate for a particular board, commission or committee, the Council shall designate the alternates as first alternate, second alternate, and so on, such that immediately upon a vacancy, the first alternate shall fill the vacancy without the need for further Council action.

(Prior Code, Ch. 6, Art. V, § 2-213) (Ord. 99, passed 9-21-1987; Ord. 381-05, passed 5-16-2005)

§ 32.004 TERM OF OFFICE.

(A) Unless otherwise stated in the resolution, minutes or ordinance creating a board, commission or committee under this subchapter, an appointment shall be for a term of three years, and the term for appointment shall commence on January 1 of the applicable year. Any member of a board, commission or committee may be removed at any time before the expiration of his or her term upon the majority vote of the Council of the municipality at any regular or special Council meeting at which a quorum is present, and the removal was placed upon the agenda as a regular item for consideration and voted upon at the meeting.

(B) Notwithstanding the provisions of division (A) above and unless the motion, resolution or ordinance creating the board, commission or committee says otherwise, the Council shall initially appoint members to each board, commission or committee of the municipality so that members shall have overlapping terms; that is, an odd number of members, in the case of a five member board, three members, on the board, commission or committee shall be appointed so that their term will expire on January of one year and two members on January of the subsequent year.

(C) Each member shall serve until his or her successor is duly appointed and qualified.

(D) Before the Council shall appoint any new member to any board, commission or committee, the board, commission or committee shall recommend to the Appointing Committee, or if no Appointing Committee is created by the Mayor, the Council, for its consideration, at least one qualified person for each vacant position. The recommendations shall be advisory only and shall not bind the Council to make the appointment. Each board, commission or committee shall make recommendations in writing prior to 30 days before the expiration of a regular member's term or within 30 days after a vacancy otherwise occurs, and in the event that the board, commission or committee shall fail or neglect to make the recommendation within the periods, then the Council shall be free to appoint any qualified person to fill the vacancy on the board, commission or committee.

(Prior Code, Ch. 6, Art. V, § 2-214) (Ord. 99, passed 9-21-1987; Ord. 381-05, passed 5-16-2005)

§ 32.005 REMOVAL FROM OFFICE.

Any one of the following shall constitute the resignation of a member and authorize the appointment of a new member to fill the unexpired portion of the term so vacated:

(A) Absence from three consecutive regular meetings of the board, commission or committee;

(B) Ceasing to be a resident of the municipality;

(C) Insanity when judicially determined;

(D) Conviction of a felony or an offense involving a violation of his or her official duties; and

(E) A violation of the town's Code of Ethics.

(Prior Code, Ch. 6, Art. V, § 2-215) (Ord. 99, passed 9-21-1987; Ord. 381-05, passed 5-16-2005)

§ 32.006 DUTIES.

(A) Each board, commission or committee shall have the powers and duties as prescribed by the statutes and laws of the state pertaining to the board, commission or committee, this chapter and as prescribed by the Council.

(B) When a public hearing is conducted by a board, commission or committee, it shall make a written report and recommendation on the matters to the Council, within 15 days after completing its hearing, provided that if the Council requests an immediate report, the board, commission or committee shall make its report within seven days after the request.

(C) The Council shall not take any action on any matter within the jurisdiction of any board, commission or committee until after the receipt from the board, commission or committee of its report and recommendations; provided, however, the recommendations shall not be binding upon the Council and are advisory only.

(D) The Mayor, Council or Town Manager of the municipality shall have the right to refer matters within the jurisdiction of the board, commission or committee for consideration, report and recommendation.

(Prior Code, Ch. 6, Art. V, § 2-216) (Ord. 99, passed 9-21-1987; Ord. 381-05, passed 5-16-2005)

§ 32.007 OFFICERS.

Each board, commission or committee shall elect its own Chairperson, Vice Chairperson and officers at the first meeting following January 1 of each year, unless state law or town ordinance established an alternate procedure for a specific board, commission or committee. The Chairperson, or a designate of choice, shall report in person to the Council each December on matters of public interest and need in relation to resources, services or activities.

(Prior Code, Ch. 6, Art. V, § 2-217) (Ord. 381-05, passed 5-16-2005; Ord. 628-15, passed 4-6-2015)

§ 32.008 TEMPORARY PRESIDING OFFICER.

(A) In the absence or disability of the chairperson or vice chairperson on any board, commission or committee, the meeting shall be called to order by the staff liaison, whereupon, the staff liaison shall immediately call for the selection of a temporary presiding officer. The board, commission or committee members present shall, by majority vote, select a temporary presiding officer for that meeting, who shall have all the powers, duties and responsibilities of the chairperson during the absence or disability.

(B) Upon arrival of the chairperson or vice chairperson, the vice chairperson or presiding officer shall immediately relinquish the chair upon the conclusion of the business immediately before the board, commission or committee.

(Prior Code, Ch. 6, Art. V, § 2-218) (Ord. 381-05, passed 5-16-2005)

§ 32.009 MEETINGS.

(A) All boards, commissions and committees may be called by the chairperson or in his or her absence the vice chairperson, or at the request of three board, commission or committee members shall call a special meeting for a time not earlier than 24 hours after the later of:

(1) The notice being given to all board, commission or committee members; or

(2) The agenda is posted.

(B) Notice of all the meetings must be made pursuant to state law.

(Prior Code, Ch. 6, Art. V, § 2-219) (Ord. 381-05, passed 5-16-2005)

§ 32.010 VOTING.

(A) A board, commission and committee member may abstain from voting only upon a declaration that he or she has a conflict of interest, in which case the member shall take no part in the deliberations on the matter in question.

(B) All members of boards, commissions and committees in attendance at a duly called meeting that requires formal action must vote, unless the issue involves the conduct of that board, commission or committee member or a matter which that member has declared a conflict of interest. In all other cases, a failure to vote shall be recorded as an affirmative vote.

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

(Prior Code, Ch. 6, Art. V, § 2-220) (Ord. 381-05, passed 5-16-2005)

§ 32.011 AGENDA.

At least 24 hours prior to each board, commission or committee meeting, the agenda shall be distributed to members and posted in accordance with all state and town laws.

(Prior Code, Ch. 6, Art. V, § 2-221) (Ord. 381-05, passed 5-16-2005)

§ 32.012 FEES.

Boards, commissions and committees shall be authorized to establish and recommend a uniform schedule of fees for the services within their jurisdiction with all receipts to be paid into the general fund of the municipality. The fee schedules shall become effective upon approval of the Town Manager.

(Prior Code, Ch. 6, Art. V, § 2-222) (Ord. 381-05, passed 5-16-2005; Ord. 641-15, passed 12-7-2015)

LIBRARY ADVISORY BOARD

§ 32.030 ESTABLISHED.

There is established a Library Advisory Board.

(Prior Code, Ch. 6, Art. V, § 2-226) (Ord. 140, passed 3-5-1990)

§ 32.031 RESERVED.

§ 32.032 POWERS AND DUTIES.

The powers and duties of the Library Advisory Board shall be:

(A) Adopt the rules and regulations necessary for the conduct of its business, provided the rules and regulations are not in conflict with the state law or municipal ordinance;

(B) Advise and consult through the Board Chairperson with the Library Director as to items to be included on the agenda of the meeting of the Board prior to preparation and distribution of the agenda by the Library Director. Any item timely requested by any Board member shall be included on the agenda.

(C) Review and approve the official minutes of all Library Advisory Board meetings;

(D) Advise the Council, through the Library Director, concerning essential library policies, including hours of operation, standards of service, book selection, charges, use of facilities and other related matters;

(E) Advise and assist the Library Director in the formulation of library system goals and objectives and to monitor and evaluate progress toward these goals and objectives;

(F) Monitor community needs, population and readership changes, and advise on policies necessary to adjust to the changes and to meet periodically with community groups and individuals to ensure that established goals meet and reflect community needs;

(G) Assist and advise the Library Director in establishing priorities in the budget for those items, other than administrative functions, relating to library policy. The recommendations of the Board shall be forwarded to the Council through the Library Director when the tentative budget is presented. The recommendation shall reflect the approval or disapproval of a majority of the members of the Board;

and

(H) Establish, support and participate in a planned public relations program to better inform the general public of the services offered by the public library. This public relations program shall be a continuous and ongoing project of the Library Advisory Board.

(Prior Code, Ch. 6, Art. V, § 2-230) (Ord. 140, passed 3-5-1990; Ord. 381-05, passed 5-16-2005)

§ 32.033 MEETINGS.

(A) Except when not practical, all meetings will be conducted in the public library.

(B) Regularly scheduled meetings of the Board shall be held monthly at a time to be fixed by the Board. At the discretion of the Board, meetings may be suspended during the months of June, July and August.

(Prior Code, Ch. 6, Art. V, § 2-229) (Ord. 140, passed 3-5-1990; Ord. 176-94, passed 3-7-1994; Ord. 381-05, passed 5-16-2005)

REDEVELOPMENT COMMISSION

§ 32.050 ESTABLISHED.

The Town Council has established a Redevelopment Commission pursuant to A.R.S. §§ 36-1476 *et seq*.

(Prior Code, Ch. 6, Art. V, § 2-271) (Ord. 306-01, passed 5-7-2001; Ord. 381-05, passed 5-16-2005)

§ 32.051 MEMBERSHIP.

(A) The Mayor and Town Council shall serve as the Redevelopment Commission.

(B) The Mayor shall serve as Chairperson and the Vice-Mayor shall serve as Vice- Chairperson.

(C) Commissioners may or may not be residents of the municipality, and may or may not be serving concurrently on another town boards, commissions or committees.

(D) Commission members shall be appointed for a term of office of four years.

(Prior Code, Ch. 6, Art. V, §§ 2-272 and 2-274) (Ord. 306-01, passed 5-7-2001; Ord. 381-05, passed 5-16-2005; Ord. 628-15, passed 4-6-2015)

§ 32.052 POWERS AND DUTIES.

The Redevelopment Commission shall be an agent of the town for exercise of powers prescribed in A.R.S. § 36-1476.

(Prior Code, Ch. 6, Art. V, § 2-273) (Ord. 306-01, passed 5-7-2001; Ord. 381-05, passed 5-16-2005)

HISTORIC DISTRICT ADVISORY COMMISSION

§ 32.070 DISTRICT ADVISORY COMMISSION.

(A) *Composition*. Upon designation of the First Historic District, the Council shall appoint seven residents of the community to an Advisory Commission. This Commission shall contain at least four property owners from the designated district. Three or fewer places on the Commission may be filled by individuals with qualifications in one of the following areas: historic preservation, architecture, planning, history, archaeology or a related field. Three or fewer places on the Commission may also be filled by elected or appointed representatives of the municipality and its various commissions and authorities. Finally, three or fewer places on the Commission may

be filled by at-large residents of the municipality.

(B) *Duties.* The Historic District Advisory Commission shall review all building and demolition permit applications for the Historic District for the modification, addition, alteration, movement, demolition or new construction of all existing or proposed structures within the district.

(1) No building or demolition permit application for the Historic District shall be granted by the municipality until the Historic District Advisory Commission has had the opportunity to review the permit application. However, this review shall occur within 30 days of the date of the building or demolition permit application, or a favorable recommendation shall be deemed to have been given to the application. In considering the application, the Advisory Commission shall consider the purpose of the proposal, the architectural features of the proposal, the architectural character of structures in the immediate vicinity, the views from the site of the proposal, the height of existing structures, the prevailing setbacks, the proportion of the structure and surrounding structures in the immediate vicinity, the rhythm of these structures, the site utilization present in the immediate vicinity and other criteria which the Commission considers relevant.

(2) After reviewing the application for a building or demolition permit, the Advisory Commission may accept, reject or accept with conditions, the proposal. If the Commission accepts the application, the building or demolition permit may be issued if all other municipal requirements have been met.

(3) If the Commission rejects the application, the building or demolition permit shall not be issued. The Commission shall forward to the applicant and to the Town Manager a letter stating that the application has been rejected.

(4) If an application for a building or demolition permit is rejected by the Commission, the applicant may appeal this decision to the Council. If the applicant appeals the Commission's rejection, the following procedure shall be utilized:

(a) The applicant for a building or demolition permit files an appeal with the Town Manager within five days of receiving notice that the Advisory Commission has rejected the application.

(b) This appeal shall be placed by the Town Manager on the agenda of the next regularly scheduled Council meeting.

(c) Prior to this Council meeting, both the applicant for a building or demolition permit and a representative of the Advisory Commission shall prepare statements outlining their positions concerning the issue. These statements shall be supplied to the Council prior to its meeting.

(d) Upon receipt of these statements, the Council shall uphold, modify or reverse the decision of the Historic District Advisory Commission. It shall also direct the Town Manager concerning the issuance of a building or demolition permit.

(5) If the Historic District Advisory Commission accepts with conditions an application for either a building or demolition permit within a historic district, the applicant may either accept these conditions or may appeal them to the Council using the procedure described above. If the applicant accepts the conditions, these conditions shall become a part of the building or demolition permit application.

(6) The duties of the Historic District Advisory Commission shall not be limited to the originally designated Historic District. Instead, if this district is ever enlarged or decreased in size or if additional districts are ever formed, only one Historic District Advisory Commission shall be appointed by the Council.

(7) The Historic District Advisory Commission may also prepare or have prepared cultural or architectural resource surveys and inventories of the community or parts of it. It may also review and comment on applications for enlarging or decreasing the size of the original historic district or on the creation of new historic districts.

(8) Finally, it may apply for, receive and expend funds for which it is eligible which will enhance the objective of preserving the unique historical character of the municipality.

(C) *Exemptions to Commission review.* The following improvements shall not require review by the Historic District Advisory Commission in order to obtain a building or demolition permit:

(1) Emergency repairs which are needed to preserve the structural integrity of the structure. This exception will, however, only be granted in the case of an actual emergency as certified by the Town Manager.

(2) Emergency demolitions which are required to preserve the health, safety and welfare of the citizens of the municipality. These emergencies shall also be certified by the Town Manager.

(D) *Additional requirements.* In addition to the requirements for plans and other details which the municipality has for issuing a

building or demolition permit, the Historic District Advisory Commission may require the following:

(1) A plan, drawn to scale, which shows the location of all existing structures on the property and the location of all proposed changes, a plan showing the location of all existing and proposed parking areas, driveways, easements and/or rights-of-way and other information deemed necessary by the Commission.

(2) Drawings showing one or more elevations of the proposed changes.

(3) A cost and/or benefit analysis of a proposed project or demolition which contains:

(a) An estimate of the dollar value of the subject property, both real and personal;

(b) A review of the requirements for making any existing historic structures structurally sound;

(c) A qualified estimate of the cost of rehabilitating the structures, if any, existing on the subject property; and

(d) An analysis of the return which would be required on the subject project which would be needed to make rehabilitation of the existing structure economically attractive.

(4) The requirements for this information will be defined by the Commission, in writing, to the applicant for a building or demolition permit at least ten days prior to the meeting at which the application will be reviewed. Failure by the applicant to provide this information will be sufficient bases for denying the application. This information shall become part of the Commission's record of the meeting and may be used to establish conditions for the issuance of a building or demolition permit.

(Prior Code, Ch. 6, Art. V, § 2-275) (Ord. 381-05, passed 5-16-2005)

PARKS AND RECREATION ADVISORY BOARD

§ 32.085 ESTABLISHED.

There is hereby established a Parks and Recreation Advisory Board.

(Prior Code, Ch. 6, Art. V, § 2-290) (Ord. 381-05, passed 5-16-2005)

§ 32.086 MEMBERSHIP.

The Board shall elect a Chairperson and a Vice Chairperson. The Parks and Recreation Director will serve as an information resource only and not as a voting member of the Board.

(Prior Code, Ch. 6, Art. V, § 2-291) (Ord. 381-05, passed 5-16-2005)

§ 32.087 POWERS AND DUTIES.

The powers and duties of the Parks and Recreation Advisory Board shall be:

(A) Advise the Council and Parks and Recreation Director on the rules and regulations relating to the operation, use, care and maintenance of areas and structures owned, leased or otherwise acquired by the municipality for use as parks and recreational centers;

(B) Advise the Council and assist the Parks and Recreation Director in the development of a continuing plan for the municipal park system and its recreation program. The Town Manager, through the Director, shall, from time to time, send the plans and programs to the Board for its review. The results of the reviews shall be forwarded to the Council;

(C) Advise the Council and the Parks and Recreation Director in establishing general priorities at budget time for those items, other than administrative functions, relating to park development and recreation programs; and

(D) Receive, accept and acquire, subject to the final action by the Council, by gift, bequest or devise, real and personal property of every kind, nature and description in the name of the municipality, for park and recreational purposes subject to the terms of the gift.

(Prior Code, Ch. 6, Art. V, § 2-292) (Ord. 381-05, passed 5-16-2005)

§ 32.088 MEETINGS.

(A) The Parks and Recreation Advisory Board shall hold monthly meetings.

(B) A special meeting may be called by the Director of the Parks and Recreation Department or by a majority of the Parks and Recreation Advisory Board members.

(Prior Code, Ch. 6, Art. V, § 2-293) (Ord. 381-05, passed 5-16-2005; Ord. 628-15, passed 4-6-2015)

PLANNING AND ZONING COMMISSION

§ 32.105 ESTABLISHED.

The Planning and Zoning Commission of the municipality is hereby established.

(Prior Code, Ch. 6, Art. V, § 2-301) (Ord. 381-05, passed 5-16-2005)

Statutory reference:

Planning Agency authorized, see A.R.S., §§ 9-461.01

§ 32.106 POWERS AND DUTIES.

It shall be the duty of the Planning and Zoning Commission to:

(A) Formulate, create and administer any lawful plan duly adopted by the Council for the present and future growth of the municipality pertaining to the use of land and buildings for any purpose, together with all incidental activities usually associated therewith and commonly known as "planning and zoning";

(B) Make or cause to be made a continuous study of the best present and future use to which land and buildings shall be put within the municipality and in cooperation with adjacent areas; and

(C) Recommend to the Council revisions in the plans which, in the opinion of the Commission, are for the best interest of the citizens of the municipality.

(Prior Code, Ch. 6, Art. V, § 2-302) (Ord. 381-05, passed 5-16-2005)

ARTS AND CULTURE COMMISSION

§ 32.120 MEMBERSHIP.

To carry out the responsibilities and duties set forth herein, there is hereby created an Arts and Culture Commission to consist of five voting members and one alternate. The Commission shall strive to include one Florence business owner, one Florence resident who is a visual artist, and three Florence residents of the town at large.

(A) The members of the Arts and Culture Commission shall be appointed and shall serve for a term of office pursuant to the requirements of § 32.004. If a vacancy occurs on the Commission, the Town Council shall appoint the alternate member to complete the unexpired term. The unexpired term does not count against total appointment time. Members shall serve until their successors have been appointed.

(B) The initial chairperson of the Commission shall be appointed by the Mayor and Town Council for a term of one year. Subsequent chairpersons shall be elected by the members of the Commission pursuant to the requirements of § 32,007. No member shall serve on the Commission for more than two consecutive three-year terms. All officers shall be elected from among the

membership of the Commission.

(C) Three of the five members of the Commission shall constitute a quorum for conducting Commission business, and action may be had upon a majority vote of the quorum.

(D) The Commission may organize committees and adopt rules and procedures necessary to accomplish its purpose.

(Ord. 621-14, passed 9-2-2014)

§ 32.121 DUTIES.

The Commission shall act as an advisory body to the Town Council and make recommendations regarding, but not limited to:

(A) Policies, priorities and plans for promoting, advancing and maintaining public art in Florence;

(B) Allocation and budgeting of funds for public art through the annual public art project plan;

(C) Encouraging the promotion of Arizona artists in town art projects by setting annual goals to be identified in the annual public art project plan and approved by Town Council;

(D) Encouraging citizen input and involvement in the design and selection of public art;

(E) Coordinating with the private sector and other governmental agencies in promoting arts and cultural excellence as a tool for the encouragement of economic development, business relocation, and tourism; and

(F) Organizing and promoting public art that celebrates the town and its unique cultural heritage.

(Ord. 621-14, passed 9-2-2014)

CHAPTER 33: DISASTER PREPAREDNESS, EMERGENCY SERVICES AND THE LIKE

Section

GENERAL PROVISIONS

§ 33.01 EMERGENCY DECLARATION.

The Mayor may, by proclamation, declare that an emergency or local emergency exists pursuant to A.R.S. § 26-311(A).

(Prior Code, Ch. 5, Art. I, § 5-2)

Statutory reference:

Authorized action upon declaration of emergency, see A.R.S. § 26-311(B)

§ 33.15 EMERGENCY OPERATIONS PLAN; ADOPTED BY REFERENCE.

The Town of Florence's Emergency Operations Plan is hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, Ch. 5, Art. II, § 5-26) (Ord. 104, passed 1-18-1988)

Statutory reference:

Adopted by reference, see A.R.S. §§ 9-801et seq.

§ 33.16 SCOPE, STATUS OF PLAN.

The emergency plan adopted by the Council in this subchapter will be the immediate basis for the conduct and coordination of emergency operations in the municipality under the following disaster conditions:

(A) Upon declaration of a state of war by the President of the United States;

(B) Upon declaration of a state of emergency in an area, including the municipality, by the Governor of the state; or

(C) Upon the order of the Mayor or his or her authorized representative, provided that the existence or threatened existence of a local emergency has been duly proclaimed in accordance with all applicable laws and ordinances.

(Prior Code, Ch. 5, Art. II, § 5-27) (Ord. 104, passed 1-18-1988)

§ 33.17 IMMUNITY.

The municipality, its officers, agents, employees and volunteers duly enrolled or registered with the municipal emergency services, and unregistered persons placed into service during a state of war emergency, are immune from liability as provided in A.R.S. § 26-314.

(Prior Code, Ch. 5, Art. II, § 5-28) (Ord. 104, passed 1-18-1988)

CHAPTER 34: PERSONNEL

Section

GENERAL PROVISIONS

§ 34.01 BARGAINING, STRIKES AND WORK INTERRUPTIONS PROHIBITED.

(A) The municipality shall not bargain collectively with any municipal employee, group of municipal employees, municipal employee organizations or any representative of any municipal employee organization with respect to wages, hours, working conditions or any other employee related matter.

(B) It is hereby declared to be contrary to the public interest and a threat to the public health and safety and unlawful for any municipal employee, municipal employee organization or non-municipal employee (representing a labor union), directly or indirectly, to instigate, institute, encourage, authorize or participate in a strike, cessation of work, slowdown, speed-up or other form of job action or work interruption and any municipal employee who participates in any way in the activity shall automatically be deemed to have abandoned his or her position and shall be deemed terminated from his or her employment and shall no longer hold the position or be entitled to any of the rights or emoluments thereof, except as to any rights already vested in any municipal or state employee retirement program. Neither the employee's supervisor, Town Manager, nor Council shall reinstate an employee if the employee has in fact engaged in conduct prohibited by this section. Violations of this section are punishable as provided in § 10.99.

(C) Those employees whose job includes supervisory responsibilities are prohibited from joining the same collective bargaining unit as non-supervisory employees. Employees whose jobs include supervisory responsibilities shall be those positions set forth as management personnel in municipal Res. 84, including but not limited to police sergeants, who are hereafter designated by the Council as supervisors and management personnel. Violations of this subsection are punishable as provided in § 10.99.

(Prior Code, Ch. 14, Art. I, § 14-2) (Ord. 34, passed 10-19-1981) Penalty, see § 10.99

PERSONNEL SYSTEM

§ 34.15 CREATION AND SCOPE.

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

(Prior Code, Ch. 14, Art. II, § 14-31) (Ord. 192-95, passed 4-17-1995)

§ 34.16 CONDITIONS OF EMPLOYMENT.

(A) 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.

(B) No employee or applicant for employment shall be discriminated against on the basis of race, color, national origin, age, handicap, religion, sex or political affiliation.

(Prior Code, Ch. 14, Art. II, § 14-32)

Statutory reference:

Employment discrimination prohibited, see A.R.S. § 41-1463

§ 34.17 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, Ch. 14, Art. II, § 14-33)

§ 34.18 POLITICAL CONTRIBUTIONS.

No officer, official or employee of the municipality 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, Ch. 14, Art. II, § 14-34) Penalty, see § 10.99

CHAPTER 35: TAXATION

Section

§ 35.01 PRIVILEGE LICENCE TAX; ADOPTED BY REFERENCE.

The Town of Florence's privilege licence tax and any amendments thereto is hereby adopted by reference and incorporated herein as if set out in full. A copy of this document is on file in the Town Clerk's office.

(Ord. 454-07, passed 1-2-2007 ; Ord. 511-09, passed 8-3-2009)

TITLE V: UTILITIES

Chapter

CHAPTER 50: WATER

Editor's note:

Many of the sections set forth in this Chapter 50 have analogous or corresponding sections set forth in Chapter 51 of this code. Since the content of the two chapters closely overlap, the reader should also refer to Chapter 51 while referencing this Chapter 50.

Section

General Provisions

wrench

50.011 Fire hydrants; generally; purpose and use

50.012 Fire hydrants; obstructing access; unlawful use; tampering with or injuring

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50.020 Restoration of permitted improvements

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50.022 Water and Wastewater Division; right of entry for inspection; credentials

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50.026 Waste of water; failure of consumer to make repairs to pipes, valves and fixtures

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§ 50.001 DEFINITIONS.

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

AIR GAP. A physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An ***APPROVED AIR GAP*** shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, in no case less than one inch (2.54 cm).

APPROVED. The term ***APPROVED***, as herein used in reference to a water supply, shall mean a water supply that has been approved by the health agency having jurisdiction. The term ***APPROVED*** is herein used in reference to an air gap, a double check valve assembly, a reduced pressure principle backflow prevention assembly or other backflow prevention assemblies or methods shall mean an approval by the administrative authority having jurisdiction.

APPROVED BACKFLOW PREVENTION ASSEMBLY (ASSEMBLY). Any testable assembly, with the exception of an approved air gap, which has been issued a certificate of approval by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USCFCCCHR or the foundation) or the other third party certifying entity, unrelated to the product's manufacturer or vendor, which may be acceptable to the State Department of Environmental Quality. A list of assemblies shall be maintained by the Utility Superintendent.

AUXILIARY WATER SUPPLY. Any water supply on or available to the premises other than the purveyor's approved public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from other purveyor's public potable water supply or other natural source(s) such as a well, spring, river, stream, harbor and the like or used waters or industrial fluids. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

BACK PRESSURE. A form of backflow due to any elevation of pressure in the downstream piping system (by pump, elevation of piping or stream and/or pressure) above the supply pressure at the point of service delivery which would cause, or tend to cause, a reversal of the normal direction of flow through the backflow prevention assembly.

BACK SIPHONAGE. A form of backflow due to a reduction in system pressure which causes a negative or sub-atmospheric pressure to exit at a site in the water system.

BACKFLOW. The undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution system of the public potable water supply.

BACKFLOW PREVENTOR. An assembly or means designed to prevent backflow.

CERTIFIED TESTER. An individual certified to test backflow prevention assemblies by the California-Nevada Section of the American Water Works Association (AWWA), the Arizona State Environmental Technology Training (ASETT) Center or other agencies or organizations involved with the training and certification of testers if they are acceptable to the State Department of Environmental Quality.

COMMON AREA. A recreational or open space area or areas maintained for the benefit of the residents of a housing development which is owned and operated as a single integrated facility.

COMPANY. The town water division.

CONSUMER. The person using water delivered to the premises, building or establishment where used, or for whose account and use the water is delivered, and also the owner, occupant, tenant and lessee of the premises, building or establishment.

CONTAMINATION. An impairment of the quality of the water which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste and the like.

CONTIGUOUS. In contact at any point along a boundary or part of the same master planned community, two parcels of land are contiguous even if they are separated by one or more of the following: a road, easement or right-of-way.

CROSS CONNECTION. Any unprotected, potential connection or structural arrangement between a public or a customer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied.

Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow can, or may occur, are considered to be ***CROSS CONNECTIONS***. Compliance with the town Plumbing Code creates a rebuttable presumption that a cross connection does not exist.

CROSS CONNECTION CONTROL BY CONTAINMENT. The appropriate type or method of backflow protection at the service connection, commensurate with the degree of hazard of the consumer's potable water system.

CROSS CONNECTIONS CONTROLLED. A connection between a potable water supply system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

CUSTOMER. Any person, partnership, association, company, private corporation, public corporation, political subdivision, the United States and the state who receives potable water from the Town of Florence water system or reclaimed wastewater from the town's wastewater system or untreated Central Arizona Project water from town facilities.

DIRECT CROSS-CONNECTION. A cross-connection which is subject to both back siphonage and back pressure.

DIRECTOR. The Public Works Director of the town or his or her authorized deputy, agent, designee or representative.

DWR. The State Department of Water Resources.

GROUNDWATER CODE. The Arizona Groundwater Management Act, A.R.S. Title 45, Chapter 2 (A.R.S. §§ 45-401 *et seq*.) and any amendments thereto.

HAZARD; DEGREE OF. Either a pollution (non-health) or contamination (health) hazard and is derived from the evaluation of conditions within a system.

HAZARD; HEALTH. An actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

HAZARD; PLUMBING. An internal or plumbing type cross-connection in a consumer's potable water system that may be either a pollutional or a contamination type hazard. This includes, but is not limited to, cross-connections to toilets, sinks, lavatories, wash trays and law sprinkling systems. Plumbing type cross-connections can be located in many types of structures, including homes, apartment houses, hotels and commercial or industrial establishments. Such a connection, if permitted to exist, must be properly protected by an appropriate type of backflow prevention assembly.

HAZARD; POLLUTIONAL. An actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system, but which would not constitute a ***HEALTH*** or ***SYSTEM HAZARD***, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under the definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

HAZARD; SYSTEM. An actual or potential threat of severe danger to the physical properties of the public or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDIRECT CROSS-CONNECTION. A cross-connection which is subject to back siphonage only.

INDUSTRIAL FLUIDS. Any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration which would constitute a health system, pollutional or plumbing hazard if introduced into an approved water supply. This may include, but not limited to: polluted or contaminated used waters, all types of process waters and "used waters" originating from the public potable water system which may deteriorate in sanitary quality, chemicals in fluid form, plating acid and alkalies, circulated cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances, contaminated natural water such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems and the like, oils, gases glycerine, paraffins, caustic and acid solutions and other liquid and gaseous fluids used industrially, for other processes, or for fire fighting purposes.

LOT. A parcel of land or two or more contiguous parcels to be used as a unit.

NET LOT AREA. That portion of a lot excluding all dedicated streets or alleys and roadways or alley easements.

NON-POTABLE WATER.

(1) Reclaimed water, stormwater runoff that is not subject to appropriation under A.R.S. § 45-151;

(2) Water withdrawn pursuant to a poor quality groundwater withdrawal permit pursuant to A.R.S. § 45-516;

(3) Groundwater withdrawn pursuant to type 1 or type 2 non-irrigation certificate of grandfathered right issued by the Department of Water Resources; or

(4) Other non-potable water source of a quality suitable for landscape irrigation, which meets all local, state and federal water quality requirements for full body contact, except untreated Central Arizona Project water.

POINT OF SERVICE DELIVERY. The terminal end of a service connection from the public water system. If a meter is installed at the end of the service connection, then the ***POINT OF SERVICE DELIVERY*** shall mean the downstream end (i.e. customer's side) of the meter. If an un-metered connection exists, then the ***POINT OF SERVICE DELIVERY*** shall mean at the point of demarcation between the public right-of-way or easements and private property.

POLLUTION. An impairment of the quality of the water to a degree which does not create a hazard to the public health, but which does adversely and unreasonably affect the aesthetic qualities of the waters for domestic use.

POTABLE WATER. Water delivered through the town's domestic water delivery system after treatment designed to meet the Environmental Protection Agency's and State Department of Environmental Quality drinking water standards.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY. An assembly containing two independently 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 unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a non-health (i.e. pollutant) or health hazard (i.e. contaminant). This assembly shall not be used for backflow protection of sewage or reclaimed water.

SWIMMING POOL. An artificially constructed pool for swimming purposes that meets the applicable design standards and specifications for swimming pools provided by the Department of Health Services.

TOTAL OPERATING FACILITY AREA. An area of land being used for cemetery-related purposes, including any area of land covered by grave markers or by cemetery related buildings, walks, pathways and landscaping, but not including parking lots and any areas of land being held for future expansion of the cemetery.

USED WATER. Any water supplied by the town from the public potable water system to a customer's water system, after it has passed through the point of service delivery.

UTILITY SUPERINTENDENT. The Superintendent in charge of the Water Division of the Public Works Department is invested with the authority and responsibility for the implementation of an effective cross-contamination control program and for the enforcement of the provisions of this division.

WATER APPLICATION RATE. The amount of water applied in a calendar year.

WATER FROM ANY SOURCE. Any water, including reclaimed wastewater from a wastewater treatment facility or cooling tower.

WATER; NON-POTABLE. A water supply which has not been approved for human consumption by the health agency having jurisdiction.

WATER; POTABLE. Any public potable water supply which has been investigated and approved by the health agency. The system must be operating under a valid health permit. In determining what constitutes an approved water supply, the health agency has final judgment as to its safety and potability.

WATER; SERVICE CONNECTION. The terminal end of a service connection from the public potable water system (i.e. where the water purveyor may lose jurisdiction and sanitary control of the water at its point of delivery to the consumer's water system). If a water meter is installed at the end of the service connection, then the service connection shall mean downstream end of the water meter.

WATER; USED. Any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the service connection, and is no longer under the control of the water purveyor.

(Prior Code, Ch. 18, Art. II, § 18-25) (Ord. 346-04, passed 6-21-2004)

§ 50.002 PUBLIC WORKS DEPARTMENT; DUTIES; PUBLIC WORKS DIRECTOR.

The Public Works Director, hereinafter referred to as the Director, shall be the general executive officer in charge of all personnel, the entire operation and equipment and facilities of the Water and Wastewater Divisions. He or she shall also control the water supply and at all times insure the sufficiency thereof and shall notify the public, unless an emergency requires otherwise, of the necessity of shutting off any pipeline for the purpose of making repairs, extension or connections, should he or she have cause to expect to know beforehand of the necessity to so shutoff the water from any line. He or she shall establish and have general supervision over, subject to the approval of the Town Manager and Town Council, all charges for water and sewer services, departmental policies, agreements, new connections, repairs and the like, and for all charges not expressly provided for this chapter. The Director shall have the authority to waive the collection or imposition of risk deposits, delinquent fees or late charge fees imposed by the provisions of this chapter.

(Prior Code, Ch. 18, Art. II, § 18-26) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar section, see § 51.003

§ 50.003 AUTHORITY OF PUBLIC WORKS DIRECTOR TO MAKE DECISIONS.

The Director shall have the authority to decide any question that may arise which is not fully covered by the provisions contained in this chapter, and his or her decision in such cases shall be final, subject only to the general direction of the Town Manager.

(Prior Code, Ch. 18, Art. II, § 18-27) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar section, see § 51.003

§ 50.004 WATER AND WASTEWATER DIVISION DUTIES.

(A) The Water and Wastewater Division shall make all service connections, and set all meters on the various mains for service except in new subdivisions where the developers are required to have their contractors install water service connections simultaneously with the water main installations.

(B) The Division shall also make all repairs on mains, meters and services, and check all valves and fire hydrants and see that they are in good order, shall operate and maintain all water sewer system facilities and shall perform other duties as required by the Director, subject to the approval of the Town Manager.

(Prior Code, Ch. 18, Art. II, § 18-28) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see § 51.003

§ 50.005 OWNERSHIP OF MAIN EXTENSION, SERVICE PIPES AND APPURTENANT EQUIPMENT.

The ownership of all water mains, fire lines, service pipes and appurtenant equipment maintained by the Water and Wastewater Divisions shall be vested in the Division, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided.

(Prior Code, Ch. 18, Art. II, § 18-29) (Ord. 346-04, passed 6-21-2004)

§ 50.006 SHUTOFF VALVES.

All shutoff valves on the public water system are installed by the town for the use of the Water and Wastewater Division. The shutoff valves shall not be used or in any way molested or manipulated by consumers of the water. All consumers shall provide their own valve for ordinary usage. This valve shall be located on the consumer's side of the meter ahead of the first water outlet.

(Prior Code, Ch. 18, Art. II, § 18-30) (Ord. 346-04, passed 6-21-2004)

§ 50.007 OBSTRUCTION OF WATER SYSTEM.

No person shall place upon or about, any valve, valve box, curb cock, water meter box or water gate connected with the water system of the town any object, material, debris or structure of any kind that shall prevent free access to the same at all times or in any manner tamper with or injure the appurtenances. No person shall fill up or cover over any valve or meter box.

(Prior Code, Ch. 18, Art. II, § 18-31) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.008 TAMPERING WITH AND DAMAGING WATER SYSTEM.

It shall be unlawful for any person intentionally to break, deface or damage any hydrant, valve, pipe or other waterworks appliances or fixture, or in any other manner interfere with the operation of any part of the water system of the town.

(Prior Code, Ch. 18, Art. II, § 18-32) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.009 ONLY AUTHORIZED PERSONS TO TURN ON WATER.

(A) No person other than an official or employee of the Water and Wastewater Division shall turn on water from town mains without permission from the Director.

(B) Should the water be turned on to the premises by anyone except an employee of the Division after it has been turned off at the town's stop cock, it will be turned off at the main and will not be turned on again until a flat charge covering the expense of excavation and replacing of the paving, as established by the Director subject to the approval of the Town Manager, shall have been paid.

(Prior Code, Ch. 18, Art. II, § 18-33) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.010 UNAUTHORIZED POSSESSION, SALE OR FABRICATION OF WATER AND WASTEWATER DIVISION KEYS OR HYDRANT WRENCH.

It shall be unlawful for any unauthorized person to knowingly have and keep in his or her possession or under his or her control, any curb cock key, valve key or hydrant wrench to the town's water supply system and no person shall, without authority from the Water and Wastewater Division, make, construct, buy, sell or in any way dispose of to any person any curb cock key, valve key or hydrant wrench for use on the town's water supply system.

(Prior Code, Ch. 18, Art. II, § 18-34) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.011 FIRE HYDRANTS; GENERALLY; PURPOSE AND USE.

Fire hydrants are provided for the primary purpose of extinguishing fires and shall be opened and used only by the Water and Wastewater Divisions and the Fire Departments or the persons as may be authorized to do so by the Public Works Director. No permit shall be issued and existing permits shall be cancelled to any person who has violated any of the provisions of this chapter or whose indebtedness to the Town of Florence for water used or damage to hydrants is delinquent. Every person authorized to open fire hydrants will be required to replace the caps on the outlets when such are not in use and will keep hose connections in good repair. Failure to do so will be sufficient cause to prohibit further use on the hydrants and the refusal to grant subsequent permits for the use of the fire hydrants.

(Prior Code, Ch. 18, Art. II, § 18-35) (Ord. 346-04, passed 6-21-2004)

§ 50.012 FIRE HYDRANTS; OBSTRUCTING ACCESS; UNLAWFUL USE; TAMPERING WITH OR INJURING.

It shall be unlawful for any person to obstruct the access to any fire hydrant by placing around, on or within 20 feet of the hydrants

any stone, brick, lumber, dirt, rubbish or other material or to open or operate any fire hydrant or to draw or attempt to draw water or to willfully or carelessly injure the hydrants or in any manner to tamper with or injure the hydrants.

(Prior Code, Ch. 18, Art. II, § 18-36) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.013 GENERAL CONSTRUCTION WATER; FROM FIRE HYDRANTS; UN-METERED WATER TO BE ESTIMATED.

When water for construction is required by a contractor, it shall be supplied through a meter whenever possible. Where an existing service connection is not available, or is of insufficient size, the contractor may apply to the Water and Wastewater Division for a fire hydrant meter. The application may be approved subject to the applicant's compliance with all rules and regulations established by the Public Works Department pertaining to the use of construction water from fire hydrant and the payments of applicable fees and charges.

(Prior Code, Ch. 18, Art. II, § 18-37) (Ord. 346-04, passed 6-21-2004)

§ 50.014 INTERRUPTION OF SERVICE.

The water may at any time be shutoff from the town's mains without notice due to emergencies or for the purpose of making repairs, extension or any other necessary work. The town will not be liable for any damage that may occur on account of the water being cut off for any purpose or on account of the breaking of any pipe or fixtures by the water from the town's mains. Water consumers who have any machinery, material, process or plant which requires a constant supply of water, shall install upon their premises the water storage facilities as will prevent any damage in case the town water supply may, for any reason, be interrupted or discontinued.

(Prior Code, Ch. 18, Art. II, § 18-38) (Ord. 346-04, passed 6-21-2004)

§ 50.015 STREET WORKS; UTILITY RELOCATION, NOTICE TO WATER AND WASTEWATER DIVISION.

All persons handling street work, such as grading, filling and trenching or paving and the like, shall give the Director written notice in case it becomes necessary during the work to remove, displace or change any water mains, pipes, fittings, meters, gates or other waterworks appurtenances that may interfere with the prosecution of the work. Where the amount of work to be done does not exceed the amount of $300, the notice shall be delivered not less than 48 hours before the services of the Water and Wastewater Division are required. Where the amount of work does exceed the amount of $300, the notice shall be delivered not less than five days before the services of the Water and Wastewater Division are required. Failure to furnish the notice shall make the person liable to the Water and Wastewater Division in case damages should result from the failure.

(Prior Code, Ch. 18, Art. II, § 18-39) (Ord. 346-04, passed 6-21-2004)

§ 50.016 CONDEMNED BUILDINGS.

Whenever the town building official shall report in writing to the Director that any building has been condemned by him or her as a structure not habitable and dangerous to human life, and whenever the County Health Officer shall report in like manner to the Director that any building has been condemned by him or her as unsanitary and not fit for habitation, the Director shall at once shutoff the water from the building and not permit it to be turned on again until the building has been made safe or sanitary, as the case may be, which condition must be reported to the Director by the town building official or the County Health Officer, respectively, as soon as it exists.

(Prior Code, Ch. 18, Art. II, § 18-40) (Ord. 346-04, passed 6-21-2004)

§ 50.017 PROTECTION OF WATER SUPPLY AND SEWERAGE SYSTEMS.

The Public Works Director and the town building official may, with the approval of the Town Manager, make the additional rules and regulations in furtherance of the purposes of this code and not inconsistent with specific provisions of this code as may be deemed

necessary to properly protect the town water supply or the sewage collection and treatment facilities.

(Prior Code, Ch. 18, Art. II, § 18-41) (Ord. 346-04, passed 6-21-2004)

§ 50.018 WATER AND/OR SEWER MAIN RESTRICTIONS.

No building, fences, wall, rockery, trees, shrubbery or obstruction of any kind shall be erected or planted or permitted to remain within the boundaries of rights-of-way or easement area without written permission of the Director of Public Works, and no excavation shall be made within three feet of the water and/or sewer main, and that the earth cover over a water main shall be maintained at not less than 35 inches nor more than 48 inches.

(Prior Code, Ch. 18, Art. II, § 18-41.1) (Ord. 346-04, passed 6-21-2004)

§ 50.019 HYDRANT AND/OR METER RESTRICTIONS.

No building, fence, rockery, trees, shrubbery or obstruction of any kind shall be erected or planted or permitted to remain within the boundaries of an easement and/or right-of-way area without the written permission of the Director of Public Works, and that no excavation shall be made within three feet of the water service facilities, and that the surface level of the ground within the easement area shall be maintained at the same elevation as that of the hydrant and/or water meter vault cover.

(Prior Code, Ch. 18, Art. II, § 18-41.2) (Ord. 346-04, passed 6-21-2004)

§ 50.020 RESTORATION OF PERMITTED IMPROVEMENTS.

The Town of Florence may enter upon an easement and/or right-of-way area provided that the work shall be accomplished in such a manner that the private improvements existing in the work area shall not be disturbed or destroyed, or in the event that they are disturbed or destroyed, they may be replaced to a reasonable and moderate condition as they were immediately before the property was entered upon by the town.

(Prior Code, Ch. 18, Art. II, § 18-41.3) (Ord. 346-04, passed 6-21-2004)

§ 50.021 RESTORATION OF PAVED AREAS.

The Town of Florence may enter upon an easement and/or right-of-way area and may be responsible for the restoration or repair of any improvements destroyed or damaged by the town within the easement and/or right-of-way area caused by the installation, repair or reconstruction of aforesaid water and/or sewer facilities, except that where excavation is required in paved areas, the areas will be restored by standard patching procedure.

(Prior Code, Ch. 18, Art. II, § 18-41.4) (Ord. 346-04, passed 6-21-2004)

§ 50.022 WATER AND WASTEWATER DIVISION; RIGHT OF ENTRY FOR INSPECTION; CREDENTIALS.

(A) Any authorized employee of the Water and Wastewater Division shall have free access at all reasonable hours to any premises supplied with the town water for the purpose of making any inspection of the entire water system upon the premises.

(B) In case any authorized employee shall be refused admittance to any premises, or being admitted, shall be hindered or prevented from making the examination, the Director may cause the water to be turned off from the premises after giving 24 hours' notice to the owner of occupant of the premises, of his or her intention to do so.

(C) Servicepersons and other employees of the Water and Wastewater Division whose duty it may be to enter upon private premises to make inspection and examination of the pipes, fixtures or attachments used in connection with the water supply, shall identify themselves as authorized agents for the Department.

(Prior Code, Ch. 18, Art. II, § 18-42) (Ord. 346-04, passed 6-21-2004)

§ 50.023 DUTY OF OTHER TOWN DEPARTMENTS TO AID WATER AND WASTEWATER DIVISION.

It shall be the duty of the town departments to give vigilant aid to the Water and Wastewater Division in the enforcement of this chapter, and to this end they shall report all violations which come to their knowledge to the office of the Public Works Director.

(Prior Code, Ch. 18, Art. II, § 18-43) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.024 CONSTRUCTION OF PAVING DISTRICTS.

Whenever the construction of a paving district has been authorized by the Town Council, it shall be the duty of the Water and Wastewater Division to request all property holders, in writing to make application for the installation of blind services within the paving district in order to save the cost of expensive and unsightly paving cuts in newly laid paving.

(Prior Code, Ch. 18, Art. II, § 18-44) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.025 PERMIT REQUIRED FOR CONSUMER TO SUPPLY WATER TO OTHERS.

No owner, lessee or property supplied with water from the town mains shall furnish water to any other person or property without first obtaining written permission to do so from the Public Works Director. No permit will be issued until the person desiring to use the water has obtained and filed with the Director the written consent of the owner or lessee of the property from which the water is to be taken, stating the location of the property by street and number and the location by street and number of the property to be supplied with water and stating the purpose for which the water is to be taken, the Director may issue a temporary permit allowing water to be supplied to other persons or property.

(Prior Code, Ch. 18, Art. II, § 18-45) (Ord. 346-04, passed 6-21-2004)

§ 50.026 WASTE OF WATER; FAILURE OF CONSUMER TO MAKE REPAIRS TO PIPES, VALVES AND FIXTURES.

(A) Owners of property served by town water are responsible for all leaks, or damages on account of leaks, from the service pipes leading from the consumer's side of the meter to the premises served.

(B) Every consumer shall at all times maintain in good repair all his or her water pipes, faucets, valves, plumbing fixtures or any other water appliances to prevent waste of water.

(C) Where any consumer willfully neglects to make the necessary repairs, the water shall be shutoff by the Water and Wastewater Division and shall not be turned on again until the repairs have been made to the satisfaction of the Division and a service activation fee paid by the consumer to the Division.

(D) Customers are responsible for all water consumption by leaks or damages on account of leaks from the service pipes leading from the meter to the premises served. The Water and Wastewater Division will be responsible for all water consumption inaccurately billed. Inaccurate billings will be adjusted by an amount determined by the Director.

(E) The Water Division shall maintain all service lines from the main to and including the first valve or meter yoke but not the house side connection thereto. In the case where no valve is located in the service line and the meter is located on the private property of the owner, it shall be the responsibility of the owner to maintain the service line from the main to the building served. On branch service piping, the first valve is the tapping valve or gate valve fitting to the tee. Apparent leaks in the customer's water installation, whether registered on the water meter or not, shall be repaired by the customer within ten days of receipt of written notice by the Water Division. If repairs are not made, the town shall issue written notice of an intended disconnect and five days thereafter may discontinue water service until the leak is repaired. If, in the judgment of town personnel, the leak endangers public safety, constitutes

a serious nuisance or wastes substantial amounts of water, water service may be discontinued without prior notice to the customer. Hidden leaks in the customer's water installation shall be repaired, after discovery under the same provisions as apparent leaks.

(Prior Code, Ch. 18, Art. II, § 18-46) (Ord. 346-04, passed 6-21-2004)

§ 50.027 RULES AND REGULATIONS; AUTHORITY OF DIRECTOR.

The Public Works Director shall have the right, subject to the approval of the Town Manager, to make rules and regulations with reference to the use of water supplied to a customer.

(Prior Code, Ch. 18, Art. II, § 18-47) (Ord. 346-04, passed 6-21-2004)

§ 50.028 RULES AND REGULATIONS TO APPLY OUTSIDE OF TOWN; EXCEPTION.

All rules and regulations referring to the management of the Water and Wastewater Division, effective inside the town, shall equally apply outside the town limits except for deposits, water rates and charges.

(Prior Code, Ch. 18, Art. II, § 18-48) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

MAIN EXTENSIONS AND CONSTRUCTION

§ 50.045 CONNECTIONS WITH DISTRIBUTION SYSTEM.

Persons desiring to connect water main extensions to the existing distribution system shall make application to the Public Works Department in writing and shall pay established fees and charges.

(Prior Code, Ch. 18, Art. II, § 18-49) (Ord. 346-04, passed 6-21-2004)

§ 50.046 CONSTRUCTION; OWNERSHIP AND MAINTENANCE.

The extension of all water mains and service connections shall be constructed in strict accordance with plans and specifications to be approved by the Public Works Department. All extensions and service connections shall be, and remain the property of, the Public Works Department after acceptance by the town. Main extensions and service connections shall be maintained by the Department up to, and including, the consumer's meter and shall be operated by the Department as part of the distribution system. The Department shall exercise complete control over the extensions, and upon completion, the person responsible for the construction of the extension shall relinquish all right to or interest in the ownership of the extensions.

(Prior Code, Ch. 18, Art. II, § 18-50) (Ord. 346-04, passed 6-21-2004)

§ 50.047 POLICY OF TOWN GENERALLY.

The water main extension policy of the town for town water mains and the policy to be followed in connection therewith shall be, and the same is hereby declared to be as follows:

(A) Developers must pay all costs for constructing mains of the sizes as to afford adequate service during peak demands.

(B) The minimum water requirements will be three gallons per minute per service with a minimum residual pressure of 40 pounds per square inch at the meter.

(C) The Public Works Director will approve the developer's required size and lay-out of public water mains that will meet both

domestic water needs and fire flow requirements as required by this code.

(D) The Town Engineer will not perform field engineering nor submit detailed plans and specifications for any developer. This work is to be performed by a civil engineer registered in the state and employed by the developer. Before construction begins, final detailed plans and specifications for the water main extensions in the development must be approved by the Public Works Department. The cost of staking the location of the new water mains and the cost of inspecting the construction shall be assumed by the developer. The town will perform the inspections during construction.

(E) Where booster pumps are necessary to maintain adequate pressures in the mains due to the development being near or above the hydraulic gradient of the distribution system of the town service area, the developer shall construct at his or her own expense the necessary booster pumping station and storage facilities to town specifications. The town will assume ownership, maintenance and operation of the booster pump installation upon its completion and acceptance by the town.

(Prior Code, Ch. 18, Art. II, § 18-51) (Ord. 346-04, passed 6-21-2004)

§ 50.048 EXTENSIONS IN SUBDIVISIONS, SINGLE LOT, SUBLOT DEVELOPMENTS AND ALL OTHER DEVELOPMENTS.

(A) In all new subdivisions and single lot developments and all other developments, other than a single residence on a single lot, where the town is to provide water service, the developer shall furnish and install in accordance with plans approved by the Public Works Director, all water mains, service connections, valves, fittings and appurtenances within the boundary of the development as well as the streets bounding the entire development. Review fees shall be paid as set forth in the town code. In addition, the developer shall furnish and install all off-site water mains as necessary to complete a looped connection to existing town mains as determined by the Public Works Department. All water lines are to be constructed as a general area improvement whether they do, or do not provide service to the property being developed. For developments principally residential in character, the town requires that 12-inch diameter lines be provided on section line streets, eight-inch lines on mid-section line streets and six-inch lines on all other streets. Four inch lines shall be allowed in short residential cul-de-sac streets where the number of service shall not exceed 10, and the maximum length of the four-inch water mains shall not exceed 400 feet. For developments other than those principally residential in character, the minimum size of the mains installed by the developer shall be six inches or larger, consistent with needs of the development, including fire flow requirements. For all developments, fire hydrants, valves, pipe and fitting required for the hydrant installation shall also be installed by the developer in accordance with plans approved by the Public Works Director. Review fees shall be paid as set forth in accordance with plans approved by the Public Works Director. Review fees shall be paid as set forth in the Town Code. The maximum spacing of fire hydrants along public water mains shall be approximately 500 feet in a single-family residential development and approximately 300 feet in all others. Fire hydrant locations within the bounds of any development shall be such that fire hose lengths will not be more than 300 feet to reach any potential fire in the tract.

(B) Existing lines larger than 12 inches in diameter are considered part of the transmission system, and are not part of the water distribution master grid system. Developers may be required to construct distribution mains of the required size in parallel to the existing transmission mains. Where existing distribution system mains within a development, or the streets bounding a development are smaller in size than that required by this code, or are otherwise inadequate, the developer may be required to replace or parallel the mains with those of the required size.

(C) Where no water main is existing along the frontage of a single, existing, residential lot zoned for single-family use, and the developer of the single lot requests water service, sufficient length of main shall be constructed by the developer to extend the new main from an existing water main to the point of the requested service connection, plus an additional ten feet. If the Public Works Director determines after a review of the size, length and location of the line, that an approach main repayment agreement is practical, and the applicant desires to enter into such an agreement, the new water main shall be constructed to and across the entire lot frontage.

(D) The service connections installed by a developer's contractor shall be guaranteed against any and all defects by the developer for a period of two years after acceptance of the installation by the Public Works Department.

(E) No one except authorized town personnel shall be permitted to install, remove or reinstall water meters. Any developer whose contractor, plumber (or others) removes, changes or relocates water meters shall be charged the cost to the town for restoring meters to their authorized and designated locations of records. The costs together with any cost incurred by the town for repairing defective service connections installed by developer's contractors shall be due and payable within 60 days of billing for the charges by the town.

(F) After acceptance by the town of the water mains and service connections, the developer or his or her agent may make applications to the Public Works Department for the installation of one or more meters to be installed on the new service connections

to measure construction water used. The developer will be held responsible for all water used from the date the meter is set until there is a change in ownership.

(Prior Code, Ch. 18, Art. II, § 18-52) (Ord. 346-04, passed 6-21-2004)

§ 50.049 CONSTRUCTION WATER THROUGH METERED SERVICE CONNECTIONS; RATES.

(A) The Public Works Department will accept applications from a developer or his or her authorized agent for the installation of a meter to measure water to be used for construction, provided that a service connection, including a curb stop and meter box, has been installed and accepted for service by the town.

(B) The Water and Wastewater Division will prepare a separate billing for each metered service connection used to supply water for construction and the following charges will be applicable:

(1) *Inside the town.*

(a) For each metered service connection used to supply water for construction, a minimum charge will be in accordance with the prevailing inside municipality water rates. The minimum charge shall not be construed as a monthly minimum, but shall apply as a minimum for the initial 120 days of the construction period and monthly minimums thereafter.

(b) When a metered application is made, the developer or his or her authorized agent will be required to prepay the minimum billing for each meter connection. The developer will be held responsible for all water used from the date the meter is set until there is a change of ownership. The developer will be required to submit in writing to the Water and Wastewater Division, the name of the new owner, the correct street address and the date of the change of ownership. When this information is furnished, a final reading and billing will be prepared. In no event will any portion of the minimum billing be refundable and any charge in excess of the minimum will be billed to the developer.

(2) *Outside the town.* For each metered service connection used to supply water for construction, the above requirements shall apply except that the prevailing outside the municipality water rates for the particular area shall be used to compute charges.

(Prior Code, Ch. 18, Art. II, § 18-53) (Ord. 346-04, passed 6-21-2004)

§ 50.050 REPAYMENTS; MAINS BY DEVELOPERS (APPROACH MAINS).

The water main repayment policy of the town for developer water main extensions, is declared to be as follows:

(A) The town desires to encourage the development of undeveloped areas through re-payment for costs incurred in the construction of "off-site" water mains that are necessary to serve new developments, in order "to distribute the costs of extending the mains between two or more developers". This policy would apply where an "approach main" was extended by one developer and connected to at a later date by one or more developers. An ***APPROACH MAIN*** is defined as a main extended beyond the limits of the project or a main constructed along the frontage or boundary of the development.

(B) In the event that a proposed new development or project finds it necessary to extend water mains from a distant point in order to serve the development or project, the cost of the main extension, designated as an "approach main" will be included in a separate agreement. The town will limit the maximum size of the approach main entirely at the developer's cost to 12 inches in diameter, where required on section lines or grid arterials, and to eight inches in diameter on mid-section lines or mid-grid feeders.

(C) The town reserves the right to increase the diameter of the approach main, if it deemed advisable, but under this condition the town will furnish sufficient pipe so that the laid cost of the approach main or larger diameter pipe to the subdivider or developer, will not exceed the laid cost of the same extension if it were an eight-inch diameter pipe on mid-section streets or mid-grid feeders, and 12 inches on section line streets of grid arterials, where required.

(D) The final detailed plans and specifications for the "approach main" extension must be approved by the Public Works Director prior to construction. The engineering costs for the preparation of plans, specifications and staking of the "approach main" incurred in by the developer may be included in the agreed construction costs as provided for in this section. The cost of distribution mains within the boundary of the development shall not be eligible for repayment.

(E) A charge of $265 will be assessed by the town for the administration of each repayment agreement.

(Prior Code, Ch. 18, Art. II, § 18-54) (Ord. 346-04, passed 6-21-2004)

§ 50.051 ENGINEERING COSTS; INSPECTION OF CONSTRUCTION.

(A) The costs for the preparation of construction plans for the proposed water mains as well as the costs of staking the location of the water mains, the cost of inspecting the construction, the costs of acquiring rights-of-way and easements and preparation of as-built plans, shall be part of the construction cost assumed by the developer in accordance with plans approved by the Public Works Director. Review fees shall be paid as set forth in the Town Code.

(B) The Public Works Department will not perform field engineering or submit detailed plans and specifications for the developer. This latter work is to be performed by a civil engineer registered in the state employed by the developer. The final detailed plan and specification for the "approach main" extension must be approved by the Public Works Department before construction begins. The engineering cost for preparation of plans and staking of the "approach main" only, incurred by the developer may be included in the agreed construction cost as provided in § 50.050. The engineering costs will be agreed upon by the town and developer for determination of total construction cost prior to completion of the repayment agreement.

(Prior Code, Ch. 18, Art. II, § 18-55) (Ord. 346-04, passed 6-21-2004)

§ 50.052 UTILITY IMPROVEMENTS DISTRICT ASSESSMENTS; SALE.

(A) *Purpose.* The town may, from time to time, require the payment of certain delinquent assessments which have accrued on parcels of land located within the North Florence Improvement District No. 1, and further, if the demanded payments are not tendered to the town, the town may offer the parcels for sale to the public pursuant to A.R.S. §§ 48-603 *et seq*.

(B) *Procedure.*

(1) In the event of a sale of the assessments, the sale shall be for the entire assessment including the delinquent installments, and the person who will take the least quantity of land and then and there pay the amount of the assessment, penalties and costs due, including $.50 to the Superintendent for a certificate of sale, shall become the purchaser.

(2) If there is no purchaser other than the town who will pay the entire amount of the assessment, penalties and costs, including $.50 to the Superintendent for a certificate of sale, the Superintendent shall sell the lot or portion thereof to the person who will take the least quantity of land then and there pay the amount of the assessment then delinquent, including interest, penalties and costs due, and $.50 to the Superintendent for a certificate of sale, and deed shall issue to the purchaser pursuant to A.R.S. § 48-606 subject, however, to redemption pursuant to A.R.S. § 48-605.

(3) If the sale is made pursuant to division (B)(2) above, the lien and the entire lot, piece or parcel of land assessed shall continue to be in effect for the amount of the assessment or portion thereof, including interest, penalties and costs thereafter to become due, and the land may again be sold should the assessment again become delinquent. Any notice of sale issued pursuant to this section and division (B)(2) above shall contain a notice of the continuance of the lien.

(4) If there be no purchaser for any lot offered for sale, it shall be struck off to the town as purchaser, and the Mayor and Town Council shall appropriate from the town's general fund of the Treasury, the amount bid for the purpose, and shall order the Treasurer to place the amount bid for the purpose, and shall order the Treasurer to place the amount in a Special Fund for the improvement. The Mayor and Town Council may direct the Treasurer to pay into the Special Fund only the sum required to pay the installment then due or to become due upon the bonds issued for the assessment, and thereupon the town shall become obligated to pay from the general fund the succeeding installments and interest on the bonds, as are payable by the assessments of the lot. Thereafter the lien of the assessment shall not be extinguished for nonpayment of general taxes or prior special assessments, and the annual installments of principal and interest of the assessments, shall constitute a first lien on the respective lot, piece or parcel of land, co-equal with the lien for general taxes.

(5) The town may sell any lot purchases pursuant to division (B)(4) above, after the expiration of the time for redemption at private or public sales pursuant to A.R.S. § 48-605. All sums received by the town from redemption of property purchased by it, and from the sale by it of property so purchased, less the amount theretofore paid into the Special Fund from the general fund, shall be paid into the Special Fund for the payment of the bonds until the Special Fund is sufficient to pay all outstanding bonds. If by ordinance of the code of the town, installments of principal and interest may be paid by partial payments prior to the time each of the installments become due, and the owner of the property against which the installments becomes due and the owner of the property against which the installment of principal and interest has become delinquent has paid to the Superintendent, partial payments on the installments, the owner of the property advertised for sale shall have the right to pay the balance due on the annual installments of principal and interest plus penalties and costs, and no sale shall be held on the parcel of land.

(Prior Code, Ch. 18, Art. II, § 18-56) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

SERVICE CONNECTIONS

§ 50.070 CONNECTION TO WATER MAINS REQUIRED.

Where property is located upon a street in which a water main is laid, the property shall be connected with the water system. These services shall extend at right angles from the main to the curblines and shall be installed in accordance with the town's standard detail. The number, location, manner of construction and size of all service connections shall be subject to the approval of the Director.

(Prior Code, Ch. 18, Art. II, § 18-58) (Ord. 346-04, passed 6-21-2004)

§ 50.071 BUILDING TO HAVE SEPARATE SERVICE CONNECTIONS; EXCEPTIONS.

Every separate building supplied with town water must have its own separate service connection with the town mains, except two or more buildings located on the same lot, or property that is known as a court, apartment house, trailer court or other similar developments covering more than one lot may be, upon written permission granted by the Director, supplied through a single metered connection with the town main as long as single ownership continues. Upon change from the single ownership, a new and separate connection shall be immediately made for the building or premises having the indirect connection.

(Prior Code, Ch. 18, Art. II, § 18-59) (Ord. 346-04, passed 6-21-2004)

§ 50.072 UNAUTHORIZED CONNECTION WITH WATER MAINS.

No person shall connect any pipe, tube or other instrument with any main service pipe, conduit or flume for conducting water belonging to the town, for the purpose of taking water from such without a permit from the proper authorities of the town. Violators shall be guilty of a misdemeanor.

(Prior Code, Ch. 18, Art. II, § 18-60) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.073 APPLICATION FOR SERVICE GENERALLY; INFORMATION REQUIRED.

(A) Each person making application for a service connection shall present a valid plumbing permit issued by the town building official, or his or her authorized representative, to the Water and Wastewater Division as a prerequisite for the approval of the requested service connection.

(B) The applicant shall state the following in his or her application:

(1) His or her name, a description of the lot, block and addition;

(2) The desired location where the town main is to be tapped and the desired size of the tap to be made;

(3) The official house number assigned to the premises as shown by the records in the office of the Water and Wastewater Division; and

(4) The purpose for which the water is to be used.

(C) The Department, as a condition to granting the application and furnishing water to the premises, is authorized to and shall require payment for this installation of service connections and/or meters.

(D) Before the Town of Florence will supply any water service, the person desiring the same must make application in person or by first class mail to the Town of Florence specifying the place or location where service is desired, and agree to comply with all the

terms, rules and regulations of the Town of Florence covering the service and agree to pay for the same in accordance with the rates of the Town of Florence applicable to the class of service desired.

(E) The Town of Florence may reject any application for service when, and so long as, the applicant is delinquent in the payment of bills incurred for service previously supplied by the town at any location.

(Prior Code, Ch. 18, Art. II, § 18-61) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see §§ 51.076 and 51.100

§ 50.074 SERVICE AND MATERIALS TO BE PROPERTY OF WATER AND WASTEWATER DIVISION; CONSUMER TO PAY FOR DAMAGES.

(A) All service and water meters and all materials supplied by the Water and Wastewater Division in the installation or repair of any meter, and all materials supplied in the installation of any service connection with the town mains shall remain at all times the property of the Water and Wastewater Division, and shall be maintained, repaired and renewed by the Water and Wastewater Divisions when rendered unserviceable through normal use.

(B) Where replacements, repair to pipes, meters or other materials are rendered necessary by the act, negligence or carelessness of the consumer or any member of his or her family or person in his or her employ, any expenses cause to the Water and Wastewater Divisions for the repair, shall be charged against and collected from the consumer.

(C) The Water and Wastewater Division may refuse to furnish water through the service until the account is paid in full.

(Prior Code, Ch. 18, Art. II, § 18-62) (Ord. 346-04, passed 6-21-2004)

§ 50.075 SERVICE CONNECTION ON EXISTING MAINS.

Where all or part of a new subdivision is served by an existing town water main, only authorized personnel of the town Water and Wastewater Division shall make taps for service connections.

(Prior Code, Ch. 18, Art. II, § 18-63) (Ord. 346-04, passed 6-21-2004)

§ 50.076 DEVELOPERS TO INSTALL SERVICE CONNECTIONS ON NEW MAINS IN NEW SUBDIVISIONS.

In all new subdivisions or other developments where there are no existing town water mains, developers are required to have their contractors install all three-fourths-inch and/or one-inch service connections simultaneously with the installation of the subdivision's water mains. Services one and one-half inches and/or two inches in size may also be installed by the developer's contractor if so approved by the Public Works Director. Services larger than two inches shall be installed by town forces. The concrete vaults required for services three inches and larger in size shall be constructed by the developer or his or her contractor in accordance with applicable Town of Florence standards specifications and details. In all new subdivisions or other developments where the developer's contractors install the service connections, application must be made to the town Water and Wastewater Division as otherwise provided in this code, for installation of water meters.

(Prior Code, Ch. 18, Art. II, § 18-64) (Ord. 346-04, passed 6-21-2004)

§ 50.077 CONNECTION OF EXISTING SERVICE TO NEW MAIN.

Where a new main has been laid in any street, the owners of premises on the street who are being supplied through temporary services, and have paid the regular service installation charge, shall be connected to the new main by the Water and Wastewater Division without further charge.

(Prior Code, Ch. 18, Art. II, § 18-65) (Ord. 346-04, passed 6-21-2004)

§ 50.078 CHANGES TO EXISTING SERVICE TO CONNECTION.

When new buildings are to be erected on the site of old ones and it is desired to increase the size of or to change the location of the old service connection or where a service connection to any premises is abandoned or no longer used, the Department may immediately reclaim and disconnect the connection at the main, after which, should a service connection be required to the premises, a new service shall be placed only upon the owner making application and paying for a new service in the regular manner.

(Prior Code, Ch. 18, Art. II, § 18-66) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.079 SERVICE PIPES; LOCATION.

(A) Permits for connections will not be granted, or may be revoked, when the service pipe passes over or through premises which at the time are, or may become, the property of persons other than the owner of the premises to be supplied from the connections.

(B) No water service pipe will be permitted to be laid in a sewer trench or within six feet of the trench.

(C) Each consumer shall grant, covey or shall cause to be granted or conveyed to the Town of Florence a permanent license, easement or right-of-way across any property owned or controlled by the consumer wherever the license, easement or right-of-way is necessary to enable the Town of Florence to furnish water to the consumer.

(Prior Code, Ch. 18, Art. II, § 18-67) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.080 SERVICE PIPES; EXCAVATIONS UNDER SIDEWALK, INSTALLATION.

(A) Where basement areas have been excavated beneath sidewalks, water service pipes shall be laid by the town only to the inside of the area wall and the owner shall be required to construct, from plans approved by the Director, a suitable meter pit and sidewalk opening with cover in order to locate the meter abutting the sidewalk side of the curbline in regular position.

(B) The installation of water service pipes extending from the main to the meter abutting the sidewalk side of the curbline, together with necessary labor and materials for the construction, shall be made by the Water and Wastewater Division.

(Prior Code, Ch. 18, Art. II, § 18-68) (Ord. 346-04, passed 6-21-2004)

§ 50.081 SPECIAL CONNECTIONS FOR FIRE PREVENTION SERVICES; INSTALLATION AND FEES; USE.

(A) Any person desiring to install a separate fire prevention service line, building standpipe and hose or sprinkler system, where the service line or systems will not be connected to or supplied water through a regular water service meter, shall file an application with the Public Works Department for a fire line tap and standby fire prevention service. The special fire prevention systems shall be installed in accordance with Public Works Department requirements, and review fees shall be paid as set forth in the Town Code.

(B) Where, in the opinion of the Public Works Director, a potential cross connection of back pressure can occur, a double check valve backflow prevention assembly shall be installed on the first prevention service line ahead of the first point of water use.

(C) Whenever a detector check valve and bypass meter is required, all materials and equipment shall be furnished and installed by the applicant. The bypass meter shall be tested and sealed by the Water and Wastewater Division prior to its installation. The detector check valve and meter shall be enclosed in a vault acceptable to the Director. Should the detector meter on a fire prevention service line show consumption without a fire having occurred and without prior notice to the Public Works Director, a charge for water used and other costs as established by the Director, subject to the approval of the Town Manager, will be invoked during the month when illegal consumption is indicated, and the fire line service shall be cut off unless the charge is paid, except in matters of an emergency nature.

(D) Every outlet valve on a non-metered sprinkler system shall be sealed. Seals may be removed for authorized purposes only, such as testing of the system. The owner or tenant may test the fire prevention apparatus at any time by notifying the Water and Wastewater Division that such a test is desired. A mutually agreeable time shall be set for the test to be made. All outlet valves shall be sealed immediately after completion of any test on a non-metered system. A charge shall be established and imposed in case any sealed valve is opened without prior notification of the Water and Wastewater Division and the water shall be turned off and remain off until the charge is paid. In addition, a detector check valve and bypass meter may be installed by the Water and Wastewater Division at the cost thereof charged to the owner.

(E) In no case shall any tap be made upon any pipe or tank used for fire purposes, nor shall the use of any water be permitted through any fire service, nor through any pipes, tanks or fixtures for any purpose other than the extinguishing of fire on the premises.

(F) The premises upon which any the fire protection service is installed shall be open to the inspection of any authorized representative of the Public Works Department at all times, and the owner or tenant shall give the representative all reasonable facilities for making the inspection and any information he or she may require.

(G) An inside town and outside town charge shall be established for standby fire prevention service provided by the town.

(Prior Code, Ch. 18, Art. II, § 18-69) (Ord. 346-04, passed 6-21-2004)

§ 50.082 SERVICE CONNECTION FEES.

The fee to be charged and collected in advance by the Water and Sewer Department for laying and constructing service connections from three-fourths inches to six inches in diameter shall be the current fee for the work as publicized and established by the Director, subject to approval of the Town Manager.

(Prior Code, Ch. 18, Art. II, § 18-70) (Ord. 346-04, passed 6-21-2004)

METERS

§ 50.100 SERVICES TO BE METERED.

Whenever a service shall be installed, connecting any property or water using equipment with the water supply system of the town, the water will be supplied to the property or equipment through meter only, except as provided in § 50.081 for sprinkler type fire prevention systems.

(Prior Code, Ch. 18, Art. II, § 18-72) (Ord. 346-04, passed 6-21-2004)

§ 50.101 LOCATION OF METERS.

All meters of the Public Works Department shall be located on the sidewalk side of the curbline in accordance with standard construction details as approved by the Director. The Town of Florence will install its meter at the property line; or at the Town of Florence's option, on the consumer's property in a location mutually agreed upon by both the Town of Florence and the consumer.

(Prior Code, Ch. 18, Art. II, § 18-73) (Ord. 346-04, passed 6-21-2004)

§ 50.102 RESETTING OF METERS INSIDE BUILDINGS.

If required, where meters have been set inside of buildings, the meters shall be reset abutting the sidewalk side of the curbline. All work and expense involved between the main and new meter location, in resetting a meter shall be borne by the Public Works Department. The customer shall relay his or her service pipes to conform to the new meter setting at his or her own expense.

(Prior Code, Ch. 18, Art. II, § 18-74) (Ord. 346-04, passed 6-21-2004)

§ 50.103 COST OF CHANGING SIZE OF METER OR SERVICE.

In case a larger or smaller meter or service is applied for other than one already in service, the applicant shall pay for the installation of the new service in accordance with the schedule of charges as established by the Director, subject to the approval of the Town Manager. The original tap shall be killed.

(Prior Code, Ch. 18, Art. II, § 18-75) (Ord. 346-04, passed 6-21-2004)

§ 50.104 REMOVAL OF METERS.

Meters when installed on any property, shall only be removed by an authorized employee of the Water and Wastewater Division upon order of the Director. For the violation of this provision, the water shall be turned off and a charge equal to the costs incurred by the town for restoring the meter to its authorized and designated location must be paid before the water is again turned on.

(Prior Code, Ch. 18, Art. II, § 18-76) (Ord. 346-04, passed 6-21-2004)

§ 50.105 REPLACEMENT OF METERS.

The Water and Wastewater Division shall replace any meter at the time as it may see fit and shall be the judge of the size and type of any water meter installed. In the event there is an excessive rate of flow through an installed meters the town may require the owner, at his or her expense, to install a meter of adequate size.

(Prior Code, Ch. 18, Art. II, § 18-77) (Ord. 346-04, passed 6-21-2004)

§ 50.106 MAINTENANCE AND REPAIR; CONSUMER TO PAY FOR DAMAGES.

The Water and Wastewater Division shall maintain and repair all meters when rendered unserviceable through normal use and shall renew them if necessary. Where replacements, repairs or adjustment of any meter are tendered necessary by the act, neglect or carelessness of the owner or occupant of any premises, and this shall include all damage to meters due to hot water, breaking meter seals, tampering with working parts of meter and the like, any expense caused to the Water and Wastewater Division thereby shall be charged against and collected from the owner of the premises, or person supplied. The Department may refuse to furnish water through the service until all charges are paid in full.

(Prior Code, Ch. 18, Art. II, § 18-78) (Ord. 346-04, passed 6-21-2004)

§ 50.107 TESTING METER ACCURACY.

(A) When any consumer makes a complaint that the bill for any past time has been excessive, the Water and Wastewater Division will, upon written request, have the meter reread and the service inspected for leaks.

(B) Any consumer may have the accuracy of the meter, through which water is being furnished to his or her premises, examined and tested by the Water and Wastewater Division by making a request therefore, and payment of the established fee for the work. Upon receipt of the request, the Water and Wastewater Division will examine and test the meter, and if found to register more than 2% in excess of the actual quantity of water passing through it, the meter shall be removed and another meter installed in lieu thereof, the consumer's water bill for the current period adjusted in the manner as the Director may deem fair and just, and no fee will be charged to the consumer for testing the meter otherwise the test fee shall be paid to and retained by, and be a part of the funds and revenue of the Water and Wastewater Division. The consumer shall have the privilege, if he or she requests, to be present when the test is made and to verify the accuracy of the test.

(Prior Code, Ch. 18, Art. II, § 18-79) (Ord. 346-04, passed 6-21-2004)

DEPOSITS, RATES, BILLING PROCEDURES AND MISCELLANEOUS CHARGES

§ 50.120 GUARANTEE AND SERVICE DEPOSITS.

There shall be charged the following standard schedule of financial responsibility deposits for all town water services:

(A) A deposit not in excess of two months minimum charge may be required of a consumer, provided that the town may require the consumer to increase the deposit to twice the amount of any monthly bill rendered thereafter. The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished.

(B) A separate deposit may be required for each meter installed. The guarantee deposit receipt is not negotiable and can be redeemed only at the municipality offices. When services are discontinued and all bills paid, the deposit will be refunded.

(C) Where the town finds that the request for a guarantee deposit refund is questionable, the town may require the applicant for a refund to produce the deposit receipt properly endorsed. Upon discontinuance of service for nonpayment of the bill, the deposit will be applied by the town toward settlement of the account.

(D) Customers requesting initial service connections will be charged a refundable deposit for residential service or services that do not exceed an average usage of metered water in excess of 7,000 cubic feet, or 52,360 gallons of water in any one calendar year, and commercial or industrial type services using 7,000 or over 52,360 gallons of water in any one calendar year, of twice the average monthly bill. See Town of Florence Schedule of Fees.

(Prior Code, Ch. 18, Art. II, § 18-80) (Ord. 346-04, passed 6-21-2004; Ord. 559-11, passed 6-6-2011)

Cross-reference:

For similar sections, see §§ 51.101 and 51.102

§ 50.121 RETURN OF DEPOSITS.

(A) All risk deposits shall be non-interest bearing and will be retained by the Water and Wastewater Division. Customers who maintain a good payment record, that is, not more than one delinquent bill and/or no returned checks, will have the risk deposit refunded after one year.

(B) If an account is closed at the customer's request, the deposit will be refunded.

(Prior Code, Ch. 18, Art. II, § 18-81) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see §§ 51.101 and 51.102

§ 50.122 METHOD OF DEVELOPING A WATER QUANTITY CHARGE.

(A) The water quantity charge shall be developed by the following methodology: the monthly water quality charge per cubic feet and/or gallons is added to the monthly meter charges and shall be calculated in two separate rates which will be added together for a combined rate.

(B) For metered service location located outside the municipality, the monthly water charge per cubic feet and/or gallons which is added to the monthly service charge shall be calculated by taking into consideration the above methodology.

(Prior Code, Ch. 18, Art. II, § 18-82) (Ord. 346-04, passed 6-21-2004)

§ 50.123 MONTHLY WATER RATES.

Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(Prior Code, Ch. 18, Art. II, § 18-83) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005; Ord. 453-07, passed 1-16-2007; Ord. 510-09, passed 7-6-2009; Ord. 559-11, passed 6-6-2011; Ord. 595-13, passed 5-20-2013)

§ 50.124 METER CHARGES.

Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(Prior Code, Ch. 18, Art. II, § 18-84) (Ord. 346-04, passed 6-21-2004; Ord. 385-04, passed 6-20-2005; Ord. 453-07, passed 1-16-2007; Ord. 510-09, passed 7-6-2009; Ord. 559-11, passed 6-6-2011)

§ 50.125 EFFLUENT CHARGES.

Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(Ord. 453-07, passed 1-16-2007; Ord. 559-11, passed 6-6-2011)

§ 50.126 TOWN GOVERNMENT; CHARGES.

The Water and Wastewater Division shall be paid for water furnished to other town departments for town purposes from funds budgeted for that purpose at the rate set forth in § 50.123. All town services shall be metered. The meters and services shall be maintained by the Water and Wastewater Division.

(Prior Code, Ch. 18, Art. II, § 18-86) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.127 CHARGES TO SERVICE APPLICANT OR CUSTOMER.

All rates for water supplied to property connected with the town mains shall be charged to the service applicant or customer to whom the water was so supplied. All charges for meters supplied, installed or repaired by the Water and Wastewater Division, all charges on account of labor furnished or materials supplied in the installation of any service connection with the town mains, or for tapping the town mains, all charges for turning water on or off and all fines and penalties assessed or imposed in the provisions of this chapter or the rules of the Water and Wastewater Division shall be charged to the service applicant or customer for which the service was rendered or the fine or penalty imposed.

(Prior Code, Ch. 18, Art. II, § 18-87) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.128 DRINKING FOUNTAINS, TOILETS AND OTHER FIXTURES.

Whenever any watering troughs, drinking fountains, toilets, urinals or other fixtures are placed for the benefit of the public by private parties, the fixtures shall be supplied through meter only and water shall be charged for at regular meter rates.

(Prior Code, Ch. 18, Art. II, § 18-88) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.129 CHARGES WHEN METER FAILS TO REGISTER CORRECTLY OR UNABLE TO BE READ.

(A) If the meter fails to register correctly, the charge to the consumer shall be estimated. The Director has the authority to develop an estimating procedure in accordance with the best available historical consumption data. The estimation shall be kept on file in the Water and Wastewater Division's office.

(B) Meter readings may be estimated whenever construction conditions, obstruction, inclement weather or emergency situations

prevent completion of the regular meter reading cycle.

(Prior Code, Ch. 18, Art. II, § 18-89) (Ord. 346-04, passed 6-21-2004)

§ 50.130 CHARGES FOR USE OF MORE THAN ONE METER.

Where premises are supplied through more than one meter, the minimum charge, and charge for water used, shall be computed separately for each individual meter.

(Prior Code, Ch. 18, Art. II, § 18-90) (Ord. 346-04, passed 6-21-2004)

§ 50.131 FIRE HYDRANT METER; DEPOSIT, CHARGES, MONTHLY SERVICE CHARGE AND WATER RATES; FIRE FLOW TESTS.

(A) When a customer makes application for a fire hydrant meter, he or she shall post a deposit and be subject to fees in accordance with the Town of Florence Schedule of Fees.

(B) This deposit is subject to the charges listed in the Town of Florence Schedule of Fees plus the following:

(1) The customer will be charged for the cost of repairing the hydrant meter or connection, if damaged.

(2) The customer is responsible for meter and connections while permit is in force. In the event the meter is not returned, the customer will be charged $1,000 replacement cost.

(3) The customer is required to post an additional deposit when the charges exceed the amount of the deposit.

(4) If the total charges are less than the original deposit, the balance remaining will be refunded.

(5) Monthly service charged and water consumption rates (plus applicable taxes) will be charged in accordance with the Town of Florence Schedule of Fees.

(C) A fee shall be charged to the contractor for a fire flow test in accordance with the Town of Florence Schedule of Fees.

(Prior Code, Ch. 18, Art. II, § 18-91) (Ord. 346-04, passed 6-21-2004)

§ 50.132 UNAPPROVED WATER USE AND/OR REMOVAL OF SEALS FROM FIRE PREVENTION SYSTEM.

(A) Should the flow detector meter on a fire prevention service line show consumption without a fire having occurred and without prior notice to the Public Works Director, a per occurrence charge will be assessed (see Town of Florence Schedule of Fees).

(B) Should any sealed valve on a sprinkler type fire prevention system be opened without prior notification and approval of the Public Works Director, a per occurrence charge will be assessed (see Town of Florence Schedule of Fees).

(C) For providing of standby fire prevention service, a monthly charge based on per inch diameter of service pipe shall be made (see Town of Florence Schedule of Fees).

(Prior Code, Ch. 18, Art. II, § 18-92) (Ord. 346-04, passed 6-21-2004)

§ 50.133 CHARGES FOR SERVICE LINES AND METER INSTALLATIONS.

Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(A) *Water service connection charges.*

A street shall be considered paved and subject to paving repairs if described and defined as such in the Public Work's Department policy, except that where it is determined by the Water and Wastewater Division that no paving will be disturbed in making the connection, the fee shall be indicated "without paving repairs".

(B) *Separate tap and meter installations.*

(1) *Inside the town.* Tap only (included corp. stop, service lines, curb stop, meter box and lid). Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(2) *Meter only; inside or outside the town.* Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(a) Connection for meters from three inches through six inches are furnished by the property owner and shall be compound meters unless specified as (other) by the town.

(b) All charges for service lines and meter installations for services outside the municipality shall be at a rate of 150% (one and one-half times) the rates established inside the town rates.

(c) All presently established services to be moved due to customer request will be charged based on the cost of material plus labor and equipment costs.

(d) All three-fourths-inch and one-inch service installation charges shall be collected at the time the customer makes application for new service.

(e) A deposit shall be collected at the time the customer makes application for all two-inch and larger service installations meters. The deposit will be deducted from the final billing for the service installation (see Town of Florence Schedule of Fees).

(f) Connection for meters from three inches through six inches are furnished by the property owner and shall be compound meters unless specified as "other" by the town.

(g) All charges for service lines and meter installations for service outside the municipality shall be at a rate of 150% (one and one-half times) the rates established for inside the town rates.

(Prior Code, Ch. 18, Art. II, § 18-94) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005)

§ 50.134 TAPS FOR WATER MAIN EXTENSIONS.

Charges included in the Town of Florence Fee Schedule are for the actual tapping operation only and do not include materials. The contractor must furnish and install the saddle and tapping sleeve and valve and make the excavation sufficient size to allow town field crews enough room to perform necessary work. Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(Prior Code, Ch. 18, Art. II, § 18-95) (Ord. 385-05, passed 6-20-2005)

§ 50.135 WATER MAIN SHUTDOWN; CHARGES.

(A) Approval of the Public Works Director is required prior to the shutdown of a town water main. Any contractor desiring the shutdown of a town water main shall make application to the Water and Wastewater Division and pay the established charges. It shall be the responsibility of the contractor to notify the public where a shutdown will cause any town water customer to be without water.

(B) Charges for the shutdown of a town water main. Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(Prior Code, Ch. 18, Art. II, § 18-96) (Ord. 385-05, passed 6-20-2005)

§ 50.136 IRRIGATION METER.

Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us). All others shall be the cost of labor and materials for installation.

(Prior Code, Ch. 18, Art. II, § 18-97) (Ord. 385-05, passed 6-20-2005)

§ 50.137 DISCONTINUANCE OF SERVICE.

The municipality may discontinue its service without notice for the following additional reasons:

(A) To prevent fraud or abuse;

(B) The consumer's willful disregard of or refusal to comply with these rules or the special rules as may be adopted by the town;

(C) Emergency repairs;

(D) Insufficiency of supply due to circumstances beyond the town's control;

(E) Legal processes;

(F) Direction of public authorities;

(G) Strike, riot, fire, flood, accident or any unavoidable cause;

(H) Unauthorized turn-ons; and

(I) The town may suspend the service of, or refuse service to any consumer who tampers with a meter or other measuring device.

(Prior Code, Ch. 18, Art. II, § 18-100) (Ord. 346-04, passed 6-21-2004)

§ 50.138 ACTIVATION OR REACTIVATION OF WATER SERVICE.

(A) Service applications are required of all customers requesting activation or reactivation of water service.

(B) Application information must be submitted for each service address.

(C) An application must also be submitted when requesting the transfer of service from one customer to another.

(Prior Code, Ch. 18, Art. II, § 18-101) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.139 CHANGE OF OCCUPANCY.

(A) Not less than three work-days' notice must be given in person or in writing at the town's office to start and/or discontinue service or to change occupancy.

(B) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

(Prior Code, Ch. 18, Art. II, § 18-101.1) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.140 CONTINUITY OF SERVICE.

The municipality shall not be responsible in damages or otherwise for any failure to supply water, or for interruption of supply, if the failure or interruption is without willful default or neglect on its part.

(Prior Code, Ch. 18, Art. II, § 18-101.2) (Ord. 346-04, passed 6-21-2004)

§ 50.141 MINIMUM CHARGE AND MISCELLANEOUS CHARGES.

(A) The initial or minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter installed shall require a separate meter reading sheet and each meter reading sheet shall cover a separate and individual account.

(B) For service to trailer courts, campgrounds, auto courts or multiple unit dwellings, the minimum monthly charge shall be the regular monthly charge for the meter size used. Excess water will be billed at the municipality's authorized rates.

(C) If the consumer takes exception to this method of established minimum charges, the consumer may request that a meter be installed for each residential unit, upon paying to the municipality the regular guarantee deposit for each meter to be installed.

(Prior Code, Ch. 18, Art. II, § 18-102) (Ord. 346-04, passed 6-21-2004)

§ 50.142 SERVICE ESTABLISHMENT CHARGE.

A non-refundable service establishment charge will be assessed each time the town is requested to establish water service to the customer's delivery point. A standard charge will be assessed during regular business hours (Monday through Friday 7:00 a.m. through 2:30 p.m.), and an after hour charged assessed for any time after regular hours, weekends or holidays.

(Prior Code, Ch. 18, Art. II, § 18-102.1) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005; Ord. 559-11, passed 6-6-2011)

§ 50.143 SERVICE REESTABLISHMENT CHARGE.

(A) If service is to be reestablished at the same service location for a customer who has there ordered a service disconnection within the preceding 12-month period, or for any member of the customer's household, a base service charge times number of months disconnected will be required as a precondition to the establishment of the service. Payment for the charge shall be made at the time of application for reestablishment of service.

(B) If a customer is on the disconnect list the day of disconnection, there will be a charge to stop disconnect of service. All balances on the utility account must be paid regardless of the due date, and a deposit will be required as in § 50.120.

(C) If service is to be reestablished after being disconnected for non-payment, before 2:30 p.m. during regular work hours, the customer must clear all balances due regardless of due date, pay the reconnect charge, and make a deposit as set forth in § 50.120.

(D) If service is to be reestablished after being disconnected for non-payment, after 2:30 p.m. that is after regular work hours, the customer must clear all balances due regardless of due date, pay the reconnect charge, and make a deposit as set forth in § 50.120.

(Prior Code, Ch. 18, Art. II, § 18-102.2) (Ord. 346-04, passed 6-21-2004; Ord. 559-11, passed 6-6-2011; Am. Ord. 567-11, passed 12-15-2011)

§ 50.144 SERVICE RELOCATION CHARGE.

All presently established services to be moved, due to customer request, will be charged based on the cost of the material plus labor and equipment costs.

(Prior Code, Ch. 18, Art. II, § 18-102.3) (Ord. 346-04, passed 6-21-2004)

§ 50.145 METER READING, BILLING AND COLLECTING.

(A) Meters will be read and bills rendered monthly, and there shall not be a variance of more than five days in reading a particular meter and rendering a bill thereon in the subsequent month.

(B) Bills for water will be computed in accord with the company's authorized rate schedule and will be based on the amount of water consumed for the period covered by the meter readings, except that where a consumer orders a turn-on resulting in a period of availability of service of less than 16 days. This consumption will be carried over to the next month's billing.

(C) Charge for service commences when the meter is installed and connection made, whether used or not.

(D) Bills are due when rendered and delinquent on the last of the month following billing. Delinquent notices with a ten day cut-off notice with a re-connection charge will be sent to each delinquent account. If the account is not paid at the end of the ten-day period, the service may be discontinued. Service discontinued for delinquency of bills are restored only after all due bills are paid in full, redeposit made, if required, and a service charge paid for each service established (see Town of Florence Schedule of Fees).

(E) Failure to receive bills or notices shall not prevent the bills from becoming delinquent nor relieve the consumer of his or her obligations therein.

(F) If the consumer believes his or her bill to be in error, he or she shall present his or her claim at the company's office before the bill becomes delinquent.

(G) The company will make special meter readings at the request of the consumer for a fee; provided; however, that if the special reading discloses that the meter was over read, no charge will be made (see Town of Florence Schedule of Fees).

(H) Meters will be tested at the request of the consumer upon payment of a testing fee provided, however, that if the meter is found to over-register beyond 3% of the correct volume, no charge will be made (see Town of Florence Schedule of Fees).

(I) If the seal of the meter is broken by other than the company's representative, the consumer shall pay an amount estimated from the record of his or her previous bills or from other proper data.

(J) If the meter fails to register or stops for any cause of which the consumer is not responsible, the first month's bill may be estimated by the company, but thereafter the consumer shall be billed the regular monthly minimum until the meter is repaired or replaced.

(K) When an apparent or hidden leak has been determined or discovered in the customer water installation, and the customer has the leak repaired within ten days after being notified or having discovered the leak or if the customer does not own the premises to which the water service is furnished, if the customer certified in writing to the town that he or she notified the owner of the premises of the leak within ten days after being notified or having discovered the leak and adjustment of the customer's water and sewer charge may be made upon recommendation of the Director of Public Works. The water bill adjustment shall be for a period not exceeding 60 days prior to repair of the leak or, in the case of a customer who does not own the premises, 60 days prior to the notification of the leak, by the customer to the owner, and the charge for water service for the 60 day period may be adjusted downward in the amount of one-half the normal charge for the water service as to the owner of the premises. No adjustment shall be made to the charge for water service to any customer more often than once every two years for any one location. Sewer charge shall be made at the normal or average water usage for the period being adjusted.

(L) The Water Division shall maintain all service lines from the main to, and including the first valve or meter yoke, but not the house side connection thereto. In the case where no valve is located in the service line and the meter is located on the private property of the owner, it shall be the responsibility of the owner to maintain the service line from the main to the building being served. On branch service piping, the first valve is the tapping valve or gate valve fitting to the tee. Apparent leaks in the customer's water installation, whether registered on the water meter or not, shall be repaired by the customer within ten days of receipt of written notice by the Water Division. If repairs are not made, the town shall issue a written notice of an intended disconnect and five days thereafter may discontinue water service until the leak is repaired. If, in the judgment of town personnel, the leak endangers public safety, constitutes a serious nuisance or wastes substantial amounts of water, water service may be discontinued without prior notice to the customer. Hidden leaks in the customer's water installation shall be repaired, after discovery under the same provisions as apparent leaks.

(Prior Code, Ch. 18, Art. II, § 18-103) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005)

Cross-reference:

For similar sections, see Ch. 51

§ 50.146 ACCOUNTS GENERALLY; NOTICES' HOUSE NUMBERS TO BE CORRECT.

All water accounts shall be carried on the books of the Water and Wastewater Division by the house and street number. All notices sent out by the town regarding water accounts and all notices regarding any other matter pertaining to the town water supply to any property, shall be sent to billing address as stated upon the application for service. Should the owner of the property desire personal notice from the town, he or she should file an application on a form to be furnished by the town's financial office. To insure proper delivery of notices, all errors in house numbers should be promptly reported to the Water and Wastewater Division. If numbers on houses are not corrected by the owner after proper notice by the Department, the Department can refuse service to the premises.

(Prior Code, Ch. 18, Art. II, § 18-104) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.147 UNPAID BILLS AT PREVIOUS LOCATION.

As a term and condition of providing service, the Water and Wastewater Division requires that outstanding amounts owed at a previous location served by the Water and Wastewater Division for services, rendered and/or due to labor supplied or materials furnished by the Water and Wastewater Division be paid. If a service is activated with outstanding indebtedness to the town at a previous location, the account will be considered delinquent and subject to turnoff for nonpayment of services previously provided.

(Prior Code, Ch. 18, Art. II, § 18-106) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.148 WATER SERVICE TO TENANTS.

Where a tenant pays his or her own water utilities amount not in rent, the tenant is responsible for the payment of all town water services provided for his or her use. The tenant must place the required deposit in accordance with § 50.120. These accounts will require that the tenant submit an application in accordance with § 50.138.

(Prior Code, Ch. 18, Art. II, § 18-107) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.149 UNREGISTERED OR UN-ASSESSED WATER.

A service applicant or customer who has been furnished water by the town, if such may not have been registered or assessed for water charges on the books of the Water and Wastewater Division, shall be assessed the water charges for the amount of water used.

(Prior Code, Ch. 18, Art. II, § 18-108) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.150 MISCELLANEOUS CHARGE FOR WATER.

The rates to be charged and collected for all classes of service not named in this chapter shall be at the meter rates established in this chapter, as near as may be estimated from the amount of water consumed in similar places, and the rates shall be estimated by the Public Works Director.

(Prior Code, Ch. 18, Art. II, § 18-109) (Ord. 346-04, passed 6-21-2004)

§ 50.151 DISCONTINUANCE OF SERVICE; ON ORDER OF CUSTOMER.

(A) All requests for turning off water must be made by the named applicant on a service account or his or her authorized agent. When the water is ordered turned off from any premises, a final meter reading will be obtained and all charges for services supplied to the premises shall be calculated and due on the date specified on the bill. The customer requesting discontinuance of service must also furnish the Water and Wastewater Division with a change of address.

(B) Until the notice and payments shall have been made, the premises shall be deemed occupied by the customer and his or her liability continued.

(C) In the event that the customer shall have made a deposit to the Water and Wastewater Division, and the deposit is still being retained by the division, the deposit amount will be applied to the balance owing on the account. All credits will be refunded.

(D) When the former customer has been notified of the amount of billing remaining due after deduction of customer's deposit, any accounts remaining due may be assigned for collection purposes.

(Prior Code, Ch. 18, Art. II, § 18-110) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

§ 50.152 RESUMPTION OF SERVICE.

(A) Full payment of all amount owed on an account must be made prior to resuming service and may require payment of a deposit in accordance with § 50.120.

(B) When the foregoing conditions are fulfilled, it shall be the duty of the Division to cause the water to be turned on for the use of the premises, unless there are extenuating circumstances such as broken or leaking pipes or other causes which are, in the opinion of the Division, sufficient reason to refuse to turn on the service.

(Prior Code, Ch. 18, Art. II, § 18-111) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

DROUGHT MANAGEMENT RESPONSE PROCEDURE

§ 50.170 SCOPE.

It is hereby established and following policies, rules, duties, penalties and plans for the Town of Florence to be implemented during a declared water shortage. The drought management response procedure shall include the provisions of this chapter, rules and guidelines, adopted pursuant to this chapter and the drought management plan.

(Prior Code, Ch. 18, Art. II, § 18-117) (Ord. 346-04, passed 6-21-2004)

§ 50.171 DECLARATION OF POLICY.

It is hereby declared that, because of the conditions prevailing the Town of Florence, the general welfare requires that the water resources available to the town be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and the conservation of the water is to be extended with a view of the reasonable and beneficial use thereof in the interests of the people of the town and for the public welfare.

(Prior Code, Ch. 18, Art. II, § 18-118) (Ord. 346-04, passed 6-21-2004)

§ 50.172 AUTHORIZATION.

The Public Works Director, or his or her designated representative, is hereby authorized and directed to implement the applicable provisions of this chapter, determination in accordance with the standards provided herein that the implementation is necessary to protect the public welfare and safety.

(Prior Code, Ch. 18, Art. II, § 18-119) (Ord. 346-04, passed 6-21-2004)

§ 50.173 APPLICATION.

The provisions of this chapter shall apply to all persons, customers and property served by the Water and Wastewater Division wherever situated.

(Prior Code, Ch. 18, Art. II, § 18-120) (Ord. 346-04, passed 6-21-2004)

§ 50.174 WATER USE REDUCTION STAGES.

(A) No customer of the Town Water Service Division shall knowingly make, cause, use or permit the use of water from the town for residential, commercial, industrial, agricultural, government or any other purpose in a manner contrary to any provisions of this chapter, or in an amount in excess of that use permitted by the drought management plan, or emergency response plan, as appropriate, in effect pursuant to action taken by the Public Works Director, or his or her designee representative according to the provision of this chapter.

(B) The Public Works Director shall promulgate guidelines which shall set forth the criteria for determining when and where particular regulations within a water use reduction stage are to be implemented and terminated.

(C) The guidelines shall be updated when, in the opinion of the Director, the conditions of the utility system have changed so as to necessitate the update. In addition, the guidelines shall be available for inspection at the Town Clerk's office, and the Water Division administrative office during normal business hours.

(Prior Code, Ch. 18, Art. II, § 18-121) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.175 STAGE 1; WATER ALERT.

(A) The Water Services Director is authorized to declare a Stage 1 water alert when an insufficient supply appears likely due to water system limitations or structural failure, or when a catastrophic incident threatens the existing water supply or water delivery system. The declaration may designate the entire area served by the Town of Florence Water Division or a portion of the service area affected, in the event the shortage is not system-wide.

(B) Upon declaration by the Director of the Stage 1 water alert and publication of the declaration, the Water Division shall implement the latest drought management plan or emergency response plan on file in the Town Clerk's office that has been approved by resolution and kept available for public use and inspection. The water alert shall trigger an intensive public education and information program to assist all customers impacted by the shortage to understand the state of the emergency and the need for voluntary compliance. Town of Florence personnel will direct their resources to enforcement of all existing town codes which influence water use or misuse.

(C) The Director is authorized to terminate the Stage 1 water alert when the Director determines that the condition upon which Stage 1 water alert was declared no longer exists.

(Prior Code, Ch. 18, Art. II, § 18-122) (Ord. 346-04, passed 6-21-2004)

§ 50.176 STAGE 2; WATER WARNING.

(A) The Public Works Director is authorized to declare a Stage 2 water warning when the water supplies are reduced, an insufficient supply situation occurs due to water system limitation or structural failure, or a catastrophic incident limits the existing water supply or water deliver system. The declaration may designate the entire water service area served by the Town of Florence, or a portion or portions of the service area as affected, in the event the shortage is not system wide.

(B) Upon declaration by the Public Works Director of the Stage 2 water warning and publication of the declaration, elements of Stage 2 water warning may become mandatory and be enforced. The elements may include, in addition to any other remedy available in this chapter, any surcharge authorized to be imposed by this chapter for the uses. If and when the Public Works Director becomes aware of any violation of any use reduction regulation pertaining to water use or misuses, the Public Works Director shall have the authority to take actions, including mandatory measures up to and including disconnection service, and other enforcement actions, as are required or deemed necessary to assure compliance with the use reduction plan. A written notice shall be placed on the property where the violation occurs, and to any person known to the Department who is responsible for the violation or its correction. The

notice shall describe the violation and order that it be corrected, caused, (ceased) or abated immediately or within the specified time as the Department determines is reasonable under the circumstances. If the order is not complied with, the Department may forthwith disconnect the service where the violation occurs. If a service is disconnected, assessment of a fee, to be determined by the Public Works Department, will be assessed and collected before service is restored. The fee shall be in addition to other fees or charges imposed by this chapter for disconnection or re-connection of service.

(C) Upon a second violation of the same property, or by the responsible party, disconnection may be ordered immediately, and the service shall not be reconnected unless a device supplied by the Department which will restrict the flow of water to the service is installed. Furthermore, a fee for re-connection may be imposed in addition to other fees or charges imposed by this chapter for disconnection and re-connection of service.

(D) The Public Works Director is authorized to terminate a Stage 2 water warning when water allotments, deliveries, storage or distribution system conditions are determined to be sufficient to meet consumption demand without mandatory use reduction compliance.

(Prior Code, Ch. 18, Art. II, § 18-123) (Ord. 346-04, passed 6-21-2004)

§ 50.177 STAGE 3; WATER EMERGENCY.

(A) The Public Works Director is authorized to declare a Stage 3 water emergency when additional reductions in deliveries will occur to level such that Stage 2 water use reduction measures and inter-service area water transfers, water withdrawals from town wells and feasible water supply insufficiency due to system limitation or structural failure has occurred, and Stage 2 water use reduction measures and supply augmentation measures are either not possible or will not meet expected unrestricted demand. The declaration may designate the entire water as served by the Town of Florence, or a portion or portions of the service area as affected, in the event the shortage is not system-wide.

(B) Upon implementation by the Public Works Director or designated representative, mandatory water use reduction programs will be implemented and the surcharge recalculated and applied to meet the increased regulation and enforcement expenses.

(Prior Code, Ch. 18, Art. II, § 18-124) (Ord. 346-04, passed 6-21-2004)

§ 50.178 STAGE 4; WATER CRISIS.

The Public Works Director is authorized to declare a Stage 4 water crisis when the Director determines that, based on the severity of the crisis, additional measures must be instituted as determined by the Public Works Director to protect human health and safety. The Public Works Director shall declare Stage 4 water crisis when Stage 3 emergency supply and use reduction programs are insufficient to meet water demand. The declaration may designate the entire water services area served by the Town of Florence, or a portion or portions of the service area as affected, in the event the shortage is not system-wide. In addition to any other remedy available in this chapter, the Director is authorized to set water prices in the form of a surcharge that shall be adjusted to reduce demand to match available supplies.

(Prior Code, Ch. 18, Art. II, § 18-125) (Ord. 346-04, passed 6-21-2004)

§ 50.179 WATER USE REDUCTION IMPLEMENTATION.

During drought or other shortage conditions, the Public Works Director shall monitor the projected supply and demand for water on a daily basis and shall advise the Town Manager on the extent of the use reduction required through the implementation and/or termination of particular use reduction stages in order for the Department to prudently plan for and supply water. Thereafter, the Public Works Director may order that the appropriate phase of water use reduction be implemented or terminated in accordance with the applicable provisions of this chapter. The order shall be made by public announcement and shall be published a minimum of one time in a daily newspaper of general circulation. Applicable restrictions herein outlined shall take effect and be enforceable upon publication of the notice, except that restrictions due to water treatment or delivery system failure, or unforeseen sudden increases in demand for water, shall be enforceable immediately following the filing of intent with the Office of the Town Clerk. Restrictions shall remain in effect until the time as applicable restrictions are removed.

(Prior Code, Ch. 18, Art. II, § 18-126) (Ord. 346-04, passed 6-21-2004)

§ 50.195 DECLARATION OF POLICY; AUTHORIZATION.

It is declared that danger to the public health, safety and welfare resulting from contamination or pollution of the public potable water supply system requires that measures be adopted to protect that system by authorizing town officials to:

(A) Protect the public potable water supply from the possibility of contamination or pollution by preventing the backflow of contaminantble pollutants into the public potable water supply system;

(B) Promote the awareness and elimination of cross connections, actual or potential of a customer's internal potable water system with the public potable water supply system;

(C) Provide for a continuing program of backflow prevention control which will prevent the contamination or pollution of the public potable water supply system;

(D) Provide for the monitoring and enforcement of a continuing program of backflow prevention which will prevent the contamination or pollution of the public potable water supply; and

(E) Comply with the state requirement contained in the Arizona Administrative Code, Title 18, Chapter 4, Art. 1 (R18-4-115 entitled "Backflow Prevention") that was promulgated by the State Department of Environmental Quality with an effective date of August 8, 1991, and is incorporated herein by reference (hereinafter referred to as State Rule R18-4-115). One copy shall be on file with the Town Clerk and the Public Works Department.

(Prior Code, Ch. 18, Art. II, § 18-129) (Ord. 346-04, passed 6-21-2004)

§ 50.196 CROSS CONNECTIONS FROM OR TO SOURCE OF WATER SUPPLY OTHER THAN THAT OF TOWN.

It shall be unlawful for any customer to cause a connection to be made or to allow one to exist for any purpose whatsoever between the town water supply and any other source of water supply without the approval of the Director.

(Prior Code, Ch. 18, Art. II, § 18-130) (Ord. 346-04, passed 6-21-2004) Penalty, see § 50.999

§ 50.197 RESPONSIBILITY FOR BACKFLOW PREVENTION CONTROL.

(A) *Public Works Director.* It shall be the responsibility of the Director to protect the public water supply by applying the remedies and enforcement provisions set forth in § 50.199.

(B) *Public Works Department responsibilities.* It shall be the responsibility of the Public Works Director to enforce certain provisions of this chapter as follows:

(1) The Public Works Director shall administer and enforce all applicable cross connection control provisions of the Town of Florence designated plumbing code, including issuance of permits for all required backflow prevention assemblies.

(2) The Public Works Director shall determine whether a facility is a listed facility or activity in § 50.198 and therefore requires backflow protection. This responsibility includes inspection as necessary of all existing facilities connected to Town of Florence water services.

(3) The Public Works Director shall, as a condition of issuance of any building permit, require installation of appropriate backflow prevention as required by § 50.198 and the Town of Florence Plumbing Code.

(4) The Public Works Director shall determine the type and location of all backflow prevention assemblies in accordance with this chapter and all other codes and ordinances of the town.

(5) The Public Works Director shall keep adequate records of each test of an approved backflow prevention assembly and any subsequent maintenance or repair thereof.

(C) *Customer responsibilities.* It shall be the responsibility of the customer to prevent pollutants or contaminants from entering the customer's building potable water system and the public potable water system. The customer's responsibility starts at the point of

service delivery from the public potable water system and includes all water piping systems. The customer is required to properly locate, install, test and maintain each backflow prevention assembly in good working condition and shall provide the necessary inspections to assure that the assembly is operating properly. These responsibilities include, but are not limited to the following:

(1) The customer shall obtain a permit from the town building official for the installation of any backflow prevention assembly or for the modification of any plumbing system.

(2) The customer shall test all backflow prevention assemblies at least once a year except that the Public Works Director may require more frequent testing if warranted. As to fire lines or fire sprinkler system with backflow prevention assemblies, the initial and annual test shall be performed by a certified tester. The initial and annual test shall include a full flow test. It is the responsibility of the customer to test and submit all testing results to the Public Works Director. If the test reveals the assembly to be defective or in unsatisfactory operating condition, the customer shall perform to the satisfaction of the Public Works Director all repairs or replacements so that the assembly is in satisfactory operation condition.

(3) If the Director or customer becomes aware during the interim period between annual tests that an assembly is defective or in unsatisfactory operating condition, the customer shall perform to the satisfaction of the Director, all repairs, replacement and any retesting so that the customer has an assembly in satisfactory operating condition.

(4) Assembly testing shall be performed by a certified tester. Testing requirements shall be in accordance with the procedures outlined in the latest edition of the University of Southern California *Manual of Cross-Connection Control and Hydraulic Research* (U.S.C.-FCCCHR or the Foundation). Los Angeles, California, December, 1993 (hereinafter "USC-CCCHR Manual"), § 9. The USC-CCCHR Manual is incorporated herein by reference. One copy of the USC-CCCHR Manual shall be on file with the Town Clerk and the Public Works Department.

(5) The customer shall be responsible for submitting copies of testing records pertaining to assemblies, on forms approved by the Director, by the date specified by the Director. The customer shall be required to retain all records for a minimum of three years from the date that a copy was provided to the Director.

(6) Backflow prevention assemblies shall be installed by the customer, at the customer's expense, in compliance with the standards and specifications adopted by the town.

(7) In the event the customer's or the public water system is contaminated or polluted due to a cross connection or other cause, and the same comes to the knowledge of the customer, the Public Works Director and the County Health Authority shall be promptly notified by the customer so that the appropriate measure may be taken to overcome the contamination.

(Prior Code, Ch. 18, Art. II, § 18-131) (Ord. 346-04, passed 6-21-2004)

§ 50.198 BACKFLOW PREVENTION METHODS.

Unless otherwise specifically designated by the Director:

(A) *Approved backflow prevention method.* An approved backflow prevention method shall be one of the following types:

(1) *Air gap.* An unobstructed vertical distance through the free atmosphere between the opening of any pipe or faucet, supplying potable water to a tank plumbing fixture or other device and the flood level rim of the 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 assemble (hereafter RP).* An assembly containing two independently 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 equipped with properly located test cocks fitted with brass plugs and tightly closing resilient seated shutoff valves located at each end of the assembly.

(3) *Pressure vacuum breaker assembly (hereafter 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 fitted with brass plugs and tightly closing resilient seated shutoff valves located at each end of the assembly.

(4) *Double check valve assembly (hereafter DC).* An assembly composed of two independently acting, approved check valves, including tightly closing resilient seated shutoff valve at each end of the assembly and fitted with properly located test cocks equipped with brass plugs.

(B) *Requirements for new services and existing services.* An approved backflow prevention method is required for the activities or facilities listed in this section that are connected to the public water system. The backflow prevention method shall be in accordance with that specified in § 7 of the USC-CCCHR Manual. The location shall be as close as practicable to the point of service delivery except that the customer may request that the approved backflow prevention method be located internally within the activity or facility. The customer must demonstrate that the proposed location will adequately protect the public water supply as well as satisfy the applicable requirements of this chapter. For purposes of this section, the listed facilities, equipment or conditions shall be as defined in § 7 of the USC-CCCHR Manual, or if not listed in the USC-CCCHR Manual, shall be defined in the *Town of Florence Design Standards and Policies Manual*.

(1) *Industrial facilities.*

(a) Beverage bottling plants (air gap, RP or DC);

(b) Breweries (air gap or RP);

(c) Canneries, packing houses, reduction plants and food processing plants (air gap or RP);

(d) Dairies and cold storage plants (air gap, RP or DC);

(e) Film laboratories (air gap or RP);

(f) Laundry and dye works (air gap or RP);

(g) Metal manufacturing, cleaning, processing and fabricating plants (air gap, RP or DC);

(h) Oil and gas production, storage or transmission properties (air gap or RP);

(i) Paper and paper products plants (air gap or RP);

(j) Plating plants (air gap or RP);

(k) Sand and gravel plants (air gap or RP);

(l) Semiconductor manufacturing facilities (air gap or RP); and

(m) Sewage and storm drain facilities, reclaimed water (air gap or RP).

(2) *Medical facilities.*

(a) Research laboratories (air gap or RP);

(b) Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics (air gap or RP); and

(c) Veterinary hospital, animal research or animal grooming shops (air gap or RP).

(3) *Commercial and educational facilities.*

(a) Any structure having a cross connection in violation of the Town of Florence Plumbing Code or water operated sewage pumping facilities, auxiliary water supplies or other like sources of contamination which would create a potential hazard to the public water system (air gap, RP or DC);

(b) Carwash facilities (air gap or RP);

(c) Multi-storied buildings having booster pumps or above-ground storage tanks (air gap, RP or DC);

1. Multiple services; interconnected (air gap RP or DC);

2. Exception: Existing facilities which are not otherwise listed in this section.

(d) 1. Mobile home parks (RP or DC);

2. Exception: Existing mobile home parks unless a specific hazard is identified.

(e) Recreation vehicle parks (RP or DC);

(f) Schools and colleges with laboratories (air gap or RP); and

1. Retail shopping centers and strip mails; retail and industrial shell buildings (when one service supplies more than one tenant) (RP).

2. Exception: Existing retail shopping center and strip malls retail and industrial shell buildings (when one service supplies more than one tenant) unless a specific hazard is identified.

(4) *Portable or temporary services or equipment.*

(a) Construction sites or construction water services (air gap or RP);

(b) Mobile equipment, utilizing public potable water (i.e. water trucks, street sweepers, hydrovacs and the like) (air gap or RP); and

(c) Portable insecticide and herbicide spray tanks (air gap or RP).

(5) *Miscellaneous activities and equipment.*

(a) Auxiliary water systems (Air gap or RP);

(b) Chemically contaminated water system (Air gap or RP);

(c) Fire systems.

1. *Class 1 or 2.* No backflow prevention assembly required. Check valve assemblies required by the Town of Florence Fire Chief shall be inspected, tested and maintained at least annually to verify the valves are properly installed and functioning. Annual flow and valve confidence tests shall be performed by a certified tester to test and maintain fire lines or fire sprinkler systems. Test results, on forms approved by the town, shall be provided to the Director and the town Fire Chief within 30 days following the inspection. Any fire sprinkler system which fails shall be repaired as required by the Fire Code.

2. *Class 3, 4, 5 or 6 (RP).*

(d) *Industrial fluid systems.* Any industrial fluid system interconnected with the public water supply and containing any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health system, pollution or plumbing hazard into an approved water supply (RP or DC).

(e) *Irrigation systems.*

1. System using a chemical injection system (RP);

2. System having elevated areas which are higher than six inches below the PVB or multiple services (RP); and

3. System not subject to back pressure (PVB).

(f) *Restricted, classified or other closed facilities, including civil works.* (Air gap or RP).

1. *Solar heating systems; direct and auxiliary.* (RP).

2. Exception: Once through solar heating systems.

(6) The Public Works Director shall determine on a case-by-case basis backflow prevention requirements for any facility or activity not listed in this section in order to prevent contamination or pollution of the public potable water system.

(7) All assemblies shall be accessible for testing and maintenance. A reduced pressure principle assembly or double check valve assembly shall not be installed in a basement, meter box, pit or vault unless adequate clearance and drainage is provided. A pressure vacuum breaker assembly shall be installed above ground.

(8) Unless a cross connection problem is specifically identified, or as otherwise provide in this chapter, the requirements of this chapter do not apply to a single-family residences used solely for residential purposes.

(9) Close as practicable is the point nearest the service delivery where the assembly can be installed. Where the assembly installation location may interfere with obstacles such as driveways and sidewalks, then close as practicable in the nearest point after the obstacle, but in no event beyond the first tap.

(10) An air gap separation shall be located as close as practicable to the customer's point of service delivery. All piping between the customer's connection and receiving tank shall be entirely visible unless otherwise approved by the Director.

(Prior Code, Ch. 18, Art. II, § 18-132) (Ord. 346-04, passed 6-21-2004)

§ 50.199 REMEDIES.

(A) If a customer has committed one or more of the acts contained in division (D) below and has not taken the corrective action as required by the Director, the Director may elect to impose a civil penalty not to exceed 1,000% per billing period on the charges for all water used beginning from the date the corrective action was required and until the corrective action has been completed by the customer.

(B) If a situation, which would otherwise result in discontinuance of water service, is not remedied with the time provided in the notice of termination sent to the customer, the Director at his or her discretion, may install a backflow prevention assembly at the customer's point of service deliver and bill the customer for all costs, together with all applicable penalties.

(C) The Director, at his or her discretion, may publish in the largest daily newspaper published in the town, notice of customers who at least once during the preceding 12 month period were in violation with any requirement of this chapter. The publication shall also summarize any enforcement action taken.

(D) In addition to any other remedy available to the Director under the Town Code, to enforce this chapter, the Director to terminate water service if the customer:

(1) Fails to properly locate, install, test or maintain a required backflow prevention assembly;

(2) Removes or bypasses a required backflow prevention assembly without the prior approval of the Director;

(3) Allows a cross connection to occur;

(4) Fails to timely submit records of tests and repairs of a backflow prevention assembly;

(5) Fails to comply with the written policy on backflow prevention and cross connection on file with the Town Clerk and Director; or

(6) Fails to comply with any requirements imposed upon the customer by State Rule R18-4-115.

(E) Termination of water service shall be immediate and without prior notice if the Director determines that the customer's water system may cause a health hazard to the public potable water supply. Otherwise, the Director shall give ten days' written notice to the customer prior to termination of water service. Water service may be restored when the condition forming the basis for the termination has been remedied to the satisfaction of the Director. All costs, fees and expenses incurred, and all surcharges and penalties relating to the termination and restoration of water service shall be paid prior to the water service being restored.

(Prior Code, Ch. 18, Art. II, § 18-133) (Ord. 346-04, passed 6-21-2004)

§ 50.999 PENALTY.

(A) *Interference with or obstructing water system facilities.* Any person who in any manner willfully defaces, damages, illegally uses or interferes with the operation of any well, pump, hydrant, valve, pipe, construction trench or any waterworks facility, or anyone who shall pollute the potable water supply of the town, or violates any provision of this chapter shall be guilty of a misdemeanor. Any expense caused to the town for the repair or replacement of damaged, stolen or misused waterworks facilities shall be charged against and collected from the person or persons who caused the expense. The violation of any provision of this chapter, or failure to pay for damages to town waterworks facilities, shall be sufficient cause for the Director to discontinue town water service to any property owned or used by the person or persons.

(Prior Code, Ch. 18, Art. II, § 18-114) (Ord. 346-04, passed 6-21-2004)

(B) *Authority of Water and Wastewater Division to turn off water.* For any violation of this chapter or for nonpayment of water charges for either domestic, sprinkling or other purposes, the Water and Wastewater Division has the right to turn off the water without further notice. After it has been turned off from any service pipe on account of nonpayment or violation of this chapter, the water shall not be turned on until all back charges are paid, together with the payment of all fees, and the applicable deposit paid, if required in accordance with § 50.152.

(Prior Code, Ch. 18, Art. II, § 18-115) (Ord. 346-04, passed 6-21-2004)

(C) *Rules and regulations to be enforced; exception.* The rules and regulations of this chapter are made for the benefit of the consumers of water in the town for the protection of the water supply system of the town. Their enforcement shall in no case be willfully ignored by any town official or employee. When a strict enforcement of any rule could work a gross injustice on a consumer of water from the town mains, the Director may in his or her discretion order a suspension of the rule as to that particular case.

(Prior Code, Ch. 18, Art. II, § 18-116) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see Ch. 51

CHAPTER 51: WASTEWATER

Editor's note:

Many of the sections set forth in this Chapter 51 have analogous or corresponding sections set forth in Chapter 50 of this code. Since the content of the two chapters closely overlap, the reader should also refer to Chapter 50 while referencing this Chapter 51.

Section

Sewer Extensions

Connections to Public Sewer and Charges

Sewer Service Charges

Haulage of Non-Hazardous Liquid Wastes

GENERAL PROVISIONS

§ 51.001 DEFINITIONS.

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

APPROVAL AUTHORITY. The Director in an NPDES state with an approved state pretreatment program and the appropriate United States Environmental Protection Agency (EPA) regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

APPROVED LABORATORY PROCEDURES. The measurements, test and analysis of the characteristics of water and wastes in accordance with analytical procedures as established in Title 40, C.F.R., Part 136, as revised, that are performed by an environmental laboratory licensed by the state pursuant to A.R.S. Title 36, Chapter 4.3 (A.R.S. §§ 36-495 *et seq.*). Alternative procedures may be approved by the Director in accordance with applicable federal regulations.

AVERAGE QUALITY. The arithmetic average (weighted by flow value) of all the daily determinations of concentrations, as that term is defined herein, made during a calendar month.

BEST MANAGEMENT PRACTICES (BMP). Measures or practices used to reduce the amount of pollution entering the sanitary sewer system, surface water, air, land or ground waters.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20°C, expressed in milligrams per liter.

BRANCH SEWER. An arbitrary term for a sewer which receives sewage from more than one public sewer from a relatively small area.

BUILDING CONNECTION. The extension from a sewer tap to the property line, or to the easement line of the property to be served.

BUILDING OFFICIAL. The town's chief building official or his or her authorized representative.

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

BYPASS. The intentional diversion of wastes from any portion of a treatment facility.

CATEGORICAL STANDARDS (NATIONAL/FEDERAL CATEGORICAL PRETREATMENT STANDARDS). Those standards promulgated by the United States Environmental Protection Agency (EPA) under the authority of § 307(b) and (c) of the Clean Water Act (33 U.S.C.§ 1317) which apply to a specific category of industrial user and which are published in Title 40, C.F.R. Chapter 1, subchapter N (parts 405-471) and are incorporated in this chapter by reference.

C.F.R. Code of Federal Regulations.

COD (CHEMICAL OXYGEN DEMAND). The quantity of oxygen consumed from a chemical oxidation of inorganic and organic

matter present in the water and wastewater expressed in milligrams per liter.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMMERCIAL USER. Any nonresidential user which provides a service or one connected with commerce and which is not classified as an industrial user. The Director maintains a list of the types of businesses that are commercial users and has the authority to classify specific users.

COMPOSITE SAMPLE. A combination of individual samples obtained at regular intervals over a specific time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow composite) or constant and collected at equal time intervals during the composite period (time composite) as defined in the permit.

COMPOSITE SAMPLE QUALITY. The concentration of some parameter tested in a ***COMPOSITE SAMPLE*** as that term is defined herein.

COOLING WATER. The clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling or refrigeration.

DAILY AVERAGE EFFLUENT LIMITATION. The maximum allowable concentration in the discharge as measured in a representative sample during a sampling day.

DEPARTMENT. The Public Works Department of the town.

DEVELOPER. Any person engaged in the organizing and financing of a wastewater collection system within an area contributing to a branch, main or a trunk sewer of the town's sewer system. Such may be either a subdivider or a legally constituted improvement district.

DIRECTOR. The Public Works Director of the Public Works Department, or his or her authorized deputy, agent or representative.

DISCHARGE. The disposal of any sewage, pollutant(s), water or any liquid from any sewer user into the sewerage system.

DOMESTIC USER. Any user who discharges only domestic wastewater.

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 waste.

DOMESTIC WASTEWATER. Any waterborne wastes derived from the ordinary living processes in a residential dwelling unit, of the character as to permit satisfactory disposal, without special treatment, by conventional POTW processes.

EPA. The United States Environmental Protection Agency.

ESTABLISHMENT PLANT. Any establishment or plant producing liquid waste, with or without suspended solids, required to be discharged into the town's sewer system.

FREE ACCESS. The ability of the town's personnel to enter user facilities under safe and non- hazardous conditions with a minimum of delay to inspect any and all parts of the user's facility.

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

GENERATOR. A person who generates septage.

GRAB SAMPLE. An individual sample of effluent collected in less than 15 minutes without regard for flow or time of day.

GRAB SAMPLE QUALITY. The concentration of some parameter tested in a ***GRAB SAMPLE***, as that term is defined herein.

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 the source were to be discharged to the POTW; or

(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) A source of industrial discharge;

(2) Any nonresidential user of the sewer system which discharges more than the equivalent strength of 25,000 gallons per day of domestic wastes;

(3) Any significant industrial user;

(4) Has control over the disposal of a waste as described in divisions (1), (2) or (3) above; or

(5) Has the right of possession and control over any property which produces a waste as described in divisions (1), (2), (3) or (4) above.

INDUSTRIAL WASTE. Any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids excluding uncontaminated water.

INFLOW. Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage.

INSTANTANEOUS EFFLUENT LIMITATION. The maximum allowable concentration in the discharge at any time as measured in a grab sample. In determining compliance with the instantaneous effluent limitation.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes, operations or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of any environmentally related permit issued by a governmental entity (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations) § 405 of the Clean Water Act (33 U.S.C. § 1345), the Solid Waste Disposal Act (SWDA) (42 U.S.C. §§ 6901 *et seq.*), (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), the Toxic Substance Control Act (15 U.S.C. §§ 2601 *et seq.*), the Marine Protection Research and Sanctuaries Act (16 U.S.C. §§ 1431 *et seq.* and 33 U.S.C. §§ 1401 *et seq.*).

LATERAL SEWER. A sewer that discharges into a branch or other sewer and has no other common tributary to it.

LIQUID WASTE HAULER (OR HAULER OR WASTE HAULER). Any person carrying on or engaging in vehicular transport of wastewater or wastes as part of, or incidental to, any business for the purpose of discharging the waste into the town's treatment works.

MAIN SEWER. A sewer which receives sewage from two or more branch sewers as tributaries.

MAINTENANCE. Keeping the sewerage works in a state of repair, including expenditures necessary to maintain the capacity (capability) for which the works were designed and constructed.

NATIONAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Clean Water Act (33 U.S.C. §§ 1317 *et seq.*) which applies to industrial users. This term includes prohibitive discharge limits established pursuant to title 40 C.F.R. pt. 403.5.

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

NEW SOURCE. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Clean Water Act (33 U.S.C. §§ 1317 *et seq.*) which will be applicable to the source if the standards are thereafter promulgated in accordance with that section, as and stated in detail in Title 40 C.F.R. pt. 403.3(k).

NON-HAZARDOUS LIQUID WASTES (NHLW). The wastes specifically identified in § 51.120.

NPDES PERMIT. A National Pollutant Discharge Elimination System permit, issued to the town by the EPA, which imposed federal standards governing the quality of the treated effluent discharged from the POTW.

OIL and ***GREASE.*** The measure of oil and grease content of a sample as determined by EPA Method 413.1, or either equivalent test method approved by the Director.

OIL and ***GREASE (TPH).*** For purpose of determining compliance with the oil and grease limitation contained in the code, ***OIL*** and ***GREASE*** is defined as the measure of petroleum and mineral oil (total petroleum hydrocarbons (TPH)) content of a sample as determined by EPA Method 418.1, or other equivalent test method approved by the Director.

PASS-THROUGH. A discharge which exits the POTW into water of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW NPDES permit (including an increase in the magnitude or duration of a violation) or which causes or contributes to a violation of an applicable numeric or narrative water quality standard.

PERMIT. A written control mechanism that the Director issues to particular users or classes of users under the authority of this chapter of the town code.

PERMITTEE, PERMIT HOLDER. Any person, firm, association, corporation or trust which owns, operates, processes or controls an establishment or plant being operated under a valid permit to discharge wastewater into the town's sewer system.

PERSON. Any individual, partnership, co-partnership, firm, company, association, joint stock company, trust, state, municipality, Indian tribe, political subdivisions of the state or federal government agency or any other legal entity, including their legal representatives, agents or assigns.

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

POLLUTANT. Any dredged spoil, solid waste, incinerator, residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural wastes.

POLLUTION PREVENTION. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

(1) Increased efficiency in the use of raw materials, energy, water or other resources; or

(2) Protection of natural resources by conservation.

POTW. Publicly owned treatment works and connecting sewer collection system which are owned and/or operated, in whole or in part, by the town and which provide the town with wastewater collection and disposal services.

POTW RESIDUALS. All POTW effluent and/or solids, including sludge, scum, screening and grit, which are the byproduct of wastewater treatment operations and which must be discharged to the environment for ultimate disposal and/or reuse.

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 of concentration of any pollutant;

(2) Eliminating the discharge or any pollutant; or

(3) Altering the nature of any pollutant characteristic to a less harmful state.

PRETREATMENT REQUIREMENTS. All of the duties or responsibilities imposed upon POTW users by this chapter.

PRODUCER. Any person, firm, association, corporation or trust which owns, operates, possesses or controls an establishment or plant, whether or not a permittee.

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 of an inch in any dimension.

PUBLIC SEWER. A branch, main or trunk sewer controlled and maintained by the town.

RECYCLING. A material is recycled if it is used, reused or reclaimed. A material is used or reused if it is either:

(1) Employed as an ingredient (including its use as an intermediate) to make a product; however, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal containing secondary materials); or

(2) Employed in a particular function as an effective substitute for a commercial product. A material is reclaimed if it is processed to recover a useful product or if it is regenerated. Examples include the recovery and lead values from spent batteries and the regeneration of spent solvents.

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.

REPRESENTATIVE SAMPLE. A composite sample obtained by flow proportional sampling techniques where feasible. When the Director determines that flow-proportional composite sampling is infeasible, the Director may allow or conduct composite sampling by time proportional techniques or by the compositing or averaging of one or more grab samples.

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

SEPTAGE. Aerobic wastewater originating from a domestic source, be it from a residential, commercial or industrial facility, that is not hazardous waste and is compatible with the biological wastewater treatment plant process.

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

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

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage. As used in this chapter, the term ***SEWER SYSTEM*** or ***SEWERAGE WORKS*** shall have the same meaning and definition as ***SEWAGE WORKS***.

SEWER. A pipe or conduit for carrying sewage.

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.

SEWER TAP. The wye, saddle or other device placed on a public sewer to receive a building connection.

SIGNIFICANT INDUSTRIAL USER.

(1) All users subject to categorical pretreatment standards under Title 40, C.F.R. pt. 403.6 and Title 40, C.F.R. Chapter I, subchapter N (parts 405-471).

(2) Any other user that:

(a) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);

(b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designed as such by the Director on the basis that he or she has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

SIGNIFICANT NONCOMPLIANCE. An industrial user is in a state of significant noncompliance (SNC) when violations meet one or more of the following criteria:

(1) ***CHRONIC VIOLATIONS OF WASTEWATER DISCHARGE LIMITS***, defined here as those in which 66% or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) ***TECHNICAL REVIEW CRITERIA (TRC) VIOLATIONS***, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Director determines has

caused, alone or in combination with other discharges, interferences or pass-through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under this chapter to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG DISCHARGE. Any discharge of non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

SOURCE REDUCTION. Any practice which:

(1) Reduces the amount of pollutant or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal; and

(2) Reduces the hazards to public health and the environment associated with the release of the substances, pollutants or contaminants.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A coded classification of industries based upon economic activity developed by the United States Department of Commerce as published in the *Standard Industrial Classification Manual*, 1972, Office of Management and Budget.

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 United States 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 (SS). Solids measured in milligrams per liter that either float on the surface of or are in suspension in water, wastewater or other liquids and which are largely removable by a laboratory filtration device as defined in the *Standards Methods* as defined herein.

SYSTEM DESIGN CAPACITY. The design capacity for normal domestic wastewater as established by accepted engineering standards.

TOTAL ORGANIC CARBON (TOC). The total of all organic compounds expressed in milligrams per liter as determined by the combustion-infrared method prescribed by approval laboratory procedures.

TOWN OF FLORENCE; TOF. Town of Florence.

TREATMENT PARAMETER. A fundamental characteristic of sewage around which treatment is designed, such as, but not limited, flow, BOD and suspended solids.

TRUNK SEWER. A sewer which received sewage from many tributary main sewers and serves as an outlet for a large territory.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities or improper operation and maintenance or lack thereof.

USER. Any person, 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.

WASTE COURSE. A channel in which a flow of water occurs, either continuously or intermittently.

WASTE MINIMIZATION. Any activity which eliminates or reduces the amount of any pollutant from entering the waste stream or the environment. This may include a change in raw materials, operational improvement, process improvement, product reformulation, reuse or reclamation.

ZERO PROCESS DISCHARGE USER. The term applies to those users that only discharge domestic wastes or have no discharge, but have significant quantities or hazardous materials or high strength waste, which if discharged, would be regulated by this chapter. The facilities may be regulated by requiring them to have zero discharge of process wastes, thus allowing only domestic wastes to be discharged.

(Prior Code, Ch. 18, Art. III, § 18-150) (Ord. 346-04, passed 6-21-2004)

§ 51.002 WATER AND WASTEWATER DIVISION; ADMINISTRATION.

For the proper administration of the Water and Wastewater Division and the operation of the water and sewerage works of the town, there shall be appointed by the Public Works Director a Utility Superintendent and other additional assistants as may be required for the operation of the Water and Wastewater Division.

(Prior Code, Ch. 18, Art. III, § 18-151) (Ord. 346-04, passed 6-21-2004)

§ 51.003 WATER AND WASTEWATER DIVISION; DUTIES OF PUBLIC WORKS DIRECTOR.

(A) The Public Works Director, hereinafter referred to as Director, shall be the general executive officer in charge of all personnel, the entire operation, equipment and facilities of the Water and Wastewater Division.

(B) He or she shall also have general supervision over, subject to the approval of the Town Council, all charges for water and sewer services, departmental policies, agreements, new connections, repairs and the like, and for all charges not expressly provided in this chapter.

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

(2) The Wastewater Division shall have the right to refuse service unless the consumer's lines or piping are installed in the manner as to prevent cross connections or backflow.

(3) Under normal conditions, the consumer shall be notified of any anticipated interruption of service.

(4) The Wastewater Division shall not be responsible for the negligence of third persons or forces beyond the control of the Wastewater Division resulting in any interruption of services or damages to the property or the consumer.

(5) The Wastewater Division may refuse service to any prospective consumer when the capacity of the sewer system will not permit additional loads being placed thereon.

(Prior Code, Ch. 18, Art. III, § 18-152) (Ord. 346-04, passed 6-21-2004)

Cross-reference:

For similar sections, see §§ 50.002 and 50.003

§ 51.004 INTERFERENCE WITH WATER AND WASTEWATER DIVISION; DIGGING UP STREETS WITHOUT A PERMIT; TAMPERING WITH EQUIPMENT PROHIBITED.

Every person who shall interfere in any way with employees of the Water and Wastewater Division in any discharge of his or her duties, either in the tapping of any sewer pipe, main or lateral belonging to the town, or the cleaning, laying or connection of any pipe or main or lateral, or who shall dig up or cause to be dug up, any street or alley in the town for the purpose of connecting with the sewer system of the town without first obtaining a permit from the Public Works Director, or who having a permit shall dig up any portion of any street or alley of the town for the purpose of connecting with the sewer system of the town and shall fail or neglect to place the street or alley in its original condition, or who shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal sewage works, shall be guilty of a misdemeanor.

(Prior Code, Ch. 18, Art. III, § 18-153) (Ord. 346-04, passed 6-21-2004)

§ 51.005 PROPERTY OWNER RESPONSIBLE FOR CLEANING, REPAIR AND REPLACEMENT OF BUILDING SEWER AND CONNECTIONS.

(A) The property owner shall be responsible for the cleaning, unstopping, maintenance and repair of the building connection piping serving the owner's property from the home or building to the public sewer line for repair including that portion of the private side extending into the town's right-of-way and connecting to the public sewer including the tie or saddle connection thereto.

(B) Where the connection of a stoppage requires the repair or replacement of a damaged or broken section of the building connection piping serving a single-family or a duplex property and the damaged or broken section is located within the public right-of-way, the property owner will be responsible for the repair or replacement of the damaged or broken section in the public right-of-way.

(C) Where the correction of a stoppage requires the repair or replacement of a damaged or broken section of the building connection piping serving a single-family or a duplex property and the damaged or broken section is located off property in a street or alley, the owner or his or her contractor shall obtain a permit from the town to do work in a public right-of-way prior to doing the work.

(D) The town shall be responsible for the repair and maintenance of all main trunk sewer lines. The responsibility for the expense and cost of maintaining, repairing and replacing any lateral sewer line from the point where the lateral taps the main trunk line to the boundary of the user's property shall be borne and paid by the property owner served by any lateral. Maintenance of the entire customer line from the building to the public sewer line shall be the responsibility of the property owner. In the case of stoppage, if there is a question as to whether the stoppage is in the sewer main, the town will promptly, upon call, determine whether there is stoppage in the main and will clear the main if necessary.

(E) If it is unclear whether a stoppage is in the service connection or the customer line, the town may assist in the determination. If the stoppage is in the customer line, the town may assist the customer with the restoration of service. In such cases, the customer will be responsible for all costs incurred by the town.

(Prior Code, Ch. 18, Art. III, § 18-154) (Ord. 346-04, passed 6-21-2004)

§ 51.006 SEWER SERVICE LINE REPAIR AND REPLACEMENT IN PUBLIC RIGHT-OF-WAY.

(A) The property owner shall be responsible for first ascertaining the approximate location of damaged or broken section of piping serving the property. If the damaged or broken section is in the public right-of-way, the property owner shall contact the Water and Wastewater Division. The Division will verify the damaged or broken location. If the damaged or broken section is verified to be in the public right-of-way and is sufficient in nature to require repair, the Division may initiate appropriate repair or replacement. When the broken section is on the private property, it will be the property owner's responsibility to repair the broken section.

(B) Disputes as to location, extent of damage or the method of repair or replacement or the damaged or broken section shall be resolved at the sole discretion of the Public Works Director.

(C) A special account shall be created to fund the repairs and replacements with an annual allocation as approved by the Town Council with the annual budget for each fiscal year. Requests for repairs or replacements shall be handled on a first-in basis. When the total funding in the account has been exhausted, all subsequent requests will be deferred until the Town Council approves additional funding to the account.

(Prior Code, Ch. 18, Art. III, § 18-154.1) (Ord. 346-04, passed 6-21-2004)

§ 51.007 PROTECTION OF WATER SUPPLY AND SEWERAGE SYSTEMS.

The specific provisions to properly protect the town's water supply or the sewage collection and treatment facilities are under the policy set forth in §§ 50.017 through 50.021.

(Prior Code, Ch. 18, Art. III, § 18-154.2) (Ord. 346-04, passed 6-21-2004)

§ 51.008 VIOLATION.

The violation or failure to follow any condition or provisions of the waste hauler permit, non-hazardous liquid waste dumping policy or Director's order authorized herein shall be a violation of this ordinance.

(Prior Code, Ch. 18, Art. III, § 18-213) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.009 ENFORCEMENT.

(A) The rules and regulations of this chapter are made for the benefit of the users of the town sewage works, for the protection of the sewage works and to protect the quality of the effluent of the sewage treatment plants.

(B) Their enforcement shall in no case be willfully ignored by any town official or employee. With the exception of applicable state and federal requirements, such as the pretreatment regulations, the Director may, at his or her discretion, order a suspension of a requirement that would cause a gross injustice to a particular user of the system.

(Prior Code, Ch. 18, Art. III, § 18-215) (Ord. 346-04, passed 6-21-2004)

USE OF PUBLIC SEWERS AND LIMITATIONS

§ 51.025 UNSANITARY DISPOSAL OF EXCREMENT PROHIBITED.

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

(Prior Code, Ch. 18, Art. III, § 18-155) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.026 TREATMENT OF POLLUTED WASTES REQUIRED.

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

(Prior Code, Ch. 18, Art. III, § 18-156) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.027 GENERAL USER REQUIREMENTS.

It shall be unlawful for any user to discharge or cause to be discharged to any entry point into the publicly owned sanitary sewer system:

(A) Unless otherwise approved by the Director, any swimming pool water, storm water, surface water, groundwater, roof runoff, surface drainage, cooling water or unpolluted industrial process waters that may constitute ***INFLOW*** as defined herein.

(B) Pollutants which create a fire or explosion hazard to the system or treatment plant. In no case shall pollutants be discharged with a closed cup flashpoint less than 140°F (60°C), or pollutants which cause an exceedance of 10% of the lower explosive limit (LEL) at any point within the wastewater treatment plant for any single reading or more than 5% for any two consecutive readings.

(C) Solid or viscous pollutants, petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through or that will cause obstruction to the flow in sewers or other interference or damage with the system or treatment plant.

(D) Any waters or wastes containing a toxic, radioactive, poisonous or other substances in sufficient quantity to cause or have the potential to cause injury or interference with any sewage treatment process, cause corrosive structural damage, constitute a hazard to human or create any hazard to the sewerage system or in the receiving waters of the sewage treatment plant or pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(E) Any waters with a pH less than five standard units (S.U.) or greater than 9 S.U. except as provided in § 51.028.

(F) Any waters with a temperature greater than 150°F (66°C) or heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no event heat in such quantities that the temperature at the headworks of the POTW treatment plant exceed 104°F (40°C).

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

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

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

(J) 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 flowing sewers or other interference with the proper operations of the sewer works.

(K) 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.

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

(M) Any water or waste greater than the following parameters under which the town's wastewater is regulated in accordance with the substances listed in Arizona Administrative Code Title 18, Chapter 4.

(N) Any water or waste 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 chapter except where dilution is expressly authorized by any categorical standard.

(O) Any water or waste that could cause a violation of any categorical standard or pretreatment requirement.

(P) Any water or waste that is transported from the point of generation to the POTW by any septic tank pumper, chemical waste hauler or similarly transported unless the transporter has first:

(1) Disclosed to the Director the origin, nature, concentration and volume of all pollutants to be discharged; and

(2) Obtained the written consent of the Director to discharge.

(Q) Any water or waste which could cause interference or pass-through with POTW operations.

(R) Any discharge that exhibits a characteristic of a hazardous waste, or contains a substance that is listed as a hazardous waste pursuant to either Arizona Administrative Code R 18-8-261 or Title 40 C.F.R. part 261, whichever is applicable, whether or not the discharge is otherwise subject to hazardous regulations. This provision does not apply to domestic wastewater or to discharges of hazardous wastes that are authorized by the Director.

(S) Any water or waste exceeding the limits for the effluent limitations that are expressed in the total form as regulated by State Department of Environmental Quality for the permitted facility.

(Prior Code, Ch. 18, Art. III, § 18-157) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.028 AUTHORITY OF THE DIRECTOR TO ESTABLISH PROHIBITIONS AND EFFLUENT LIMITATIONS.

(A) In addition to the prohibitions and effluent limitations contained in this chapter, the Director shall have the authority to establish limitations for individual users or class of users for various specific substances, materials, waters or wastes that can be accepted into the sewer system, as well as specify those substances, materials, waters or wastes that are prohibited from entering the sewer system. All prohibitions and effluent limitations so established shall be placed on file with the Town Clerk and become effective and enforceable on day 31 after the date of filing.

(B) All affected individual or class of users shall comply with the prohibitions and effluent limitations established pursuant to this section.

(C) The admission into the public sewers of any waters or wastes having any of the following characteristics shall be subject to the review and approval of the Wastewater Division:

(1) A five-day biochemical oxygen demand greater than 300 parts per million by weight;

(2) Containing more than 350 parts per million by weight of suspended solids;

(3) Containing any quantity of substance having the characteristics described in § 51.027; and

(4) Having an average daily flow of greater than 2% of the average daily sewage flow of the municipality.

(Prior Code, Ch. 18, Art. III, § 18-158) (Ord. 346-04, passed 6-21-2004)

§ 51.029 PRELIMINARY TREATMENT; REQUIRED APPROVAL.

(A) Where necessary in the opinion of the Director, any user of the sewage works shall provide at his or her expense, the preliminary treatment as may be necessary to reduce objectionable characteristics or constituents to within the maximum limits provided for in this chapter.

(B) Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Director. No construction of the facilities shall be commenced until the Director's approval is obtained in writing.

(C) The completed facilities shall not be placed in service until they have been inspected for conformance to the approved plans and the final construction approved by the Director. The approval of the plans and inspection of construction shall not relieve the owner from complying with discharge limitation set forth in this chapter.

(D) The town will enforce federal pretreatment requirements as set forth in 40 C.F.R. part 403.

(1) *Required.* When necessary in the opinion of the Wastewater Division, the owner shall provide, at his or her expense, the preliminary treatment as may be necessary to:

(a) Reduce the BOD to 300 parts per million and the suspended solids to 350 parts per million by weight;

(b) Reduce objectionable characteristics or constituents to within the maximum limits provided for in § 51.028; and

(c) Control the quantities and rates of discharge of the waters or wastes.

(2) *Approval.* Plans and specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the Public Works Department and the State Department of Environmental Quality (ADEQ if required). No construction of the facilities shall be commenced until the approvals are obtained in writing.

(3) *Users of land.* All users of any type of commercially zoned land, prior to any connection to the town's wastewater system which comes into existence through the building process at any time in the future, shall submit to the town a plan or design for the use of the commercial land, and shall provide access to the town staff or the agents thereof, for the purpose of testing and sampling of any waste material introduced into any portion, part, line or treatment facility that is part of the town wastewater system.

(Prior Code, Ch. 18, Art. III, § 18-159) (Ord. 346-04, passed 6-21-2004)

§ 51.030 PRELIMINARY TREATMENT; MAINTENANCE OF FACILITIES.

When preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. 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 facility for a minimum of three years and be made available to the Director upon request.

(Prior Code, Ch. 18, Art. III, § 18-160) (Ord. 346-04, passed 6-21-2004)

§ 51.031 INTERCEPTORS REQUIRED.

Grease, oil and sand interceptors shall be provided for restaurants, cafes, inns, motels, hotels, churches, meeting halls, breweries, laundries, service stations, auto repair shops, carwashes, product manufacturers, disposers of septic wastes, individual plants and other

facilities when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease or oil in excess amounts or any flammable wastes, sand and other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units.

(Prior Code, Ch. 18, Art. III, § 18-161) (Ord. 346-04, passed 6-21-2004)

§ 51.032 INTERCEPTORS; TYPE, CAPACITY, LOCATION.

All interceptors shall be a type and capacity approved by the Director and shall be located as to be readily and easily accessible for cleaning and inspection.

(Prior Code, Ch. 18, Art. III, § 18-162) (Ord. 346-04, passed 6-21-2004)

§ 51.033 INTERCEPTORS; CONSTRUCTION OF GREASE AND OIL INTERCEPTORS.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers. When bolted covers are required they shall be gas tight and watertight.

(Prior Code, Ch. 18, Art. III, § 18-163) (Ord. 346-04, passed 6-21-2004)

§ 51.034 INTERCEPTORS; MAINTENANCE.

(A) 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. 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 facility for a minimum of three years and be made available to the Director upon request.

(B) In maintaining these interceptors, the owners shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which records are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.

(Prior Code, Ch. 18, Art. III, § 18-164) (Ord. 346-04, passed 6-21-2004)

§ 51.035 CONTROL MANHOLES.

(A) When required by the Director, the owner of any property served by a building sewer carrying potentially harmful or industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, measurement and sampling of wastes.

(B) The manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Director. The manholes 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, Ch. 18, Art. III, § 18-165) (Ord. 346-04, passed 6-21-2004)

§ 51.036 RIGHT OF ENTRY FOR INSPECTION.

(A) Any authorized employee of the Water and Wastewater Division shall have free access as that term in herein defined at all reasonable hours to any commercial or industrial premises connected to the town service area or connected to the town sewer system for purposes of assessing applicability and/or compliance with the requirements of this chapter.

(B) Any user or potential user shall allow all inspection, monitoring, copying of records and the like reasonably needed by the Director or his or her agent to perform the duties required or needed under this chapter.

(Prior Code, Ch. 18, Art. III, § 18-166) (Ord. 346-04, passed 6-21-2004)

§ 51.037 DISCHARGES TO BE REPORTED.

Every user of the town sewer system shall report to the Director immediately any accident, negligent act or other occurrence that occasions a discharge to the public sewer of any wastes or process waters that exceed the permissible limit for the wastes established by the Director.

(Prior Code, Ch. 18, Art. III, § 18-167) (Ord. 346-04, passed 6-21-2004)

§ 51.038 TESTS AND ANALYSES.

All tests and analysis of the characteristics of waters and waste shall be determined in accordance with approved laboratory procedures. All tests and analysis of the characteristics of waters and wastes to which reference is made in §§ 51.027 and 51.028 shall be determined in accordance with standard methods for examination of water and sewage, and shall be determined at the control manhole provided for in section § 51.035 or upon suitable samples taken at the control manhole.

(Prior Code, Ch. 18, Art. III, § 18-168) (Ord. 346-04, passed 6-21-2004)

§ 51.039 APPROVAL BY TOWN ENGINEER AND DIRECTOR REQUIRED.

No public sewer extension shall be made until the plans and specifications are approved by both the Town Engineer and the Director. Public sewer extensions shall be constructed in accordance with standards and specifications on file in the Town Engineer's office. With the concurrence of the Town Engineer, the Director may authorize variances from the standards and specifications.

(Prior Code, Ch. 18, Art. III, § 18-169) (Ord. 346-04, passed 6-21-2004)

SEWER EXTENSIONS

§ 51.055 CONSTRUCTION AND OWNERSHIP OF PUBLIC SEWER LINES AND OTHER EQUIPMENT MAINTAINED BY WATER AND WASTEWATER DIVISION.

(A) In new subdivisions and developments where public sewers are authorized by the Public Works Director, the public sewers shall be constructed at the developer's expense in accordance with plans approved by the Public Works Director. Detailed plans and specifications for public sewer extensions must be approved by the Public Works Director prior to construction. The costs for the preparation of plans and specifications, the staking of the location of the new public sewers, the cost of inspecting the construction, the cost of acquiring rights-of-way and easements and preparation of as-built plans shall be assumed by the developer. The town will perform the inspection during construction.

(B) The ownership of the public sewer lines, pumping stations, treatment facilities and equipment and other appurtenances to the sewer system maintained, or accepted for maintenance, by the Water and Wastewater Division shall be vested in the Division, and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in this code.

(Prior Code, Ch. 18, Art. III, § 18-170) (Ord. 346-04, passed 6-21-2004)

§ 51.056 MAIN SEWER EXTENSION POLICY FOR AREAS BEYOND PRESENT TOWN TRUNK LINES.

The main sewer extension policy of the town for areas beyond present town trunk sewers and the policy to be followed in connection therewith shall be, and the same is hereby, declared to be as follows:

(A) The town desires to encourage the development of undeveloped areas through repayment for extra costs incurred in construction of "off-site" sewer mains that are necessary to serve development in order to distribute the costs of extending the mains between two or more developers. This policy would apply where a sewer main extension was constructed by one developer and

connected or utilized at a later date by one or more developers. For this purpose, a ***SEWER MAIN*** is defined as a main extended beyond the limits of the project or a main constructed along the frontage or boundary of the development with capacity to serve additional developments. However, the developer must pay all the costs for engineering design and construction of main sewers of the size as to afford adequate capacity and service for specific "service areas" to be served by town trunk sewers.

(B) The Town Engineer will not perform field engineering or submit detailed plans and specifications for the developer. This latter work is to be performed by a civil engineer registered in the state, employed by the developer. The final details plans and specifications for the main sewer extension must be approved by the Town Engineer and the Public Works Director before construction begins. The engineering costs for preparation of plans and staking of the main sewer incurred by the developer may be included as determined by the Director in the agreed construction costs as provided in this section.

(C) The final detailed plans and specifications for the main sewer extensions must be approved by ADEQ and by the Council before construction begins. The design and engineering will be in accordance with the specifications of the State Department of Environmental Quality and the municipality prior to construction. The construction shall meet the municipality's specifications, requirements and approval, and will be subject to inspection by the municipality's agents during construction.

(D) In new subdivisions, shopping centers, industrial tracts or similar developments, the developer shall furnish and install to town specifications all branch, lateral and main sewers, manholes and appurtenances within the boundary of the designated area of the development.

(E) The design and engineering will be in accordance with the specifications of the town and must be approved by the Town Engineer of the town prior to the construction. The construction shall meet the town specifications, requirements and approval and will be subject to inspection by the Town Engineer during construction.

(F) Upon its completion, the aforesaid main sewer line shall become and be the property of the town.

(G) The maximum area to be serviced by the proposed main sewer line and its ultimate branches and laterals shall be determined by the Public Works Department based on local drainage conditions.

(H) The town shall have exclusive control of connections to the proposed main sewer line.

(I) Except as otherwise provided in this section, all provisions of this code and other ordinances of the town or amendments thereto applicable to sewer services inside and outside the town boundaries, including all charges therefore, shall apply to services in the proposed area.

(J) Should others in the service area desire to join with the developer in constructing the proposed main sewer line, this agreement will be considered as including the others.

(K) In the event that the area to be serviced by the developer is lesser in size than the maximum area to be serviced by the proposed main sewer line and its ultimate laterals, the aforesaid main sewer line shall be designed, engineered and constructed to serve the maximum area as described heretofore.

(L) In the event that the area to be serviced by the developer is the entire area above described as the maximum service area, then the developer will not be eligible for repayment.

(M) The town, in consideration of the foregoing, agrees:

(1) To permit the developer to connect into town existing trunk sewer lines and the main sewer line to be constructed by the developer as above provided;

(2) In the event that the area to be serviced by the developer is smaller than the maximum area to be serviced by the proposed main sewer line and its ultimate branches and laterals. The town agrees to enter into an agreement with any party desirous of obtaining a connection to the main sewer line;

(3) Such an agreement will establish a just, equitable and reasonable charge to permit such a connection. The connection charge will be made on a cost per acre basis on the area to be served, using the heretofore agreed main sewer line construction cost based on competitive bidding and maximum service area acreage to determine the cost per acre;

(4) Any connection charge will not affect the right of the town to assess its regular tax charges and sewage rental charges against the owners of property within the developer's area;

(5) Building connection charges (sewer tap) shall be paid to the town at the prevailing rate and are not refundable; and

(6) A charge of $100 will be assessed by the town for the administration of each repayment agreement (see Town of Florence

Schedule of Fees).

(Prior Code, Ch. 18, Art. III, § 18-171) (Ord. 346-04, passed 6-21-2004)

§ 51.057 COSTS OF EXTENSION.

The developer shall pay the costs for utility extension using one of the following two options:

(A) *Option I.* The developer shall pay in full for the rights-of-way, the construction and installation of the lines, pipes and mains, and all other features of the extension.

(B) *Option II.*

(1) The construction cost of the extension shall be determined and agreed upon prior to commencement of construction after the developer has submitted a cost breakdown to the Town Engineer. The engineering costs incurred by the developer for the preparation of plans and staking of the main sewer only be included in the agreed construction cost. Costs of lateral and branch sewers and their appurtenances will not be included in the agreed construction or in the main sewer project agreement. The municipality shall reserve the right to reject the developer's cost breakdown if it is in appreciable variance with the municipality's estimate.

(2) In the event that the area to be serviced by the developer is the entire area described herein as the maximum service area, then the developer will pay in full for the cost of construction and will not be eligible for repayment. In the event that the area to be serviced by the developer is lesser in size than the maximum area to be serviced by the proposed main sewer line and its ultimate branches and laterals, the municipality agrees to enter into agreements with any party desirous of obtaining a connection to the main sewer line. The agreement will establish a just, equitable and reasonable charge to permit the connection, the charge to be made on a cost per acre a basis of the area to be served, using the heretofore agreed main sewer line construction cost and maximum service area acreage to determine the cost per acre. The amount of the connection charge will be paid to the municipality, who agrees to repay the amount to the developer, the total of the repayments not to exceed that portion of the agreed cost of the construction of the main sewer line allotted to acreage outside of the development.

(3) In no such way is any such agreement to be constructed as including any branch of lateral within the service area.

(Prior Code, Ch. 18, Art. III, § 18-171.1) (Ord. 346-04, passed 6-21-2004)

§ 51.058 OWNERSHIP.

The municipality shall have exclusive control of connections to the proposed main sewer line and upon its completion, the main line shall become and be the property of the municipality. Except as otherwise herein provided, all provisions of this code and ordinances and amendments thereto applicable to sewer services including all charges therefore shall apply to services in the approved area.

(Prior Code, Ch. 18, Art. III, § 18-171.2) (Ord. 346-04, passed 6-21-2004)

§ 51.059 SEWER EXTENSIONS IN ADVANCE OF A SEWER ASSESSMENT DISTRICT.

The sewer extension policy provisions of the town in regards to sewer installations in advance of sewer assessment districts and the policy to be followed in connection therewith shall be, and the same is hereby, declared to be as follows:

(A) At the option of the developer of an individual parcel of land or of subdivision, he or she may apply for payment of the sewer line or lines necessary to connect his or her development to a trunk sewer. He or she may also apply for payment of the sewer lines within his or her development.

(B) In order to qualify for payment, the sewer lines to be installed must be usable by a future assessment district, and the developer must sign an agreement whereby the assessable area of any parcel or parcels immediately adjacent to and served by the lines will be included in the assessment district and will receive an assessment for which the developer will be liable, regardless of whether he or she sells part or all of the property to be assessed.

(C) The developer shall pay all construction costs, including engineering services. The design, location and construction must be approved by the town. The contractor shall be duly licensed.

(D) The sewer lines installed by the developer will be held in trust by the town for sale to a special assessment district in the town. The agreed construction cost, not exceeding the actual cost for the lines, will be written into the construction bid as a lump sum item and will become part of the construction cost for the special assessment district.

(E) The property owners adjacent to lines installed by the developer can connect to these lines by signing an agreement, which will be recorded, to accept an assessment in the assessment district.

(F) If the developer desires to enter into private agreements with adjacent property owners in which they agree to share his or her cost for the privilege of connecting to the sewer lateral, he or she may do so, but these property owners will still be required to sign an agreement with the division in which they agree to accept an assessment in the assessment's district.

(G) There will be only one purchase agreement for each project. No attempt will be made to negotiate with more than one party, regardless of how many are sharing the cost.

(H) Payment will be made at the completion of the assessment district or at the time that assessments become payable.

(Prior Code, Ch. 18, Art. III, § 18-172) (Ord. 346-04, passed 6-21-2004)

§ 51.060 PRIVATE SEWERAGE SYSTEMS; CONSTRUCTION AND MAINTENANCE WITHIN TOWN PROHIBITED GENERALLY.

Except as provided in this chapter, it shall be unlawful to construct or maintain within the municipality any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Prior Code, Ch. 18, Art. III, § 18-173) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.061 PRIVATE SEWERAGE SYSTEMS; WHEN PERMITTED; TO BE CONSTRUCTED AND MAINTAINED IN SANITARY MANNER.

(A) Where a public sanitary sewer is not available for a distance of 300 feet within the municipality, or in any area under the jurisdiction of the municipality, the building sewer shall be connected to a private sewage disposal system, complying with the regulations, provisions and recommendations of the State Department of Health Services and the Sanitary Code of the County Health Department.

(B) The private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner.

(Prior Code, Ch. 18, Art. III, § 18-174) (Ord. 346-04, passed 6-21-2004)

CONNECTIONS TO PUBLIC SEWER AND CHARGES

§ 51.075 PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Works Department.

(Prior Code, Ch. 18, Art. III, § 18-175) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.076 APPLICATION FOR SEWER TAP; SEWER DYE TEST.

(A) Each person making application for a sewer tap shall present a valid plumbing permit issued by the town building official, or his or her authorized representative to the Water and Wastewater Division as a prerequisite for the approval of the requested sewer tap.

(B) A customer who has been connected to the public sewer and questions whether a sewer tap is in service may apply to the Water and Wastewater Division for a sewer dye test to be performed. The sewer dye test shall be performed by the Water and Wastewater Division when the customer has paid a fee of $50 to cover the costs of the test. If the test shows that the sewer tap is not

in services, the $50 fee shall be refunded to the customer.

(Prior Code, Ch. 18, Art. III, § 18-176) (Ord. 346-04, passed 6-21-2004)

§ 51.077 PUBLIC WORKS DIRECTOR TO APPROVE DESIGN, QUANTITY, LOCATION, SIZE AND CONSTRUCTION SEWER SERVICES.

(A) The design, quantity, location, method of connection and size of all sewer taps shall be subject to the approval of the Director. The Water and Wastewater Division will install all sewer taps less than eight inches in diameter, except as provided elsewhere in this chapter. All sewer taps eight inches in diameter or larger shall be installed by a private contractor in accordance with plans approved by the Public Works Director. Review fees shall be paid as set forth in of the Town Code, sewer taps shall be connected to public sewers only, unless specifically authorized and approved by the Director.

(B) Where property borders public rights-of-way or public easements containing a serviceable Town of Florence wastewater main, the property, when developed, shall be connected to the Town of Florence wastewater system. Sewer taps shall extend at right angles from the main to the property line and shall be installed in accordance with the most current edition of the *Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction*.

(C) Permits for sewer taps will not be granted, or may be revoked, when the lateral sewer passes through property which at the time, is or may become, the property of persons other than the owner of the property to be served from the connection.

(D) No building sewer will be connected to the building connection until it has been inspected and approved by the Public Works Department or building inspector.

(Prior Code, Ch. 18, Art. III, § 18-177) (Ord. 346-04, passed 6-21-2004)

§ 51.078 SPECIAL PROVISIONS FOR INSTALLING TAPS IN NEW SUBDIVISIONS AND DEVELOPMENTS.

In new subdivisions or developments where public sewer extensions are authorized by the town and constructed at the developer's expense, the town may authorize the developer or his or her agent, if he or she so desires, to install sewer taps with wyes or tees and connect the lateral sewers to the building connection under the following provisions:

(A) The construction of the public sewer, sewer taps and connections of the lateral sewer to the sewer tap shall be under the supervision or a registered civil engineer holding registration in the state, who shall submit "as-built plans" bearing the registered civil engineer's registration seal and number to the Public Works Department. It shall be the duty of the developer to require that all sewer taps serving lots in the development upon which no buildings are constructed be effectively sealed until the time as buildings will be constructed on the lots left vacant. The sealed connections shall be inspected and approved by the Public Works Department before being backfilled and shall be designated and located on the "as-built plans". The effective seal shall consist of a vitrified clay stopper inserted in the bell of the sewer extending to the property line from the public sewer; the stopper shall be jointed according to the Town Engineer's standard detail specification of the work. The stopper shall be permanently flagged by attaching one end of a length of copper wire to the stopper and the other end to a broken piece of clay pipe, which shall be placed under the solid surface directly over the end of a sewer pipe.

(B) Before any building sewer construction is commenced, plumbing permits must be obtained by the developer or his or her agent from the building official.

(C) When the "as-built plans" are submitted, the Water and Wastewater Utility Superintendent Department will make a record of the sewer taps.

(D) The Public Works Director will collect a fee as set forth in the Town Code.

(Prior Code, Ch. 18, Art. III, § 18-178) (Ord. 346-04, passed 6-21-2004)

§ 51.079 RECORDS TO BE KEPT BY WATER AND WASTEWATER DIVISION.

The Water and Wastewater Division shall keep a record of all sewer taps and building 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, Ch. 18, Art. III, § 18-179) (Ord. 346-04, passed 6-21-2004)

§ 51.080 INSTALLATION OF SEWER TAPS.

The installation of sewer taps eight inches or less will be the responsibility of the Water and Wastewater Division. The contractor and/or developer will be responsible for the excavation to and the uncovering of the town sanitary sewer main. All excavation and trenching shall be in accordance with the latest regulation of the occupational safety and health administration. The contractor shall notify the Water and Wastewater Division at least 48 hours in advance for the required sewer taps. Division employees will be prohibited from entering any excavation or trench not meeting the safety requirements of any applicable town, state or federal regulations. Upon completion of the installation of the sewer tap, the contractor and/or developer will be responsible for backfilling the trench and restoring the surface to its original condition or as shown on the approved engineering plans. All sealed connections shall be inspected and approved by the Town Engineer prior to being backfilled in accordance with § 51.078.

(Prior Code, Ch. 18, Art. III, § 18-180) (Ord. 346-04, passed 6-21-2004)

SEWER SERVICE CHARGES

§ 51.095 MINIMUM CHARGES, RATES AND PAYMENTS.

(A) The initial sewer connection fee and minimal charge, as provided in the sewer rate schedule, shall be made for each sewer connection regardless of location (see Town of Florence Schedule of Fees).

(B) The monthly rates for sewer furnished to consumers shall be provided in the Town of Florence Schedule of Fees.

(1) New service installations shall be according to the Town of Florence Schedule of Fees; outside the municipality shall be double the rate.

(2) All sewer installation charges shall be collected at the time the customer makes application for new service (see Town of Florence Schedule of Fees).

(a) *Residential.* Sewer use volume charge is computed based on 75% of actual water consumption for residential customers inside the municipality and 100% for all other customers.

(b) *Institutional.* Includes but not limited to multi-bed, self-contained facilities with or without kitchens.

(c) *Commercial.* Includes but not limited to office, multi-family, school and government facilities.

(3) (a) In order to provide for recovery of municipal costs associated with the municipal sewer pretreatment program, a volume charge per excess pound treated (please see Town of Florence Schedule of Fees).

(b) Car washes, laundries, restaurants, bakeries, service stations and auto repair shops and other commercial and public users with dining facilities shall pay a per month commercial inspection charge (see Town of Florence Schedule of Fees).

(4) The schedule shall apply to all sewer connections served by the municipality and the schedule shall apply to all future extensions unless and until the schedule is amended or charged by the Council.

(5) All fees for sewer service shall be collected by the Finance Director or his or her authorized agent and deposited in the Sewer Revenue and Reserve Fund. Initial sewer connection fees shall be paid on issuance of a sewer connection permit. Rental fees shall be charged on a monthly basis at the end of each month. The Town Manager or his or her authorized agent is hereby authorized and directed to use any legal means or procedures to ensure collection of sewer service fees.

(Prior Code, Ch. 18, Art. III, § 18-181) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005; Ord. 453-07, passed 1-16-2007; Ord. 510-09, passed 7-6-2009; Ord. 559-11, passed 6-6-2011; Ord. 595-13, passed 5-20-2013)

§ 51.096 OTHER SEWER SERVICE CHARGES.

In addition to the user charges described herein, the rate schedule shall be sufficient to cover the following costs:

(A) A portion of the annual debt service costs for retirement of sanitary sewer bonds will be charged to all customers served directly by the town wastewater collection system.

(B) Adequate reserve funds to allow for reasonable expected increases in the cost of providing services will be charged to all customers served directly by the town wastewater collection system.

(C) The costs of billing and collection a performing industrial waste services shall be charged to customers on an equitable basis.

(Prior Code, Ch. 18, Art. III, § 18-186) (Ord. 346-04, passed 6-21-2004)

§ 51.097 SEWER SERVICE CHARGES OUTSIDE THE TOWN.

All customers served directly by the town and located outside the town limits shall pay at a rate of one and one-half times the rate for the same classification of service inside the town. In determining the amount the Finance Director shall charge these customers, the same user charges as customers inside the town and will add to this amount, as an "other charge", an amount sufficient to make the total charge payable by the customers equal to one and one and one-half times the amount paid for the same classification in the town.

(Prior Code, Ch. 18, Art. III, § 18-187) (Ord. 346-04, passed 6-21-2004)

§ 51.098 QUAIL RUN SEWER EXTENSION DEVELOPMENT FEE.

(A) All connections to the Quail Run sewer extension, within the crosshatched area on the Quail Run Sewer Extension Service Area Map attached to Ord. No. 346-04 and on file in the office of the Town Clerk, whether direct or indirect, will be subject to the Quail Run sewer extension development fee.

(B) The Quail Run sewer extension per acre development fee shall be paid at the time the building permit is issued. No connection shall be permitted until payment has been received by the town.

(C) The funds collected will be placed in a restricted "major sewer line account" and can only be used to install future major trunk, interceptor, extension or relief services.

(D) The charge will be based on the following fee schedule:

(1) The town will construct an eight-inch sewer line extension to provide sewer service to the Quail Run sewer extension service area. This plan provides for reimbursements to the town for the costs incurred in building the line plus or minus an adjustment for construction cost changes.

(2) A total charge as determined by the Town Manager will be expended to construct the Quail Run sewer extension, which includes construction costs, engineering costs, inspection costs and incidental costs.

(3) The service area for the Quail Run sewer extension, as shown in the crosshatched area of the map referenced in division (A) of this section, comprised 48.67 net acres defined as the gross acreage minus existing dedicated rights-of-way for streets, highways and canals. Any development within the service area that does not receive sewer service from the Quail Run sewer extension shall not be charged this development fee and likewise any development outside the service area that receives sewer service from the Quail Run sewer extension shall be charged this fee.

(4) The base reimbursement shall be as follows:

Acreage Subject to Permit Request x Total Base Cost = Reimbursement

48.67 (Net acreage)

(5) The actual reimbursement for the Quail Run sewer extension shall be adjusted to reflect the then current prevailing market rate for construction. The index rate for the adjustment shall be the Engineering News Record Index using March, 1994, as the base rate. The March, 1994, Index value of $5,381 shall be used in the calculation as follows:

Base Reimbursement x (ENR Cost Index) = Actual reimbursement for permit

$5,381 to issue.

(Prior Code, Ch. 18, Art. III, § 18-187.1) (Ord. 346-04, passed 6-21-2004)

§ 51.099 PAYMENT OF BILLS AND CHARGES.

(A) All sewer user accounts shall be carried on the books of the Water and Wastewater Division by the house and street numbers. All notices sent out by the town regarding sewer user accounts and all notices regarding any matter pertaining to the use of the town sewerage system shall be sent to the billing address noted in the application for service. Should the owner of the property desire personal notice from the town, he or she should submit a mailing address to the Water and Wastewater Division. If insure proper delivery of notices, all errors in house numbers should be promptly reported to the Water and Wastewater Division.

(B) The sewer account and bills shall distinguish the amount of the sewer user charge from any industrial cost recovery charge, if applicable.

(C) All rates and service charges are due and payable when rendered. Payment must be made no later than the due date printed on the bill. If payment is not received by the due date, the next monthly billing will indicate the past due amount and the current amount due. The account is considered delinquent and subject to turnoff for nonpayment. If the prior month billing is not paid by day 15 of the month, a turnoff notice will be mailed to the customer indicating the scheduled disconnect date. If the prior month due of the bill is not paid prior to the scheduled disconnection date, the notice of delinquency having been given, water service may be disconnected from the premises of the delinquent customer. No further notices need be given to the customer by the Water and Wastewater Division. A turnoff fee will be assessed to the customer's account for discontinuance of service. A turnoff fee shall be collected before again restoring service, plus the total amount of the bill due. An account may also become delinquent and subject to disconnection for nonpayment of return check amounts and services charges. If a customer disputes the amount of the bill or protests a proposed termination of service as unjustified, the customer may present objections by following the policy set forth in Chapter 50.

(D) A consumer's water service may be disconnected for nonpayment of a bill for sewer service rendered at a previous location served by the Water and Wastewater Division.

(E) Any expense caused by the town for the repair or replacement of damaged, stolen, tampered with or misused sewer or water facilities shall be charged against and collected from the person or persons who caused the expense.

(F) All requests for discontinuing service must be made by the owner or authorized agent of the owner of the property or by the named applicant on a service account or his or her authorized agent. All charges for services supplied to the premises shall be calculated and due on the specified due date printed on the bill. The customer requesting discontinuance of service must also furnish the Water and Wastewater Division with a change of address.

(G) Until a request to discontinue service is received, the premises shall be deemed occupied by the consumer and customer's liability continued.

(H) In the event that the consumer shall have paid a deposit to the Water and Wastewater Division, and the deposit is still being retained by the Department, the balance of the deposit amount paid will be refunded after deducting from the deposit the amount owing on the account.

(I) When a former user of the sewer system has been notified of the amount of sewer rental charges remaining due and payment for same has not been received, the Director may assign the account to an agent of the Water and Wastewater Division for collection.

(Prior Code, Ch. 18, Art. III, § 18-188) (Ord. 346-04, passed 6-21-2004)

§ 51.100 APPLICATION FOR SERVICE.

(A) No sewer connection connecting the sanitary sewer system to any consumer shall be made or used by any person or the municipality except upon written application furnished to the municipality by the owner or his or her authorized agent of the premises to which sanitary sewer services is to be furnished. An initial sewer connection fee shall be required in addition to a monthly rental charge for the sanitary sewer connection according to the rates fixed by the municipality until service is discontinued by order of the Public Works Department or written order of the owner or his or her authorized agent. A re-application fee charge shall be made for re-application of service to an existing connection. The initial sewer connection fee is non-refundable. Applications for sanitary sewer service outside the corporate limits must be approved by resolution of the Council. The Council shall have the right to consider each application presented to it separately, with the privilege of approving only those areas that are beneficial to the municipality, and that protect the health, safety and welfare of its citizens. No prior approvals as herein set forth shall set a precedent for subsequent

approvals (see Town of Florence Schedule of Fees).

(B) An applicant for sewer service shall submit the information referenced § 50.073. If the information has been submitted for a water application, the applicant for sewer service shall provide the information relevant to sewer service on the existing application, if for sewer service at the same address as water service application.

(Prior Code, Ch. 18, Art. III, § 18-188.1) (Ord. 346-04, passed 6-21-2004)

§ 51.101 FINANCIAL RESPONSIBILITY DEPOSITS.

The applicant for sewer service shall pay the deposit amount referenced in § 50.120. A service fee for activation or reactivation of a sewer service will be imposed (see Town of Florence Schedule of Fees) provided; however, if water service is also activated at the same time, then the only fee shall be the one imposed in § 50.143.

(Prior Code, Ch. 18, Art. III, § 18-188.2) (Ord. 346-04, passed 6-21-2004)

§ 51.102 RISK DEPOSITS.

Sewer service customers who do not maintain good payment record, shall post a risk deposit in accordance with the amount and requirements set forth in section § 50.120.

(Prior Code, Ch. 18, Art. III, § 18-188.3) (Ord. 346-04, passed 6-21-2004)

§ 51.103 DISTRIBUTION OF SEWERAGE SYSTEM REVENUES AND UTILIZATION.

(A) Funds shall be established for the proper distribution of sewer revenues. They shall include but not be limited to the following:

(1) Sewerage Revenue Fund;

(2) Sewerage Operation and Maintenance Fund: user charge;

(3) Sewerage Operation and Maintenance Fund: other charges; and

(4) Sewerage Replacement Fund: lines.

(B) The distribution of sewer charges to the above funds shall be as follows:

(1) The operation and maintenance portion of the sewer user charge revenues shall be allocated to the Sewerage Operations and Maintenance Fund: user charge;

(2) The applicable portion of the sewer service charge revenues shall be allocated to the Sewerage Operation and Maintenance Fund: other charges; and

(3) The Replacement Fund portion of the sewer user charge revenues shall be allocated to the Sewerage Replacement Funds.

(C) The utilization of the above funds shall be as follows:

(1) *Sewerage Operations and Maintenance Fund.* User charge shall be utilized for the user charge portion of the personal services and operational expenses associates with the operation and maintenance of wastewater treatment facilities and sewage collection facilities.

(2) *Sewerage Operations and Maintenance Fund.* Other charges shall be utilized for personal services and operational expenses associated with the provision of sewerage system services that are not included in the User Charge Fund.

(3) *Sewerage Replacement Funds.* Sewerage Replacement Funds shall be utilized for obtaining and installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance of the system.

(Prior Code, Ch. 18, Art. III, § 18-189) (Ord. 346-04, passed 6-21-2004)

§ 51.120 PROHIBITION ON WASTES FROM INDUSTRIAL SITES DISCHARGED TO POTW BY TRUCK, RAIL OR DEDICATED PIPELINE.

(A) Hauls of non-hazardous liquid wastes (NHLW) removed from residential and nonindustrial discharge commercial customers are subject to the terms and conditions for discharge as contained in this chapter. The following NHLW wastes may be discharged into the POTW by waste haulers at the discharge point(s) specified by the Director:

(1) Domestic septage from residences;

(2) Domestic septage from commercial facilities;

(3) Septage from self-service non-dry cleaning laundries;

(4) Domestic septage from chemical toilets;

(5) Wastewater from swimming pools;

(6) Wastewater from standing storm and flood waters;

(7) Wastewater from well construction; and

(8) Wastewater from incidental discharges of wells whose purpose is to monitor groundwater quality.

(B) The Director, at his or her discretion, shall have the authority to establish additional categories of NHLW that can be discharged to the POTW. Any additional category of NHLW shall be placed on file with the Town Clerk and at each authorized discharge point.

(C) Aside from the above, any wastes removed by a hauler from nonresidential, industrial or commercial customers are specifically prohibited from being discharged to the POTW. Discharge of the wastes into the POTW will constitute a violation, and will subject the hauler to the penalties provided for in this chapter.

(Prior Code, Ch. 18, Art. III, § 18-205) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.121 PERMIT REQUIRED.

Except as provided in § 51.122, any person transporting NHLW to the POTW shall first obtain from the Director, a NLHW hauler permit prior to any discharge. The person shall pay an annual permit fee if only one vehicle is used. There is an additional annual charge. Discharge of NHLW without a permit is prohibited. Any person violating this section shall be liable for a permit fee of $1,000 following the first occurrence. The permit fee for disposing of any NHLW in a POTW without a waste hauler permit a subsequent time shall be $10,000. This is in addition to all other remedies available to the Director under this chapter.

(Prior Code, Ch. 18, Art. III, § 18-207) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.122 EXEMPTION.

The Director has the authority to exempt transporters from the permitting requirement of this chapter if the Director determines that other safeguards are in place to protect the POTW, worker safety, the public and the environment. Any exceptions made pursuant to this section shall be filed with the Town Clerk.

(Prior Code, Ch. 18, Art. III, § 18-207.1) (Ord. 346-04, passed 6-21-2004)

§ 51.123 AUTHORITY OF THE DIRECTOR; PERMITEE LIMITATIONS AND REQUIREMENTS.

(A) The Director shall develop and administer a non-hazardous liquid waste monitoring program. The scope of the program is to determine the characteristics of the non-hazardous liquid waste, and to discover illegal loads and prevent their discharge to the POTW.

(B) The Director shall establish a NHLW policy. A copy of the NHLW policy shall be on file with the Town Clerk and at any designated discharge site.

(C) The Director shall issue or amend, (as applicable), a permit within 60 days of receiving the permit application. In addition to other conditions and requirements deemed appropriate by the Director, each permit may contain the following:

(1) Specify a time period not to exceed five years;

(2) Require the permittee to complete a waste tracking form (manifest) for each load of NHLW prior to discharge to the POTW. The manifest forms shall be approved by the Director. The manifest shall contain information on the permittee and the source, quality and quantity of the NHLW, as well as a certification statement by the permittee to that effect;

(3) Specify the allowable categories of NHLW to be discharged at the designated discharge point;

(4) Prior to discharge of hauled waste, the permittee shall allow a town designated representative to sample the waste to ensure compliance with discharge limits and requirements. The permittee shall not be allowed to discharge NHLW until the initial analysis is complete. The Director reserves the right to refuse permission to discharge any load that may not be treatable by the POTW, or will inhibit, interfere or otherwise be incompatible with the operation of the POTW;

(5) Require the permittee carry liability insurance is the amount and in the form as shall be determined by the Director. The insurance shall, at a minimum, afford general liability coverage, including contractual liability, in the amount of $1,000,000 combined single limit. Motor vehicle liability insurance shall be in the minimum amounts as outlined in A.R.S. § 28-4033. Worker's compensation insurance, if applicable shall comply with state requirements. Evidence of the insurance coverage shall be provided to the Director. The requirement shall not in any manner preclude the permittee from obtaining the additional insurance coverage as may be deemed necessary for his or her own protection;

(6) Require the permittee (as "indemnitor") to indemnify, defend and hold harmless the town (as idemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage to the extent that the claims are caused by the negligence, misconduct or other fault of the indemnitor, its agents, employees or contractors; and

(7) Specify discharge limitations and requirements as deemed appropriate by the Director.

(D) The permittee is responsible for protecting the POTW from any contributing discharges which would inhibit, interfere or otherwise be incompatible with the operation or maintenance of the collection system or treatment plant including the use or disposal of municipal sludge. The permittee shall comply with all requirements and conditions of his or her permit.

(E) The permit is nontransferable by the permittee. In the event of any change in control or ownership, the permittee shall notify the Director. The new owner shall apply for a new permit and shall not be allowed to discharge to the POTW until a permit is issued or written permission is otherwise provided by the Director.

(F) The Director is authorized to take appropriate enforcement action against any person in noncompliance with this chapter. All penalties assessed to the town by federal and/or state agencies as a result of a violation shall be recoverable from the violator. In addition to the enforcement available to the Director that is contained herein, the Director may:

(1) Suspend for a period of up to 30 days the permit of any hauler for the first violation of any provision of the permit or any provision of this chapter. Following the first period of suspension, the waste hauler permit may be reinstated only after payment of the fee for reinstatement, which shall be $5,000;

(2) Suspend for a period of up to 180 days the permit of any hauler committing a subsequent violation of a provision of the permit or a provision of this chapter. Following the second period of suspension, for a subsequent violation, the permit may be reinstated only after payment of the reinstatement fee, which shall be $10,000. In addition to any reinstatement fee required to be paid under this section, the hauler shall either pay or make arrangements acceptable to the Director to pay any expense the town incurs by reason of the violation; and

(3) A suspension may be appealed by the permit holder to the Town Council by submitting an appeal in writing within 15 days of receiving notice of the suspension setting forth the specific grounds for the appeal. The filing of the appeal will not serve to stay the suspension of the fees for reinstatement. A lesser fee for reinstatement may be charged by the Town Council if it is found that the permit holder has taken substantial action to prevent further violations.

(Prior Code, Ch. 18, Art. III, § 18-208) (Ord. 346-04, passed 6-21-2004)

§ 51.124 MIXING OF NON-HAZARDOUS LIQUID WASTE.

Septage of different categories shall not be mixed unless the load contains only septic wastes from septic tank and chemical toilets.

(Prior Code, Ch. 18, Art. III, § 18-209) (Ord. 346-04, passed 6-21-2004)

§ 51.125 HAZARDOUS LIQUID WASTE.

Regardless of origin, hazardous liquid waste (as defined in § 1004 of the Resource Conservation and Recovery Act (49 U.S.C. §§ 6901 *et seq.*)), shall not be disposed of in any POTW, manhole or headworks. The discharge of hazardous wastes to the headworks of a POTW by truck, rail or dedicated pipeline is prohibited.

(Prior Code, Ch. 18, Art. III, § 18-210) (Ord. 346-04, passed 6-21-2004) Penalty, see § 51.999

§ 51.126 NON-HAZARDOUS LIQUID WASTE FEES.

(A) There shall be a charge based upon the nominal capacity of the tank truck or trailer for haulers discharging to the POTW non-hazardous liquid waste collected inside the limits of the town. Please see Town of Florence Schedule of Fees (Fee Schedule may be viewed online at www.town.florence.az.us).

(1) *Chemical toilets.* Please see Town of Florence Schedule of Fees.

(2) *Residential septic tanks.* Septic tanks from "household sources", commercial and domestic septic tanks and self-serve laundry wastes. Please see Town of Florence Schedule of Fees.

(B) There shall be a charge based upon the nominal capacity of the tank truck or trailer for haulers discharging to the POTW non-hazardous liquid waste collected outside the limits of the town. Please see Town of Florence Schedule of Fees.

(C) The permittee shall pay fees through a monthly billing system. Any hauler who is in arrears may, at the Director's request, be required to provide a cash bond to continue monthly billing service. The bond can be used to reduce or pay off any unpaid amount. The Director shall file with the Town Clerk and post at every designated discharge site a copy of the NHLW fee collection policies and procedures.

(Prior Code, Ch. 18, Art. III, § 18-211) (Ord. 346-04, passed 6-21-2004)

§ 51.127 ACCEPTANCE OF NON-HAZARDOUS LIQUID WASTE.

(A) Permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. Any user transporting, collecting or discharging non-domestic industrial process wastewaters or a mixture of the wastewaters with domestic wastewaters shall obtain a permit in accordance with § 51.123.

(B) The Director shall designate the locations and times where the trucks may be discharged and may refuse to accept any truckload of waste at his or her absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste contains industrial process waste or a mixture of domestic sewage and industrial process waste. Discharges shall only take place during normal business hours unless specifically approved by the Director.

(C) The Director shall have the authority to investigate the source of any hauled waste to require testing the waste at the expense of the discharger prior to the discharge.

(Prior Code, Ch. 18, Art. III, § 18-212) (Ord. 346-04, passed 6-21-2004)

INDUSTRIAL USERS AND PRETREATMENT REQUIREMENTS

§ 51.140 RESERVED.

§ 51.999 PENALTY.

(A) A person convicted of violations of this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed $500 or incarceration for a term not to exceed 30 days or both, all as further provided herein and § 50.010 of the Florence Code.

(Prior Code, Ch. 18, Art. III, § 18-152.1) (Ord. 346-04, passed 6-21-2004)

(B) The violation or failure to follow any condition or provisions of the waste hauler permit, non- hazardous liquid waste dumping policy or Director's order authorized herein shall be a violation of this chapter.

(Prior Code, Ch. 18, Art. III, § 18-213) (Ord. 346-04, passed 6-21-2004)

CHAPTER 52: SOLID WASTE

Section

GENERAL PROVISIONS

§ 52.001 TITLE.

This chapter shall be known as the "Solid Waste Ordinance of the Town of Florence." It may be cited as such or as the "Florence Sanitation Code." It may also be referred to hereinafter as "this chapter."

(Prior Code, Ch. 18, Art. IV, § 18-231) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.002 PURPOSE AND SCOPE.

(A) *Purpose.* The purpose of this chapter is to protect the health and safety of the citizens of the town and to protect the environment by establishing minimum standards for the storage, collection, treatment, transportation, processing and disposal of solid waste. In addition, to set rates charged by the town for its solid waste program and its inspection, collection and disposal services, so as to recover the town's costs to provide such services.

(B) *Collection required.* Solid waste collections shall be made by the town or by collection companies as authorized by the town. Except as provided in divisions (C) and (D) of the section, all persons and properties within the town are required to use the solid waste collection system of the town, to haul, carry or transport solid waste through the streets and highways of the town. All persons and occupied property shall use and be responsible for at least the minimum level of solid waste collection service and the associated charges and fees for residential, institutional or commercial service, as applicable, unless exempted from such requirements under this division or division (C) of this section. It shall be unlawful to dump or store solid waste, recyclable, or yard waste materials in violation of the provisions of this chapter. The town shall automatically bill the residential or commercial customer for such minimum level of service if the customer does not sign up for service within 30 days of occupying a property in the town. Upon satisfactory evidence that a residential customer owns a business in the town that has a commercial solid waste collection service, the Director may in his discretion approve an exemption from the mandatory solid waste collection service and payment requirements of this section.

(C) *Commercial permitted hauler.* Those commercial and industrial business establishments having prior established permits to haul their own waste may continue to haul such solid waste by annual permit. Renewal permits shall be issued upon application and payment of the annual permit fee. Any permit holder, as provided for in this subsection, shall haul solid waste at least once a week for

public health reasons.

(D) *Self-haul.* This section does not prohibit the limited and occasional hauling of solid waste, recyclable materials, or yard wastes by a customer from their property to an approved town solid waste, recyclables, or yard waste collection site. However, occasional haulers are not exempt from the mandatory solid waste collection service and payment requirements above and are responsible for the fees for collection site services, if any.

(E) *Penalty.* Violations of the provisions of this section are punishable as provided in § 52.999(B)(2) of this chapter.

(Prior Code, Ch. 18, Art. IV, § 18-232) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.003 POWERS AND DUTIES OF THE DIRECTOR.

The Director, in order to protect the health and safety of the citizens and the environment of the town, is authorized and directed to implement and enforce the provisions of this chapter to control the storage, collection, treatment, transportation, processing and disposal of solid waste generated within the town. The Director is further authorized and directed to provide public solid waste disposal facilities for solid waste originating within the town. Nothing in this chapter is intended or shall be construed so as to infringe or supplant the authority of the Pinal County Health Department, the State Department of Health Services, State Department of Environmental Quality or the United States Environmental Protection Agency in this area pursuant to federal and state laws.

(Prior Code, Ch. 18, Art. IV, § 18-233) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.004 HOURS OF COLLECTION.

(A) The hours for collection of solid waste or recyclables by private and municipal collectors shall be regulated by the Director. In order to prohibit the disturbance of the public, it shall be unlawful to collect or remove solid waste or recyclables between the hours of 6:00 p.m. and 6:00 a.m. In the event of a missed collection or other unusual circumstances, reasonable accommodations may be approved by the Director if a request is made by a person authorized to collect solid waste in the town.

(B) For purposes of this section, ***PRIVATE*** means any entity other than the town or a collection service authorized by the town.

(C) All refuse shall be collected as deemed necessary by the Director or designee.

(Prior Code, Ch. 18, Art. IV, § 18-234) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.005 DEFINITIONS.

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

ALLEY. A public passageway affording a secondary means of access to abutting property for utility and emergency vehicles.

ASHES. All residue from the burning of any combustible material but does not include ashes from medical waste, hazardous wastes or special waste.

AUTOMATED CONTAINED SOLID WASTE COLLECTION SYSTEM. A contained solid waste collection system that utilizes town-specified solid waste containers and a solid waste collection vehicle equipped with a lifting device.

BULK TRASH. Bulk trash means those items as defined in § 52.047(G).

COLLECTOR. The municipality or its authorized representative.

COMMERCIAL SERVICE UNIT. Any building, structure or premises not defined as a ***RESIDENTIAL SERVICE UNIT*** or an ***INSTITUTIONAL SERVICE UNIT*** in this section.

COMPACTOR or ***ROLL-OFF SYSTEM.*** A contained solid waste collection system that uses a stationary solid waste compactor and compactor bins or open top roll-off boxes.

CONSTRUCTION AND DEMOLITION SOLID WASTE. All solid waste, building materials, rubble, soil and spoils resulting from construction, remodeling, repair and demolition operations.

CONTAINED SOLID WASTE. All garbage and trash generated and placed in containers for disposal.

DEPARTMENT. The Town of Florence Public Works Department.

DIRECTOR. The Town Manager or designee.

DWELLING UNIT. Any structure or structures used primarily for human habitation by one or more persons.

FLY-TIGHT. The lid of the container must fit flush around all contact points and prevent entry of flies or rodents.

GARBAGE. All putrescible waste, except sewage and body waste, including waste accumulated of animals, food or vegetable matter, and including waste that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetable, and shall include all the wastes or accumulations or vegetable matter of residence, restaurants, hotels and places where food is prepared for human consumption. The term ***GARBAGE*** shall not include recognized industrial byproducts. Swill, offal and any accumulation of spoiled, partially or fully decomposed, rotting or discarded animal, vegetable or other matter that attends the preparation, handling, consumption, storage or decay of plant and animal matter including meats, fish, fowl, buds, fruits, vegetables or dairy products and their waste wrappers or containers.

HAZARDOUS WASTE. Any waste so defined by the provisions of A.R.S. Title 49, Chapter 5, Art. 2 and 40 C.F.R. part 261 and polychlorinated biphenyls (PCB's).

HOUSEHOLD HAZARDOUS WASTE. Any waste that would otherwise be a hazardous waste pursuant to A.R.S., Title 49, Chapter 5, Art. 2, and 40 C.F.R. part 261 but is excluded as a hazardous waste because it is generated by the normal day-to-day activities of households.

IMMINENT HEALTH or ***SAFETY HAZARD.*** Condition of real property, solid waste or recycling container that places a person's life, health, safety or property in high risk of peril when the condition is immediate, impending on the point of happening and menacing.

INCIPIENT HAZARD. Condition of real property that can become an imminent or health hazard if further deterioration occurs that can cause unreasonable risk of death or severe personal injury.

INSTITUTIONAL SERVICE UNIT. Any school or educational facility; any government building or facility whether belonging to the town, Pinal County, the State of Arizona or the United States; any jail or prison facility whether privately or publicly owned; any religious institution; any publicly owned medical facility and the buildings and facilities of any nonprofit organization.

INFECTIOUS SOLID WASTE. Any material which presents a significant danger of infection because it is contaminated with or may reasonably be expected to be contaminated with agents which cause or significantly contribute to the cause of increased infection or infectious disease in human beings.

INSPECTOR. The authorized employee or employees of the municipality having the duty of the enforcement of this chapter.

MOBILE HOME DEVELOPMENT. A subdivision designed for mobile homes in which the lots are individually owned.

MOBILE HOME PARK. Property owned and operated for the purpose of leasing or renting out mobile home space to tenants.

MULTI-FAMILY DWELLING UNITS. A building or buildings attached to each other and containing two or more dwelling units. This term is intended to apply to dwelling unit types such as duplex, triplex, four-plex and apartments.

NONCOMBUSTIBLE SOLID WASTE. Consists of miscellaneous solid waste materials that are unburnable at ordinary incinerator operating temperatures (up to 2,000°F) and is in the inorganic component of solid waste.

NONPROFIT ORGANIZATION. Any entity recognized by the Internal Revenue Service as having § 501(C)(3) status, or other tax exempt organizations however described.

OBNOXIOUS MATERIALS. Any solid waste that, when exposed, is unpleasant or offensive to the senses due to its odor or condition.

OWNER. A person, persons or legal entity listed as current title holder as recorded in the official records of the County Recorder's office. ***OWNER*** and***OCCUPANT*** may be used interchangeably and shall mean every person in possession, charge or in control of any dwelling, flat, rooming house or any eating place, shop, place or business establishment where garbage or other refuse is created or accumulated.

PERSON. Any natural person; any corporation, partnership or other legal entity; and the United States, State of Arizona, County of Pinal and Town of Florence.

PLACEMENT DATE. The first day of the scheduled collection period, as established and published by the Director.

PREMISES. Land, building or other structures, or parts thereof, where solid waste is stored or accumulated.

PRIVATE SOLID WASTE COLLECTION HAULERS. Solid waste collection services owned and operated by private individuals or corporations holding a business license issued by the town.

PUBLIC NUISANCE. Anything which is injurious or obnoxious to health, 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 obstruct the free passage or use, in the customary manner, of any street, alley, sidewalk or public property.

PUTRESCIBLE SOLID WASTE. Solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or animals capable of transferring a diseased bacterium or virus from one organism to another.

RECYCLABLES. Any solid waste that has been separated from other solid waste for the purpose of being collected and recycled.

RECYCLING CONTAINER. A receptacle used exclusively for the storage of recyclables until they are collected.

REFRIGERANTS. Chlorofluorocarbon (CFC) and hydrochloroflourocarbons (HCFC).

REFUSE. Solid wastes, including garbage and rubbish.

RESIDENTIAL SERVICE UNIT. Any single family or multi-family dwelling unit; any apartment building or apartment complex; any townhouse or condominium; and any other building or structure regardless of type which is used primarily for human habitation. ***RESIDENTIAL SERVICE UNIT*** does not include facilities for the detention or incarceration of prisoners.

RESPONSIBLE PARTY. An occupant, lessor, lessee, manager, licensee, owner or other person having control over a structure or parcel of land and in the case where remediation is proposed as a means of abatement, any lien holder whose lien interest is recorded in the official records of the County Recorder's office.

RUBBISH. Refuse other than garbage, tin cans, bottles, ashes, paper, pasteboard or wooden boxes, brush, leaves, weeds and cuttings from trees, lawns, shrubs and gardens or other waste materials produced in the normal course of everyday living.

SCHOOLS. All public and private buildings used for pre-school, elementary, specialized or higher education purposes.

SMALL ANIMAL WASTE. Refuse including feces and/or discarded bedding or flooring materials such as straw, sawdust or paper from yards, kennels, dog or cat runs, chicken pens, aviaries or other containment for domestic animals such as dogs, cats, fowl such as birds, chickens, ducks, geese or other tame or permitted wild animals under 150 pounds.

SOLID WASTE. Any garbage, bulk trash, yard waste and other materials or products, including putrescible and non-putrescible wastes, organic and inorganic wastes, combustible and noncombustible wastes and liquid non-hazardous waste, but not including hazardous waste or human body parts.

SOLID WASTE CONTAINER. A receptacle used exclusively for the storage of solid waste, excluding construction and demolition solid waste until it is collected.

SOLID WASTE DISPOSAL FACILITY. Any site owned, operated or utilized by any person for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste.

SOLID WASTE FEE. A fee assessed by the town for solid waste services provided by the Public Works Department and associated functions.

TIRE. A tire used on vehicles, trailers, machinery or equipment used on or off the road, excluding bicycles and mopeds.

TOWN OF FLORENCE. The Town of Florence, Arizona.

WATERTIGHT. The lid of the container must fit flush around all contact points and prevent entry of rain.

WASTE. Unwanted solid, liquid or gaseous materials.

YARD WASTE. Branches, palm fronds, twigs, weeds, leaves, grass and vegetation clippings.

(Prior Code, Ch. 18, Art. IV, § 18-235) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.006 UNAUTHORIZED USE OF REFUSE COLLECTION SYSTEM UNLAWFUL.

There is hereby established a system of refuse collection, transportation and disposal and it shall be unlawful for any person to dump or dispose of any rubbish or garbage within the limits of the town excepting in the refuse container assigned to them as an owner or occupant of a premises located in the town, or as otherwise permitted in this chapter. It shall also be unlawful to engage in the business of residential or institutional collection, transportation, hauling or conveying of solid waste over the streets or alleys of the municipality or to dump or dispose of the same except by the town or its authorized collection services.

(Prior Code, Ch. 18, Art. IV, § 18-236) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.007 REFUSE ACCUMULATION UNLAWFUL.

It shall be unlawful for any person to accumulate or permit to accumulate in or about any yard, lot, place or premises, or upon any street, alley or sidewalk adjacent to such lot, yard, place or premises, any solid waste, garbage or refuse that is not contained as required by this chapter.

(Prior Code, Ch. 18, Art. IV, § 18-237) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

SOLID WASTE CONTAINMENT

§ 52.020 INSPECTION OF CONTAINERS.

Provisions shall be made for regular inspections, by the Solid Waste Division of the Public Works Department to secure compliance with this chapter with reference to containment of solid waste or recyclables. The Director shall have the right to enter commercial, industrial and institutional establishments for inspection purposes.

(Prior Code, Ch. 18, Art. IV, § 18-238) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.021 RESPONSIBILITY FOR SOLID WASTE AND RECYCLABLES.

(A) The responsible party of any premises or business establishment shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the town agents of the town or licensed solid waste haulers.

(B) The responsible party of any premises, business establishment or industry shall be responsible for the sanitary conditions of the premises, business establishment or industry, and for the proper storage, containment and placement for collection of all solid waste and recyclables. Except as provided in this chapter, it shall be a violation for any person to bury, dump, dispose or release upon any street, alley, right-of-way or public land, any solid waste or recyclables, including construction and demolition solid waste and tires.

(Prior Code, Ch. 18, Art. IV, § 18-239) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.022 ILLEGAL DUMPING OF SOLID WASTE; PENALTY.

(A) It shall be a violation for any person to dump, dispose or release, or cause to be dumped, disposed or released, any solid waste, garbage, bulk waste or refuse, including hazardous waste, upon any street, alley, right-of-way, public or private property within the town except as specifically permitted in this chapter.

(B) In addition to any penalties imposed pursuant to § 52.999(B), a person in violation of division (A) above shall make restitution to the town for all cleanup and disposal costs incurred by the town.

(C) If issuing a notice of violation of this provision involves a vehicle, the person in whose name the vehicle is registered shall be

prima facie responsible for the violation and subject to penalties described in this chapter.

(D) The provisions of this section shall apply to those persons in whose names the vehicle is jointly registered. The person shall be jointly and severally prima facie responsible for such a violation and subject to the penalties therefor.

(Prior Code, Ch. 18, Art. IV, § 18-240) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.023 HOUSEHOLD MEDICAL AND INFECTIOUS WASTE.

All household medical and infectious solid waste including lancets, syringes and hypodermic needles must be properly contained before disposing of in the solid waste container. Household and infectious waste must be placed in plastic bags and securely tied before placing in the solid waste container. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture resistant container with a secured and taped lid and must be clearly labeled identifying the contents before placing in the solid waste container. Depositing or disposing of household medical and infectious waste or lancets, syringes and hypodermic needles in any recycling container is prohibited.

(Prior Code, Ch. 18, Art. IV, § 18-241) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.024 ANIMAL WASTE.

(A) Wastes from animals and pets shall be removed and disposed of in the manner prescribed and as often as necessary to prevent occurrence of a nuisance or health and safety hazard.

(B) Small animal waste from typical domestic pets such as dogs and cats shall be placed in a plastic bag, securely tied and placed in a solid waste container.

(C) All animal owners and custodians shall immediately clean up and properly dispose of wastes left by their animals on any public street, alley, gutter, sidewalk, right-of-way or park.

(Prior Code, Ch. 18, Art. IV, § 18-242) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.025 UNOBSTRUCTED PASSAGE IN STREETS AND ALLEYS.

(A) It shall be a violation for any person to permit trees, shrubs or brush growing upon his or her property to encroach on or over any public right-of-way so as to interfere with the movement of persons or vehicles. It is the responsibility of the responsible party to trim trees or shrubbery on their property and in the adjacent right-of-way back to their property line and allow 13 foot height clearance.

(B) It shall be illegal to have any obstruction, including, but not limited to, parked vehicles within 15 feet of a solid waste or recycling container placed out or collection service or to obstruct the solid waste and/or recycling collection operations in any other manner.

(Prior Code, Ch. 18, Art. IV, § 18-243) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.026 SOLID WASTE OR RECYCLABLES CONTAINER REQUIREMENTS.

(A) *General statement.* The responsible party of any premises, business establishment or industry shall be responsible for the sanitary condition of the premises, business establishment or industry and for the proper storage, containment and placement for collection of all solid waste and recyclables. All solid waste and recyclables shall be stored in a manner that does not present a health or safety hazard or public nuisance, including, but not limited to the breeding of insects. No person shall place, deposit or allow to be placed or deposited on his or her premises or private property or any public street, alley or right-of-way any solid waste or recyclables except in a manner prescribed in this chapter.

(B) *General requirements.*

(1) All responsible parties using or occupying any dwelling unit, commercial, industrial or institutional establishment or grounds within the corporate limits of the town where solid waste and recyclables accumulate, shall contain their solid waste and recyclables in

watertight and fly-tight containers.

(2) Solid waste shall be stored, collected and hauled for disposal in accordance with the State Department of Health Services and State Department of Environmental Quality Regulations.

(3) It is the container users' and responsible parties' responsibility to properly contain solid waste or recyclables generated on their premises and to keep the area around the container continuously clear and free of all debris. If the property has alley solid waste service, the term ***AREA*** includes the alley.

(4) All solid waste and recycling containers shall be maintained in a sanitary condition. Containers shall not be stored or maintained in such a manner as to constitute a nuisance, health or safety hazard.

(5) It shall be unlawful for any person not authorized by the responsible party to remove, collect or disturb the solid waste and recyclables stored in the containers or to remove from a solid waste or recycling container any solid waste or recyclables set out for collection and disposal by the town or its authorized collection services, or licensed commercial solid waste haulers. This prohibition does not apply to town employees or authorized agents of the town acting within the scope of their official duties.

(6) It shall be unlawful for any person to utilize the solid waste or recycling containers or receptacles assigned to other persons for the disposal of solid waste or recyclables without their permission. This does not apply to the automated solid waste or recycling collection system where residents share the use of common containers.

(7) The lids or covers of any solid waste and recycling containers shall at all times be kept secure in such a manner to prevent intrusion or moisture, infestation of insects and scattering of solid waste or recyclables. Covers shall be kept closed except when containers are being loaded or emptied. Each container shall be placed on or adjacent to the property of the authorized user at a location approved by the Director.

(8) *Location of containers.* Containers used for storage of solid waste and recyclables shall be placed as follows:

(a) Residential containers shall be located at curbside in front of the residential service unit.

(b) No container shall be placed so as to restrict egress from an exit door or beneath a fire escape. No container shall be placed under a street floor window unless the window is of fire-resistant construction.

(9) Containers placed at curbside shall be located in such a manner to not interfere with pedestrians or vehicles.

(10) All boxes, cartons and crates shall be collapsed before being placed in containers. Ashes shall be soaked with water to extinguish any live embers and contained in tied bags before placement in containers.

(11) Explosive or flammable materials of any kind shall not be placed in any solid waste recycling container.

(12) Corrosives, reactives, oxidizers, lead acid batteries or any hazardous waste shall not be disposed of in solid waste or recycling containers.

(13) Pool chemical containers shall be emptied, rinsed, drained and moisture free prior to being placed in a solid waste or recycling container.

(C) *Residential user requirements.*

(1) All household solid waste and grass shall be bagged and securely tied before being placed in solid waste containers. Solid waste shall be drained of all liquids and tied in waterproof bags before being placed in solid waste containers.

(2) Construction and demolition solid waste shall not be placed in a solid waste or recycling container unless generated by the owner or occupant of a residential dwelling unit. If the construction and demolition solid waste is generated by a contractor, the contractor is responsible for the removal and disposal of the solid waste. All construction and demolition solid waste shall be removed promptly and shall not be stored in any location where it may be blown or otherwise dispersed beyond the construction site. The town may, upon request from the responsible party, provide containers for the construction and demolition solid waste for a different and separate fee.

(3) It shall be unlawful to place material in any solid waste or recycling container of a volume or weight which prevents the collection vehicle from emptying the container or which damages the collection vehicle or container. Maximum weight of material placed in any 90- to 100-gallon container shall not exceed 200 pounds.

(4) It shall be unlawful for any person not authorized by the town to utilize, for other than its intended purpose, the lid from any solid waste or recycling container.

(D) *Commercial user requirements.*

(1) The owner or responsible party of any commercial or institutional solid waste or recycling container placed on private property or in the town right-of-way shall be responsible for maintaining the area within a 25-foot radius around the container and/or bin in a sanitary condition and prevent scattering or blowing around of materials deposited.

(2) Commercial users shall, where the volume of solid waste or recyclables accumulated cannot be conveniently handled in cans or bags, provide bins or compactor bins for containment of solid waste and/or recyclables. The bins or compactor bins shall be constructed of durable non-absorbent, noncombustible material and have suitable fly-tight and watertight covers.

(3) All commercial and institutional containers shall be placed or concealed in such a manner so as to minimize visibility from the street or public walkways.

(4) All solid waste and recycling containers shall be identifiable by indicating the owner's name and telephone number on the container and shall meet all requirements of this chapter. The container identification must be readable from a minimum distance of ten feet.

(5) Commercial users, shall, upon request of the Director, be required to show documentation of the method of collection and removal of solid waste and/or recyclables generated by the establishment.

(Prior Code, Ch. 18, Art. IV, § 18-244) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.027 CONDEMNATION OF CONTAINERS; REMOVAL.

(A) If a solid waste or recycling container is in violation and presents a health or safety hazard, the Director shall issue a notice of violation to the responsible party. Notification shall consist of tagging the solid waste or recycling containers with a notice of violation or by delivering a notice in person or by mail to the responsible party.

(B) If action necessary to remedy the violation is not taken within the period specified, the Director shall have the right to remove the solid waste or recycling container and dispose of it in accordance with and subject to § 52.003.

(Prior Code, Ch. 18, Art. IV, § 18-245) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.028 RESPONSIBILITY FOR STREETS, ALLEYS AND SIDEWALKS.

(A) The owner and any responsible party in control of any land abutting a sidewalk, alley or street shall maintain the sidewalk, alley or street free from any accumulation of solid waste.

(B) The areas required to be maintained pursuant to this section are:

(1) Any portion of a street, which has been opened for public use, between the curb line and the abutting property line including sidewalks; and

(2) One-half the width of abutting alleys from the property line to the centerline of the alley.

(Prior Code, Ch. 18, Art. IV, § 18-246) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.029 BURNING AND DUMPING UNLAWFUL.

No person, whether a resident or non-resident, shall burn, incinerate, bury, dump, collect, remove or in any other manner dispose of rubbish or garbage within the limits of the municipality, except as provided in this chapter or as provided in a special permit issued by the Pinal County Air Quality Control and the Florence Fire Department. No person shall throw, discard or deposit any rubbish or garbage in or upon any street, alley, sidewalk or vacant ground, or in or upon any canal, irrigation ditch, drainage ditch or other watercourse.

(Prior Code, Ch. 18, Art. IV, § 18-247) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.045 OWNERSHIP, PLACEMENT AND RESPONSIBILITY FOR CONTAINERS.

(A) The frequency of contained solid waste collections shall be in accordance with the State Department of Environmental Quality Regulations.

(B) Collection days shall be designated by the Director.

(C) The Director determines the service level required and method of collection. Residents may request different levels of service based on service levels and fees established in § 52.100.

(D) The collector will specify, purchase and own the containers which are provided to the residents, which are to be used by residential service units for no other purpose than as solid waste and recycling collection containers.

(E) Residents receiving curbside service shall place their containers at the curb in front of their residence in such a manner that it allows for the safe and efficient operation of the collection vehicle and does not interfere with pedestrian or vehicular traffic. Containers shall be placed so that they open towards the street.

(F) Residential lots that cannot be safely or efficiently serviced using the town's standard solid waste equipment will be assessed a different and separate fee as set by the Director. Situations where a different and separate fee may apply includes, but is not limited to, hillside developments, private streets, dead-end streets without adequate turnarounds and multi-family dwelling units.

(G) The collector is responsible for cleaning only shared use containers.

(H) All containers issued by the town or its authorized collection service for use in conjunction with an automated loading device shall remain the property or the authorized service provider. The town or its authorized collection service is responsible for repairs to the containers when damage is caused during normal usage. Containers shall be secured between collection days in such a manner that they are not readily susceptible to theft or vandalism. Anyone found to have intentionally or negligently damaged the container provided to them shall be liable to pay the replacement or repair cost.

(I) Only the collector shall be authorized to remove any solid waste or recycling container from its assigned location. It shall be unlawful for any other person to remove a container from the address to which it is assigned.

(J) To ensure containers are placed out on time, containers may be placed at the curb after 6:00 p.m. on the day preceding collection. Containers for street collection shall be placed at the curb for service no later than 5:30 a.m. on the day of collection. They must be removed prior to 5:30 a.m. on the day after collection. It shall be unlawful to place or permit containers to remain adjacent to the curb except upon regular collection days. Containers shall be stored between collection days on the users' property so as to not interfere with pedestrian or vehicular traffic.

(K) Every owner and occupant of premises within the prescribed limits of the town shall use the refuse collecting and disposal system assigned to them, and they shall deposit or cause to be deposited in accordance with this chapter all rubbish and garbage that is of a nature that it is perishable, may decompose or may be scattered by wind or otherwise, which accumulated on their premises.

(Prior Code, Ch. 18, Art. IV, § 18-249) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.046 RESIDENTIAL, INSTITUTIONAL AND COMMERCIAL COLLECTION.

(A) The town or its authorized collection service shall provide solid waste collection service to all residential service units.

(B) The town or its authorized collection service shall provide solid waste collection service to all institutional service units.

(Prior Code, Ch. 18, Art. IV, § 18-251) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

§ 52.047 RESIDENTIAL BULK TRASH PLACEMENT AND COLLECTION SERVICES.

(A) Bulk trash collection services shall only be available for single family residential dwelling units. It shall be unlawful to place bulk trash out for collection more than 48 hours prior to the scheduled placement date. The owner or occupant of a single family residential service unit shall notify the collector no later than 24 hours before the scheduled placement date that a bulk trash pickup is requested.

(B) Bulk trash shall be placed out for collection no later than 5:30 a.m. on the scheduled placement date.

(C) Bulk trash placed out for collection shall be in neat stacks.

(D) Bulk trash placed out for curbside collection shall be placed on the resident's property, parallel to the street or curb. Bulk trash shall not be placed on the sidewalk or in the street.

(E) Bulk trash shall not be placed within five feet of any fixed object, solid waste or recycling container, utility meter, or in any manner which would interfere with or be hazardous to pedestrians, bicyclists, equestrians or motorists.

(F) The amount of bulk trash placed for collection shall not exceed a total uncompacted volume of 20 cubic yards.

(G) Items of bulk trash which are acceptable for normal residential collection are:

(1) Tree limbs and branches less than four feet in length and 12 inches in diameter that are bundled, bagged or boxed;

(2) Palm fronds;

(3) Metal materials 20 pounds or less;

(4) Pipe less than one inch in diameter and less than four feet in length;

(5) Cardboard boxes;

(6) Bagged or boxed leaves, weeds, grass, small hedge and vegetation clippings;

(7) Manufactured items, such as washers, dryers, hot water heaters and appliances and equipment not containing refrigerants;

(8) Twenty-five pounds or less of construction and demolition solid waste generated by a resident;

(9) Hedge clippings, such as oleanders; and

(10) Rubbish consisting only of cardboard, wooden boxes, brush, furniture, appliances, weeds and cuttings from trees or shrubs may be kept separately, without depositing in containers. Bulk materials, such as leaves and lawn clippings, if not placed in containers, shall be in a sack or receptacle for ease of loading. Compost piles may be maintained for fertilization purposes and matter used for fertilization purposes only be transported, kept and used. Nothing in this section shall be constructed as to permit the violations of any provision of this code, any ordinance or any rule or regulation of the department.

(H) Items of bulk trash which are not acceptable for normal residential collection include:

(1) More than 25 pounds of construction and demolition solid waste generated by a resident or any amount generated by a contractor;

(2) Vehicles or equipment parts in excess of 20 pounds;

(3) Metal material in excess of 20 pounds;

(4) Tires;

(5) Pipe over one inch in diameter or over four feet in length;

(6) Cement, cement blocks, bricks, asphalt, stones and dirt;

(7) Lead acid batteries; and

(8) Hazardous materials.

(I) It shall be a violation of this chapter to place unacceptable items, an amount exceeding 20 cubic yards or improperly placed bulk trash items out for collection. The responsible party shall remove and dispose of all bulk trash improperly placed, bulk trash exceeding 20 cubic yards and any unacceptable items of bulk trash at their own expense.

(J) The town municipality may abate any violation of this section pursuant herein.

(K) Bulk trash shall be collected once per month on a date determined by the Director.

(L) Additional bulk trash collections may be requested for an additional fee pursuant to § 52.100.

(M) The Director may require that yard waste be separated from other bulk trash for collection in an alternative manner.

(Prior Code, Ch. 18, Art. IV, § 18-252) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

ADMINISTRATION AND ENFORCEMENT

§ 52.065 AUTHORITY TO ENFORCE.

The Director shall enforce the provisions of this chapter. In addition, the Director is authorized to abate conditions, which in the opinion of the Director are an incipient or imminent threat to the health or safety of any person or persons or constitute a public nuisance.

(Prior Code, Ch. 18, Art. IV, § 18-260) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.066 RULES AND REGULATIONS.

The Director is authorized to make reasonable and necessary rules and regulations to carry out provisions of this chapter.

(Prior Code, Ch. 18, Art. IV, § 18-261) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.067 ENFORCEMENT AND CORPORATION OF OTHER DEPARTMENTS.

Upon request from the Director, the Police Department, Town Attorney or the Florence Code Enforcement Officer have the authority to assist and cooperate in the enforcement of this chapter.

(Prior Code, Ch. 18, Art. IV, § 18-263) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.068 ISSUANCE OF CITATION OR NOTICE OF VIOLATION.

(A) If the municipality finds a violation of this chapter, the municipality may notify the owner or responsible party through the issuance of a notice of violation or it may issue a citation.

(B) If a notice of violation is issued and the violation is not corrected within the specified period, a civil citation or criminal complaint may be issued by any person authorized by this chapter. If a notice of violation of this chapter is issued, it shall include:

(1) Identification of property in violation;

(2) Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;

(3) Re-inspection date;

(4) Address and phone number of a municipality representative to contact; and

(5) A cost estimate to correct the violations, if the municipality intends to abate the violation.

(C) Any notice given for any purpose under this chapter shall be deemed effective on the date when written notice is delivered or mailed to the property owner or responsible party. If the municipality intends to abate the violation, any mailed service must be certified, return receipt requested. Nothing herein shall preclude the municipality from giving additional verbal or written notice at its discretion. If the municipality does elect to give any additional notice in any instance, it shall not thereby become obligated to give additional notice thereafter in the same or other situations.

(D) Nothing in this section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.

(Prior Code, Ch. 18, Art. IV, § 18-264) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.069 THREATS AND INTIMIDATION.

No person shall, by threatening to use or by using violence or physical force, intentionally obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the municipality who is lawfully engaged in the enforcement or execution of the provisions of this chapter.

(Prior Code, Ch. 18, Art. IV, § 18-265) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013) Penalty, see § 52.999

SOLID WASTE DISPOSAL FACILITIES

§ 52.085 DISPOSAL SITE; DESIGNATION; ENFORCEMENT.

There is hereby established at the places and locations as the Council may from time to time designate, by motion or order, a place for the dumping and depositing of solid waste, bulk waste, recyclables, rubbish and garbage and any place or location shall be known, and the same is hereby designated as, the municipal disposal site.

(Prior Code, Ch. 18, Art. IV, § 18-271) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.086 DISPOSAL SITE; RULES AND REGULATIONS.

The municipality is hereby authorized to make rules and regulations in cooperation and agreement with the health authorities designating the manner of and hours and limits of time of dumping or depositing rubbish and garbage in violation thereof; providing that before the rules and regulations become effective, appropriate signs shall be placed at or upon the premises of the municipal disposal site giving notice of the rules and regulations.

(Prior Code, Ch. 18, Art. IV, § 18-272) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

SOLID WASTE FEES

§ 52.100 LEVEL OF SOLID WASTE FEES; NO EXCEPTIONS.

Monthly solid waste fees shall be established by the Council as part of the annual budget process.

(Prior Code, Ch. 18, Art. IV, § 18-277) (Ord. 346-04, passed 6-21-2004; Ord. 385-05, passed 6-20-2005; Ord. 453-07, passed 1-16-2007; Ord. 559-11, passed 6-6-2011; Ord. 604-13, passed 12-2-2013)

§ 52.101 PAYMENT OF SOLID WASTE FEES.

All solid waste fees set forth in this chapter shall be charged to the customer in accordance with the provisions set forth herein.

(Prior Code, Ch. 18, Art. IV, § 18-278) (Ord. 346-04, passed 6-21-2004; Ord. 510-09, passed 7-6-2009; Ord. 604-13, passed 12-2-2013)

§ 52.102 CREDITS AND DEBITS OF SOLID WASTE FEES.

(A) The Finance Director may not grant credits for missed pickups.

(B) If an error occurs where either a customer has received town solid waste service, but was not charged, or a customer was charged solid waste service he or she did not receive, except for missed pickups, a debit or credit may be approved.

(C) The Finance Director will research the customer account to determine whether a credit or debit is owned and the amount to be debited or credited.

(D) The length of time for either a debit by the town or a credit to the customer shall be limited to 36 months prior to the date when the customer notifies the town of the error or the date the town discovers the error.

(Prior Code, Ch. 18, Art. IV, § 18-279) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

§ 52.103 METHOD OF COLLECTING FEES.

(A) The method of collecting fees shall be established by the Finance Director, who shall have the authority necessary to ensure the collection of the fees. All fees shall be due and payable on the last day of the month following billing.

(B) If payment is not made, the collection service may be suspended and the collection container may be removed; however, the owner or occupant shall still be responsible for mandatory fees pursuant to § 52.002(B).

(C) A deposit is required on sanitation accounts with no water service. When a container is delivered to a residential account that has established or reestablished service, or the container was picked up for non-payment, the deposit will be charged and remain on the account for two years (see Town of Florence Schedule of Fees).

(D) A fee may be imposed to restart the service in the event a service order is issued and a container is removed for non-payment. A collection container shall be delivered and service restarted upon receipt of all fees and payment (see Town of Florence Schedule of Fees).

(E) Charges for service will commence when the customer has or should have established service, whether used or not. If service is established between the first day of the month and the fifteenth day of the month, a full month charge will be billed. If service is established between the sixteenth day of the month and the last, a half-month charge will be billed.

(F) When a property will be unoccupied for a period of time, suspension of service and collection of fees will be permitted for a period of not less than one month but not more than 12 months for residential service units, provided that they are unoccupied. If service is discontinued between the first day of the month and the fifteenth, a half-month charge shall be billed. If service is discontinued between the sixteenth of the month and the last day of the month, a full month charge will be billed.

(G) All requests for such suspension of service shall be in writing, on a form provided by the town, and must be received prior to the first day of the month that the suspension is to begin.

(H) If any dispute arises from the return date of a customer, the Director or the Finance Director may use any means possible to establish the date of return. Any uncollected fees arising from billing for the date of return will be added to the monthly bill and will become due and payable on the next billing cycle.

(Prior Code, Ch. 18, Art. IV, § 18-280) (Ord. 346-04, passed 6-21-2004; Ord. 559-11, passed 6-6-2011; Am. Ord. 567-11, passed 12-15-2011; Ord. 604-13, passed 12-2-2013)

§ 52.999 PENALTY.

(A) A person convicted of a violation of division (A) of § 52.022 is guilty of a Class 1 misdemeanor, punishable by a fine of not less than $250 nor more than $2,500, and, in the discretion of the court, by imprisonment for a term of not more than six months. In no case shall a person convicted of a violation of § 52.022(A) be eligible for suspension or commutation of a sentence unless the person is placed on probation with the condition that the minimum mandatory fines be paid.

(B) (1) Any responsible party who commits, permits, facilitates or aids and abets any violation of this chapter, or who fails to perform any act or duty required by this chapter, is guilty of a Class 1 misdemeanor.

(2) Each day that any violation of this chapter, or the failure to perform any act or duty required by this chapter exists shall constitute a separate violation or offense.

(3) The owner of record of a property at which a violation of this chapter exists shall be presumed to be the person having lawful control over any such building, structure or parcel of land. If more than one person is determined to be an owner of the property, such persons shall be jointly and severally liable for the violation. Any presumption arising from this subsection shall be rebuttable.

(4) If a responsible party served with a notice of violation or citation by the municipality fails to correct the violation within the period specified, the municipality may correct or abate the condition as described in the notice and, in addition to any fine which may be imposed for a violation of any provision of this chapter, the responsible party shall be liable for all costs which may be assessed

pursuant to this chapter for the correction or abatement of the condition.

(5) If in the opinion of the Director any condition which is in violation of this chapter constitutes an imminent health or safety hazard or a public nuisance, the Director may immediately abate the hazard without notice. The abatement of an imminent health or safety hazard or nuisance shall be limited to the minimum work necessary to remove or abate the hazard or the nuisance.

(Prior Code, Ch. 18, Art. IV, § 18-266) (Ord. 346-04, passed 6-21-2004; Ord. 604-13, passed 12-2-2013)

TITLE VII: TRAFFIC CODE

Chapter

CHAPTER 70: GENERAL PROVISIONS

Section

§ 70.01 STATUS OF VIOLATIONS.

Violations of this chapter are civil traffic violations.

(Prior Code, Ch. 17, Art. I, § 17-1)

Statutory reference:

Civil traffic violations, see A.R.S. §§ 28-1591 et seq.

Traffic ordinances to be civil traffic violations, see A.R.S. § 28-626

§ 70.02 OPERATING MOTORIZED SKATEBOARDS AND MOTORIZED PLAY VEHICLES; DEFINITIONS; PROHIBITIONS; VIOLATIONS.

(A) *Purpose and intent.* It is the purpose and intent of this enactment to provide for the regulation of motorized skateboards and motorized play vehicles in order to protect the safety of pedestrians, bicyclists, motor vehicle drivers and operators of motorized skateboards and motorized play vehicles alike. The increasing prevalence of motorized skateboards and growing concerns about their safe uses requires local regulation in order to protect the public safety. The state has granted municipalities express authority to regulate or prohibit the operation of motorized skateboards. Therefore, the Mayor and Council find it is in the public interest to prohibit the operation of motorized skateboards and motorized play vehicles except on private property.

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

MOTORIZED PLAY VEHICLE. A coaster, scooter, any other alternatively fueled device or other motorized vehicle that is self-propelled by a motor or engine, gas or electric, and which is not otherwise defined in A.R.S. Title 28, as a ***MOTOR VEHICLE***, ***MOTORCYCLE***, ***MOTOR-DRIVEN CYCLE***, ***MOTORIZED WHEELCHAIR*** or ***ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE***.

MOTORIZED SKATEBOARD. A self-propelled device that has a motor, gas or electric, a deck on which a person may ride and at least two tandem wheels in contact with the ground, and which is not otherwise defined in A.R.S. Title 28, as a ***MOTOR VEHICLE***, ***MOTORCYCLE***, ***MOTOR-DRIVEN CYCLE***, ***MOTORIZED WHEELCHAIR*** or ***ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE***.

(C) *Prohibited operation.*

(1) No motorized skateboard or motorized play vehicle may be operated 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.

(2) No motorized skateboard or motorized play vehicle may be operated on any private property of another without the written permission of the owner, the person entitled to immediate possession of the property or the authorized agent of either.

(3) No person shall operate a motorized skateboard or motorized play vehicle on any private property in a manner causing excessive, unnecessary or offensive noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to a reasonable person of normal sensitivity.

(D) *Responsibilities of parents, guardians and legal custodians.*

(1) The parent, guardian or legal custodian of any minor shall not authorize or knowingly permit the minor to violate any of the provisions of this section.

(2) If a fine 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 and severally liable with the minor for payment of the fine, whether or not the parents or guardian knew of or anticipated a violation of this section.

(E) *Violation declared civil traffic violation.* Any violation of this section is punishable as a civil traffic violation pursuant to § 10.99.

(Prior Code, Ch. 17, Art. I, § 17-2) (Ord. 370-05, passed 3-21-2005) Penalty, see § 10.99

§ 70.03 USE OF COASTERS, ROLLER SKATES AND SIMILAR DEVICES RESTRICTED.

It shall be unlawful for any person upon roller skates or riding any coaster, toy vehicle or similar device to go upon any roadway except while crossing a street on a crosswalk, and when crossing, the person shall be granted all of the rights and shall be subject to all the duties applicable to pedestrians.

(Prior Code, Ch. 17, Art. I, § 17-2.1) (Ord. 377-05, passed 4-18-2005) Penalty, see § 10.99

§ 70.04 OBSTRUCTION OF VIEW.

It shall be unlawful for any person to maintain or allow any tree, hedge, billboard or other obstructions which prevent 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, Ch. 17, Art. I, § 17-3) Penalty, see § 10.99

§ 70.05 ALL-TERRAIN VEHICLE OPERATION; DEFINITIONS; PROHIBITIONS; PENALTY.

(A) *Purpose and intent.*

(1) It is the purpose and intent of this enactment to provide for the regulation of all-terrain vehicles in order to protect the health, welfare, and safety of property owners, pedestrians, bicyclists, motor vehicle drivers, and operators of all-terrain vehicles alike. The increasing prevalence of all-terrain vehicles and growing concerns about their safe use requires local regulation in order to protect the public safety.

(2) The state has granted municipalities the authority to regulate or prohibit the operation of all-terrain vehicles on public streets and highways within the town. Therefore, the Mayor and Council find it is in the public interest to prohibit the operation of all-terrain vehicles except as permitted pursuant to this section.

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

ALL-TERRAIN VEHICLE. A motor vehicle that satisfies all of the following:

(1) Is designed primarily for recreational non-highway all-terrain travel;

(2) Is 50 or fewer inches in width;

(3) Has an unladen weight of 800 pounds or less;

(4) Travels on two or more tires designed primarily for all-terrain use; and

(5) Has a seat to be straddled by the operator and handlebars for steering control.

MOTOR VEHICLE. A self-propelled vehicle.

PRIVATE PROPERTY. Any residential, commercial, industrial, mining or agricultural property which is not owned by the operator of the all-terrain vehicle, including any private road or driveway, or any canal bank, ditch, or way owned or maintained by an irrigation district, a municipality or any political subdivision of the state, and without regard to whether the private road, driveway, canal bank, ditch, or way is an easement across the property of another.

(C) *Prohibited operation.*

(1) No all-terrain vehicle may be operated on any private property without the permission of the owner of the property.

(2) No all-terrain vehicle may be operated upon any public street, road or highway within the town, whether paved or unpaved, or within the right-of-way of the public street, road or highway, unless meeting all the requirements of the State Department of Motor Vehicles relating to the operation of motor vehicles on public streets, roads and highways.

(3) No all-terrain vehicle shall be operated in a manner which causes excessive noise or dust.

(4) An all-terrain vehicle which is designed for one rider may not be operated at any time with a passenger.

(5) Any person 15 years of age or less riding or being transported on an all-terrain vehicle must wear a helmet meeting the requirements of all state and federal laws and regulations.

(D) *Responsibilities of parents, guardians, and legal custodians.*

(1) The parent, guardian, or legal custodian of any minor shall not authorize or knowingly permit the minor to violate any of the provisions of this section.

(2) If a fine 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 and severally liable with the minor for payment of the fine, whether or not the parents or guardian knew of, or anticipated a violation of this section.

(E) *Violation declared a criminal traffic violation.* Any violation of this section is punishable as a Class 3 misdemeanor traffic offense pursuant to § 10.99.

(Ord. 484-08, passed 6-2-2008)

Section

§ 71.01 DUTY OF POLICE CHIEF GENERALLY.

(A) It shall be the duty of the Police Chief to provide for the enforcement of the street traffic regulations of the municipality and all of the state vehicle laws applicable to street traffic in the municipality, to make arrests for traffic violations, 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.

(B) Any peace officer of the municipality may be authorized by the Police Chief to perform any of the duties of the Police Chief included in this chapter.

(Prior Code, Ch. 17, Art. II, § 17-31)

§ 71.02 RECORDS OF TRAFFIC VIOLATIONS.

(A) The Police Chief shall keep a record of all violations of the traffic laws of the municipality or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all the alleged offenses. The record shall accumulate during at least a five-year period and from that time on the record, shall be maintained complete for at least the most recent five-year period.

(B) All forms for records of violations and notices shall be serially numbered. For each month and year, a written record shall be kept available to the public showing the disposal of all the forms.

(C) All records and reports shall be public records.

(Prior Code, Ch. 17, Art. II, § 17-32)

§ 71.03 INVESTIGATION OF ACCIDENTS.

It shall be the duty 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, Ch. 17, Art. II, § 17-33)

§ 71.04 TRAFFIC ACCIDENT STUDIES.

Whenever accidents at any particular location become numerous, the Police Chief shall conduct studies of the accidents and determine remedial measures.

(Prior Code, Ch. 17, Art. II, § 17-34)

§ 71.05 TRAFFIC ACCIDENT REPORTS.

(A) The Police Chief shall maintain a suitable system of filing traffic accident reports. Accident reports, or cards referring to them, shall be filed alphabetically by location.

(B) The Police Chief shall receive and properly file all accident reports made to him or her under state law or under any law of the municipality, but all the accident reports made by drivers shall be for the confidential use of the municipality, and no report shall be admissible in any civil or criminal proceeding other than upon request of any person making the report or upon request of the court having jurisdiction, to prove a compliance with the laws requiring the making of any report.

(Prior Code, Ch. 17, Art. II, § 17-35)

§ 71.06 DIRECTING TRAFFIC.

(A) The Police Chief is 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 Chief in directing traffic thereat or in the immediate vicinity.

(Prior Code, Ch. 17, Art. II, § 17-36)

Statutory reference:

Authority to regulate traffic by means of police officers, see A.R.S. § 28-627(A)(2)

Obedience to police, see A.R.S. § 28-622

§ 71.07 TRAFFIC CONTROL DEVICES.

The Police Chief, with the approval of the Council, shall place and maintain traffic control devices, signs and signals when and as required under the traffic regulations of the municipality to make effective the provisions of the regulations, and may place and maintain the additional traffic control devices as he or she may deem necessary to regulate traffic under the traffic laws of the municipality or under state law or to guide or warn traffic.

(Prior Code, Ch. 17, Art. II, § 17-37)

Statutory reference:

Authority to regulate traffic by means of traffic signals, see A.R.S. § 28-627(A)(2)

Traffic signs, signals and the like, see A.R.S. §§ 28-641et seq.

§ 71.08 AUTHORITY TO DESIGNATE CROSSWALKS, ESTABLISH SAFETY ZONES AND MARK TRAFFIC LANES.

The Police Chief is hereby authorized, on approval by the Council:

(A) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his or her opinion there is particular danger to pedestrians crossing the roadway, and at the other places as he or she may deem necessary.

(B) To establish safety zones of the kind and character and at the places as he or she may deem necessary for the protection of pedestrians.

(C) To mark lanes for traffic on street pavements at the places as he or she may deem advisable, consistent with the traffic laws of the municipality.

(Prior Code, Ch. 17, Art. II, § 17-38)

§ 71.09 AUTHORITY TO PLACE TURNING MARKERS.

The Police Chief 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.

(Prior Code, Ch. 17, Art. II, § 17-39)

Statutory reference:

Authority to install turning markers, buttons and the like, see A.R.S. § 28-751(3)

Obedience to turn restrictions, see A.R.S. § 28-751(3)

§ 71.10 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Police Chief, on approval by the Council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at the intersections. The making of the 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.

(Prior Code, Ch. 17, Art. II, § 17-40)

Statutory reference:

Authority to regulate or prohibit turns at intersections, see A.R.S. § 28-627(A)(9)

Obedience to turn restrictions, see A.R.S. § 28-644

§ 71.11 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 Police Chief shall place and maintain signs giving notice thereof, and no 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, Ch. 17, Art. II, § 17-41)

Statutory reference:

Authority to designate 1-way streets, see A.R.S. § 28-627(A)(4)

Obedience to 1-way street signs, see A.R.S. § 28-728

§ 71.12 REGULATION OF TRAFFIC AT INTERSECTIONS.

(A) The Council shall, by resolution, designate through streets and 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 Police Chief shall erect and maintain the appropriate signs at every location where a vehicle must stop or yield the right-of-way.

(Prior Code, Ch. 17, Art. II, § 17-42)

Statutory reference:

Authority to designate through highways, see A.R.S. § 28-627(A)(6)

Stop signs, yield signs and the like, see A.R.S. §§ 28-773 and 28-855

§ 71.13 PARKING VIOLATIONS; LIABILITY AND ENFORCEMENT.

(A) *Parking a civil traffic violation; definition.* Violations of any provision of any town ordinance or provision of this code which regulates the time, place or method of parking is a civil traffic violation. ***PARKING*** means the standing of a vehicle, whether occupied or not.

(B) *Parking violations; persons liable.*

(1) It is unlawful for a vehicle to be parked in violation of any town ordinance or provision of this code regulating the time, place or method of parking. Violations of any town ordinance or provision of this code regulating the time, place or method of parking which are continuous in nature shall constitute a separate and distinct violation.

(2) Whenever a vehicle is parked in violation of a town ordinance or provision of the code regulating the time, place or method of parking, the owner or owners of the vehicle, the registered owner or owners of the vehicle and the person who parked or placed the vehicle where the violation occurred, shall be jointly and individually liable for the violation and for the civil sanction prescribed herein.

(3) A vehicle parked in contrary to or inconsistent with any town ordinance or provision of this code regulating the time, place or method of parking which provides that "no person" may stop, stand or park a vehicle at a designated location or contrary to any limitations, restrictions or other provision regulating the time, place or method of parking is deemed to be parked in violation of the ordinance or the provision of this code.

(4) Whenever a motor vehicle is parked upon the public right-of-way or other property in violation of this code and the vehicle has previously been the subject of five or more violations of the parking provisions of this code within a 12-month period but the civil sanctions prescribed under the code for those violations have not been satisfied, then the vehicle shall be deemed to constitute a public nuisance and the owner of the vehicle consents to immobilization, towing and impoundment of the vehicle. A possessory lien is hereby created and attached to the vehicle for the payment, in cash or its equivalent, of all current and accumulated parking tickets and for reasonable costs associated with immobilization, towing and impoundment, before the vehicle is released.

(C) *Parking notice, issuance.*

(1) In an action involving unlawful parking, a copy of the notice need not be personally served upon the owner or operator of the vehicle but may be served by attaching a copy to the vehicle.

(2) The notice shall include the date, time, location of the violation, the state license number of the vehicle unlawfully parked, reference to the town code violated and notice that within five working days from the date on which the notice was issued the sanction for the violation must be paid and received by the town or a request made and received by the town for a hearing to contest the alleged violation.

(D) *Response to parking notice.* Within five working days from the day on which the notice was issued, the person or persons liable for the parking violation shall respond to the notice by one of the following methods:

(1) By appearing in person, by representation, by deposit in a town collection box or by mail to the town within the five-day period, admitting responsibility for the violation and paying the civil sanction prescribed for the violation;

(2) By contacting the town in person, by representation, by mail or by deposit in a town collection box within the five-day period a request for a hearing to contest the alleged violation; or

(3) By appearing in person at the town court and requesting an initial appearance before a hearing officer to explain the circumstances of the alleged violation. The hearing officer at the initial appearance may accept the defendant's explanation and dismiss the notice of violation or shall inform the defendant that the civil sanction must be paid or a request must be made for a civil traffic

hearing to contest the alleged violation.

(E) *Schedule of fines.*

(1) The list of violations and fines in the Town of Florence Schedule of Fees are the minimum fines that may be imposed when the defendant responds to the notice in a timely manner. Any vehicle parked in violation of a town ordinance or other provision of this code other than those in the schedule of fees shall cause the person or persons liable for the violation to be assessed a minimum fine of $10.

(2) Each occurrence or day that the violation continues shall constitute a separate violation and shall give rise to a separate fine.

(F) *Civil traffic complaints; hearings.*

(1) If a defendant has not made a timely request for a hearing pursuant to divisions (D)(1) or (D)(2) above, or has failed to timely respond to the notice and has not paid the fine as requested by division (D)(1) above, a civil traffic complaint and summons will be issued by the town court unless the town prosecutor determines that a complaint shall not be requested.

(2) Failure to respond to a civil traffic complaint and summons will result in a default judgment for the amount of the fine.

(3) A civil traffic hearing for a parking violation may be heard by a civil-traffic hearing officer pursuant to applicable state statute and the Arizona Supreme Court Rules of Procedure in civil traffic violation cases. The hearing officer may make the orders as may be necessary and proper to dispose of the cases.

(Prior Code, Ch. 17, Art. II, § 17-43) (Ord. 204-95, passed 10-16-1995) Penalty, see § 10.99

CHAPTER 72: GENERAL RULES OF VEHICLE OPERATION

Section

§ 72.01 OBEDIENCE REQUIRED.

It shall be unlawful for any person to wilfully fail or refuse to comply with any lawful order or direction of any police officer or Fire Department official.

(Prior Code, Ch. 17, Art. III, § 17-66) Penalty, § 10.99

Statutory reference:

Obedience to police, see A.R.S. § 28-622

§ 72.02 LIMITATIONS ON TURNING AROUND.

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in a Business District and shall not upon any other street so turn a vehicle unless the movement can be made in safety and without interfering with other traffic.

(Prior Code, Ch. 17, Art. III, § 17-67) Penalty, see § 10.99

§ 72.03 PROCESSIONS REGULATED.

(A) A funeral procession composed of a procession of vehicles shall be identified by the methods as may be determined and designated by the Police Chief.

(B) 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.

(C) 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, Ch. 17, Art. III, § 17-68) Penalty, see § 10.99

§ 72.04 VEHICLE WEIGHT RESTRICTIONS.

(A) *Definition*. For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

VEHICLE. A device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

(B) *Restrictions.*

(1) A person shall not drive or move and the owner of a vehicle shall not knowingly cause or permit to be driven or moved on a highway a vehicle or vehicles of a weight exceeding the limitations set forth in A.R.S. §§ 28-1091 *et seq.*, the provisions of which are adopted by reference as though fully contained in this section.

(2) *Exceptions.* The weight and load provisions of this section do not apply to:

(a) Fire apparatus;

(b) Urban public transit transportation system vehicles;

(c) Implements of husbandry, including farm tractors, that are temporally moved on a highway;

(d) Emergency vehicles;

(e) School buses;

(f) Personal use pickup trucks and recreational vehicles;

(g) Vehicles operated under the terms of a special permit issued pursuant to this section; and

(h) Users of highways within the town limits that are within the state highway system and under the jurisdiction of the state that are in compliance with weight requirements of state law.

(3) Escort vehicle operators are not responsible for violations of this section committed by the operator of the escorted vehicle or the owner of the escorted vehicle.

(C) *Weighing of vehicles.*

(1) Any town police officer having reason to believe that the weight of a vehicle or vehicle and load does not conform to the requirements set forth in this section has the same powers and authority to stop and weigh and to direct the driver or operator as any police or peace officer has under the authority of A.R.S. § 28-1102 concerning state roads.

(2) A town police officer may require the weighing of a commercial vehicle by means of portable scales at any time.

(3) A driver or operator of a vehicle shall not knowingly fail or refuse to stop and submit the vehicle and load to a weighing or knowingly fail to refuse to drive or move the vehicle as requested by a town police officer to the nearest public scales, if the scales are within two miles.

(D) *Unlawful weight.* If, on weighing a vehicle and load, a town police officer determines that the weight does not conform to the requirements set forth in this section, the officer may require the driver or operator to stop the vehicle in a suitable place and remain standing until the portion of the load is removed as necessary to reduce the gross weight to the limit permitted by law. A driver or

operator of a vehicle shall not knowingly fail to refuse the direction of the officer to stop the vehicle in a suitable place and remain standing until the portion of the load is removed as necessary to reduce the gross weight to the limit permitted by law.

(E) *Damage to the street.*

(1) Any person driving any vehicle, object or contrivance upon any street, highway or highway structure shall be liable for all damage which the street, highway or structure may sustain as a result of any illegal operation, driving or moving of the vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight in this section, even if authorized by a special permit issued as provided in this section.

(2) When the driver is not the owner of the vehicle, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, than the owner and driver shall be jointly and severally liable for any damage.

(F) *Overweight permits.* The Town Manager, or his or her designee, upon application in writing and good cause shown, may issue a special permit in writing authorizing the applicant to operate a vehicle or load exceeding the maximum specified in this section on any street under the jurisdiction of the town.

(G) *Penalties.*

(1) A person who violates any provision of this section is subject to a civil penalty as follows:

If the excess weight is:	The minimum fine is:
1 to 1,250 pounds	$100
1,251 to 1,500 pounds	$200
1,501 to 2,000 pounds	$300
2,001 to 2,500 pounds	$400
2,501 to 3,000 pounds	$500
3,001 to 3,500 pounds	$840
3,501 to 4,000 pounds	$980
4,001 to 4,500 pounds	$1,120
4,501 to 4,750 pounds	$1,260
4,751 to 5,000 pounds	$1,400
5,000 pounds and over	$1,400 plus an additional $100 for each 1,000 pounds of excess weight to the maximum fine of $2,000

(2) The forgoing minimum fines do not include all applicable state and local enhancement fees, surcharges and assessments, which shall be charged in addition to these minimum fines.

(3) A person who commits a second violation of this section within three months of a preceding judgment is guilty of a Class 1 misdemeanor.

(4) A person who commits a second violation of this section within six months of a preceding judgment is guilty of a Class 2 misdemeanor.

(5) A person who commits a second violation of this section within one year of a preceding judgement is guilty of a Class 3 misdemeanor.

(Ord. 591-13, passed 2-4-2013)

CHAPTER 73: STOPPING, STANDING AND PARKING

Section

§ 73.01 PARKING PROHIBITED IN SPECIFIED PLACES.

Except when necessary to avoid conflict with other traffic or at the direction of a police officer or traffic control device, no person shall stop, stand or park a vehicle in any of the following places:

(A) On a sidewalk;

(B) In front of a public or private driveway or the entrance to an alley;

(C) Within an intersection;

(D) Obstructing a fire hydrant;

(E) On a crosswalk;

(F) In violation of posted no parking sign or within the area of a red painted curb;

(G) So as to obstruct the view of other traffic of any flashing beacon, stop sign or traffic signal;

(H) Within a designated bus stop;

(I) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct the view of other traffic;

(J) On the roadway side of any vehicle stopped or parked at the edge or curb of a street (double-parked);

(K) Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheel of the vehicle parallel to and within 18 inches of the right-hand curb;

(L) It is unlawful to park a vehicle so close as to interfere with or obstruct any fire apparatus or fire rescue vehicle which has stopped in response to a fire alarm or rescue services;

(M) It is unlawful to park a vehicle in a fire lane; and

(N) On the wrong side of the street headed opposite the flow of traffic.

(Prior Code, Ch. 17, Art. IV, § 17-91) (Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.02 BLOCKING TRAFFIC.

(A) It shall be unlawful for any person to stop, stand or park any motor vehicle, or other vehicle, upon a street in the municipality in such manner or under the 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 the Police Chief.

(B) It shall be unlawful for any person to 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, Ch. 17, Art. IV, § 17-92) (Ord. 197-95, passed 7-6-1995; Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.03 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 designated place for one hour before school opens until one hour after school closes on any school day.

(Prior Code, Ch. 17, Art. IV, § 17-93) (Ord. 197-95, passed 7-6-1995; Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.04 AUTHORITY TO ERECT SIGNS RESTRICTING PARKING.

The Police Chief, 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 by ordinance, and restricting parking in any way that may be necessary. When the signs are erected, no person shall stop or stand a vehicle in disobedience to the signs.

(Prior Code, Ch. 17, Art. IV, § 17-94) (Ord. 197-95, passed 7-6-1995; Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.05 TIME LIMIT.

No person may park a vehicle upon any roadway or in any municipal parking lot for a consecutive period of time longer than that indicated by official signs installed to limit the parking.

(Prior Code, Ch. 17, Art. IV, § 17-95) (Ord. 204-95, passed 10-16-1995; Ord. 490-08, passed 11-17-2008) Penalty, see § 73.99

§ 73.06 FORTY-EIGHT-HOUR CONTINUOUS PARKING.

(A) No person shall park a vehicle in the same place on a public right-of-way in excess of 48 consecutive hours after placement on the vehicle of written notification of prohibition of this section and the fact that the vehicle may be removed under A.R.S. § 28-872.

(B) The notification shall be placed by the Police Department in a reasonably conspicuous location on the vehicle.

(Prior Code, Ch. 17, Art. IV, § 17-96) (Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.07 DESIGNATION OF PLACES; ANGLE PARKING PERMITTED.

The Town Engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets, but the angle parking shall not be indicated upon any state highway within the town unless the State Highway Commission has determined by

resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interrupting the free movement of traffic.

(Prior Code, Ch. 17, Art. IV, § 17-97) (Ord. 204-95, passed 10-16-1995)

§ 73.08 OBEDIENCE TO ANGLE PARKING SIGN MARKINGS.

Upon those streets which have been signed or marked for angle parking, it is unlawful to park a vehicle other than at the angle to the curb or edge of the roadway indicated by the signs or markings.

(Prior Code, Ch. 17, Art. IV, § 17-98) (Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.09 PARKING PROHIBITED IN SPACES RESERVED FOR THE PHYSICALLY DISABLED.

(A) It shall be unlawful to park any motor vehicle other than one bearing a license plate with the international wheelchair symbol or displaying a placard issued under state law for this purpose in a parking space reserved for use by physically disabled persons whether on public property or private property available for public use, when the space is designated and described in division (B) below.

(B) Parking spaces subject to these provisions shall be clearly and conspicuously designated as being reserved for the physically disabled. The designation shall include a standard symbolic disabled parking sign bearing the number of this section of this code and conforming to specifications for design and placement. The posting of the sign or signs shall authorize the police to enforce the provisions of this section and shall hereby constitute a waiver of any objection by the owner of the property to enforcement of the section by the Police Department.

(Prior Code, Ch. 17, Art. IV, § 17-99) (Ord. 204-95, passed 10-16-1995) Penalty, see § 73.99

§ 73.10 EMERGENCY NO PARKING.

(A) No person shall park a vehicle upon any public highway, street or parking lot in violation of an emergency no parking sign that has been conspicuously posted.

(B) The Chief of Police is authorized to post emergency no parking signs on public highways, streets and/or parking lots for the purpose of street maintenance, construction, street fairs, parades or any community related event. The duration of emergency no parking shall be no longer than 72 hours. After a reasonable attempt has been made to contact the owner(s), any vehicle parked in violation shall be removed at the owner's expense.

(Prior Code, Ch. 17, Art. IV, § 17-100) (Ord. 210-95, passed 2-20-1996) Penalty, see § 73.99

§ 73.11 PARKING, STANDING, LOADING OR UNLOADING OF COMMERCIAL MOTOR VEHICLES ON MAIN STREET BETWEEN BUTTE AVENUE AND RUGGLES STREET PROHIBITED.

(A) *Definition of commercial and recreational vehicles.* For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

COMMERCIAL MOTOR VEHICLE. A prohibited commercial motor vehicle means a motor vehicle or combination of motor vehicles used to transport passengers or property for a private business purpose if the motor vehicle either:

(a) Has a gross combined weight rating of more than 26,000 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(b) Has a gross vehicle weight rating of more than 26,000 pounds; and

(c) Is of any size and is used in the transportation of materials found to be hazardous under the Hazardous Materials Transportation Act.

GROSS VEHICLE WEIGHT RATING. The weight which is assigned by the vehicle manufacturer to a vehicle and which represents the maximum recommended total weight including vehicle and load for the vehicle.

RECREATIONAL MOTOR VEHICLE. A prohibited recreational motor vehicle means a motor vehicle or vehicle combination that is designed to be used for private pleasure use and includes vehicles commonly called motor homes, pick-up trucks with campers and vehicles towing travel trailers, used exclusively to transport personal possessions or persons for non-commercial purposes.

(B) *Exceptions by permit and fees.* The Chief of Police, or his or her designee, is hereby authorized to issue a one-trip or annual permit excepting commercial or recreational vehicles otherwise subject to the operation of this section when and under the circumstances specified in the permit it is the finding of the Chief of Police, or his or her designee, that the proposed use does not constitute a threat to the public health and safety and the public convenience or necessity requires the issuance of a permit. A person seeking a permit shall submit an application, accompanied by the appropriate fee established in the Town of Florence Schedule of Fees.

(C) *Automatic exemptions.* The following vehicles or uses shall be exempt from the operation of this section:

(1) Recreational vehicles using the street on a one time single trip basis for travel only;

(2) Vehicles owned or under hire by a governmental entity;

(3) Commercial vehicles owned by a utility company using the street for utility service or repairs;

(4) Commercial vehicles owned by an armored car company and using the street for delivery;

(5) Any other commercial or recreational vehicle using the street on a one-trip basis for an emergency medical or emergency public safety purpose; and

(6) Pickups with shell campers that do not extend above the cab or beyond the sides of the vehicle.

(Prior Code, Ch. 17, Art. IV, § 17-101) (Ord. 255-98, passed 4-20-1998; Ord. 642-15, passed 12-7-2015)

§ 73.12 UNARMED POLICE AIDES.

(A) It is the purpose and intent of this enactment to provide for the occasional appointment of unarmed police aides by the Chief of Police or his or her designee when such appointments are determined to be necessary and desirable for the purpose of providing efficient and cost-effective enforcement of the parking regulations contained in this chapter.

(B) The Chief of Police or designee is authorized to appoint unarmed police aides for the purpose of enforcement of the town ordinances relating to the standing and parking of vehicles.

(C) Upon appointment by the Chief of Police, unarmed police aides shall be empowered to commence an action for violation of the provisions of Chapter 73 in the Municipal Court.

(Ord. 487-08, passed 7-21-2008)

§ 73.99 PENALTY.

(A) Any violation of § 73.01(A) shall be punishable by a fine of $36;

(B) Any violation of § 73.01(B) shall be punishable by a fine of $36;

(C) Any violation of § 73.01(C) shall be punishable by a fine of $36;

(D) Any violation of § 73.01(D) shall be punishable by a fine of $65;

(E) Any violation of § 73.01(E) shall be punishable by a fine of $36;

(F) Any violation of § 73.01(F) shall be punishable by a fine of $36;

(G) Any violation of § 73.01(G) shall be punishable by a fine of $36;

(H) Any violation of § 73.01(H) shall be punishable by a fine of $65;

(I) Any violation of § 73.01(I) shall be punishable by a fine of $65;

(J) Any violation of § 73.01(J) shall be punishable by a fine of $36;

(K) Any violation of § 73.01(K) shall be punishable by a fine of $36;

(L) Any violation of § 73.01(L) shall be punishable by a fine of $65;

(M) Any violation of § 73.01(M) shall be punishable by a fine of $65;

(N) Any violation of § 73.01(N) shall be punishable by a fine of $36;

(O) Any violation of § 73.02(A) shall be punishable by a fine of $36;

(P) Any violation of § 73.02(B) shall be punishable by a fine of $36;

(Q) Any violation of § 73.03 shall be punishable by a fine of $36;

(R) Any violation of § 73.05 shall be punishable by a fine of $36;

(S) Any violation of § 73.06 shall be punishable by a fine of $36;

(T) Any violation of § 73.08 shall be punishable by a fine of $36;

(U) Any violation of § 73.09 shall be punishable by a fine of $110;

(V) Any violation of § 73.10 shall be punishable by a fine of $65:

(W) Any violations of § 73.11 shall be punished as a civil traffic violation with a maximum fine of $250 per occurrence.

(Prior Code, Ch. 17, Art. IV, § 17-101) (Ord. 255-98, passed 4-20-1998; Ord. 561-11, passed 6-6-11)

CHAPTER 74: MAGISTRATE-CIVIL TRAFFIC COURT

Section

§ 74.01 ESTABLISHED; JURISDICTION.

There is established in the municipality, a Magistrate-Civil Traffic Hearing Court. This court shall have exclusive jurisdiction of all criminal, civil traffic and/or all other violations of this code and other ordinances of the municipality, and concurrent jurisdiction with the Justice of the Peace of the precinct in which the municipality is located of all criminal and/or civil traffic and/or all other violations of laws of this state committed within the municipal limits.

(Prior Code, Ch. 10, § 10-1) (Ord. 102, passed 12-7-1987)

Statutory reference:

Court jurisdiction, see A.R.S. §§ 22-301 and 22-402

Court required, see A.R.S. § 22-402

§ 74.02 APPOINTMENT OF MAGISTRATE.

(A) The presiding officer of the Magistrate Court shall be the Magistrate who shall be appointed by the Council. The Magistrate shall serve a term of two years unless sooner removed for cause, which includes, but is not limited to, malfeasance conduct which is inimical to the administration of the court or which brings discredit to the municipality or court, misfeasance or nonfeasance of office.

(B) The appointment and/or reappointment of the Magistrate shall be made by the Council. The Council may, at its discretion, reappoint the presiding Magistrate or may advertise the position, request written applications and also request oral interviews with whatever number of finalists it may designate by motion made and approved.

(C) If the Council chooses or needs to advertise as it deems appropriate to fill the position of Magistrate, the application period shall be as may be set by the Council. Applications may be made available through the Town Clerk and must be presented to the Town Clerk for consideration by the Council.

(Prior Code, Ch. 10, § 10-2) (Ord. 102, passed 12-7-1987)

Statutory reference:

Appointment of judge, see A.R.S. § 22-403

§ 74.03 APPOINTMENT OF HEARING OFFICERS.

The Town Manager may, from time to time, appoint hearing officers for limited terms to preside over civil traffic violation cases when, after having been fully briefed by the Magistrate with respect to that office's procedures, workload and the like, it appears that 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 officer of the Magistrate Court and their disposition of the civil traffic violations is appealable to the Superior Court pursuant to A.R.S. Title 22, Chapter 4, A.R.S. §§ 22-401 *et seq*.

(Prior Code, Ch. 10, § 10-3) (Ord. 102, passed 12-7-1987)

§ 74.04 QUALIFICATIONS FOR APPOINTMENT.

All persons interested in applying for or wishing appointment to the Office of Magistrate, Magistrate Pro Tem or civil traffic violation hearing officer, shall meet the following minimum qualifications for consideration for the position:

(A) Magistrate and Magistrate Pro Tem qualifications and educational requirements:

(1) The person must be a qualified elector of the state and county.

(2) The person must have attained the age of 21 years.

(3) The person must be of good moral character.

(4) The person, before assuming office, or as soon as practicable thereafter, shall receive orientation from an experienced judge of that court system and shall attend the orientation program for judges of courts of limited jurisdiction offered by the State Supreme Court. In addition, all other educational requirements set forth in Administrative Order 85-2 shall be complied with.

(B) Hearing officer qualifications and educational requirements:

(1) The person must be a qualified elector of the state and county.

(2) The person must have attained the age of 21 years.

(3) The person must be of good moral character.

(4) A civil traffic hearing officer must complete the State Supreme Court approved course of instruction for civil traffic hearing officers prior to sitting as hearing officer.

(Prior Code, Ch. 10, § 10-4) (Ord. 102, passed 12-7-1987; Ord. 107, passed 3-21-1998)

§ 74.05 POWERS AND DUTIES.

The Magistrate, Magistrate Pro Tem and hearing officer, shall have the powers and duties conferred upon them under the provisions of the Constitution and statutes of the state, this code and the ordinances and resolutions of the municipality, including, but not limited to the following:

(A) Each shall keep a docket in which shall be entered a record of each case heard and determined by him or her, showing the name of the defendant, the proceedings had in the matter and an abstract of the judgment entered, the sentence imposed and the amount of the fine paid, if any.

(B) Each shall personally fix and receive all bonds and bails and receive all fines, penalties, fees and other monies which may be provided by law to be collected or received by them.

(C) In the case of traffic violations not involving the death of a person, they shall prepare a list of the bail for each violation and designate a deputy to collect the bail when the court is not open pursuant to A.R.S. § 22-424.

(D) Each shall prepare a schedule of civil traffic violations, listing a specific deposit for each violation.

(E) Each shall designate a person, a specific location and the hours which the person will be at the location to accept proper deposits for civil traffic violations and for and on behalf of the court pursuant to A.R.S. § 22-424.

(F) Each shall, at least once each week, pay over to the Treasurer all fees, fines, penalties and other monies collected by him or her since his or her last prior settlement with the Treasurer, and shall take the Treasurer's receipt therefore.

(G) The Magistrate shall make a written monthly report to the Council of all fines imposed and collected and of all sentences of imprisonment imposed and the terms and nature thereof.

(Prior Code, Ch. 10, § 10-5) (Ord. 102, passed 12-7-1987)

§ 74.06 COMPENSATION.

(A) The Magistrate, Magistrate Pro Tem and hearing officer shall receive the compensation as the Council may set at the time of his or her appointment.

(B) The compensation of the Magistrate may not be increased or decreased during the two-year term of office of the Magistrate. The compensation shall not be increased nor decreased in the event the Council is filling a vacancy in the Office of Magistrate because of the resignation or removal of the officer as specified herein above during his or her term.

(Prior Code, Ch. 10, § 10-6) (Ord. 102, passed 12-7-1987)

§ 74.07 WHEN AND WHERE COURT HELD.

The Council shall provide a suitable place for the Magistrate-Civil Traffic Hearing Court to hold its sessions and the court shall be open for transaction of business on the days and during the hours as the Magistrate may designate and/or otherwise notice and/or during the hours as the Council may direct.

(Prior Code, Ch. 10, § 10-7) (Ord. 102, passed 12-7-1987)

§ 74.08 TRIAL BY JURY.

The right of trial by jury shall be granted in all cases of such a nature as were triable before a jury at common law and as are triable by jury under the Constitution and laws of the state. Each juror for every day's attendance in the magistrate's court shall be paid the

sum of $15 by the municipality.

(Prior Code, Ch. 10, § 10-8) (Ord. 102, passed 12-7-1987)

Statutory reference:

Jury trials, see A.R.S. §§ 22-425et seq.

§ 74.09 MAGISTRATE PRO TEM.

(A) In the absence of the Magistrate, the presiding officer of the Magistrate Court shall be a Magistrate Pro Tem. A Magistrate Pro Tem shall be appointed by the Town Manager as needed and shall serve only for the period of time that the Magistrate is absent, incapacitated, disqualified or otherwise unable to serve, or until the time as a vacancy in the Magistrate's office is filled by Council appointment as set out in § 74.02.

(B) If the Council chooses or needs to advertise as it deems appropriate to fill the position of Magistrate Pro Tem, the application period shall be as may be set by the Council. Applications may be made available through the Town Clerk and must be presented to the Town Clerk for consideration by the Council.

(Prior Code, Ch. 10, § 10-9) (Ord. 102, passed 12-7-1987)

§ 74.10 ESTABLISHMENT OF FEES FOR SERVICES PROVIDED BY THE MAGISTRATE COURT.

(A) The Town Magistrate has the authority to establish fees for the following:

(1) *Case processing fees.* For each case involving a criminal, criminal traffic or civil traffic offense, the Magistrate Court shall assess each person a case processing fee for each charge in which there is an adjudication adverse to the person in that matter. For purposes of this section, adverse adjudication shall include any and all determinations of guilt or responsibility including no contest pleas in criminal matters, irrespective of the punishment or penalty imposed by the Magistrate. These fees are subject to state surcharges. An additional charge may be added to each fine by the Superior Court.

(2) *Warrant issuance administrative fee.* When the Magistrate Court issues a warrant for failure to appear, on a criminal charge, non-compliance with any court order, failure to pay a fine, failure to pay restitution or failure to pay any other fees or penalties, the Magistrate shall impose an administrative fee upon the person for whom the warrant is issued. This fee shall be added to the sum or sums set forth in the warrant.

(3) *License reinstatement fee.* The Magistrate shall assess a license reinstatement fee for processing requests for license reinstatement for those persons whose license was suspended, revoked or cancelled due to failure to comply with a lawful order of the Magistrate Court, including but not limited to, the payment of fines, failing to complete counseling, alcohol or drug screening or failing to appear in the Magistrate Court pursuant to civil traffic violations.

(4) *Deferred prosecution and probation fee.* A deferred prosecution and probation fee shall be imposed on each criminal charge for which the court defers prosecution of an offense pursuant to Rule 38 of the Arizona Rules of Criminal Procedure or places an offender on probation for a criminal offense. In addition to the waivers provided in this section, this fee shall also, upon request of the town prosecutor, be waived or held in abeyance during the period of deferred prosecution or probation.

(5) *Jail cost recovery fee.* Any person who is arrested for a misdemeanor or is convicted of a misdemeanor criminal offense in the municipal court, and who, as a consequence, is sentenced to a term of incarceration in the county jail or any other detention facility authorized by law, shall pay a jail cost recovery fee to reimburse the town for its actual expenses incurred by reason of such confinement.

(6) *Order to show cause fee.* Magistrate Court may assess the defendant an on order to show cause fee for each order to show cause issued for failure to comply with terms of probation, payment schedules, or as required by Court order.

(7) *Indigent administrative assessment fee.* In addition to the court appointed attorney reimbursement cost, the Magistrate may order indigent defendants to pay an administrative assessment fee when the magistrate has appointed legal counsel pursuant to the Arizona rules of criminal procedure.

(8) *Collection fee and charges.* In the event the court engages in a collection agency for collection of restitution, fines, sanctions, costs and fees, the Municipal Court shall assess the defendant a collections fee to be added to the amount owed to the

court. The defendant shall be liable for all costs of collections, including fee charged by the agency and/or attorney's fee. The Municipal Court may also enter into an agreement with the State of Arizona for attachment of the defendant's state income tax refund, lottery winnings that exceed $600, and/or any possible mandated by an Administrative Order by the Supreme Court of Arizona.

(B) *Authority to waive fee.* The Magistrate may waive all or a portion of the fees established by the article when, in the Magistrate's opinion, the waiver would be in the interest of justice. A finding that the person is indigent and has no anticipated future source of funds from which the fee(s) may be paid would support waiver of all or part of the fees in the interest of justice. Fee modifications may be updated by written directive of the Arizona Supreme Court, Arizona Legislature, Pinal County Superior Court, or by the town Magistrate Court.

(Prior Code, Ch. 10, § 10-10) (Ord. 102, passed 12-7-1987; Ord. 502-09, passed 3-16-2009; Ord. 643-15, passed 12-7-2015)

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: ANIMALS

Section

§ 90.01 COUNTY ANIMAL CONTROL ORDINANCE ADOPTED BY REFERENCE.

The Pinal County Animal Control Ordinance, dated June 4, 2010, is hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, Ch. 3, § 3-2) (Ord. 98, passed 9-21-1987; Ord. 539-10, passed 7-6-2010; Ord. 622-14, passed 9-2-2014)

§ 90.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

ANIMAL. Any animal of a species that is susceptible to rabies, except man.

AT LARGE. Being neither confined by an enclosure nor physically restrained by a leash, lead, harness or a rider. The requirement to secure or control a dog with a leash shall not apply within private, gated communities; in such cases, dogs shall only be required to be under the owner's or custodian's control.

COUNTY. Pinal County Animal Care and Control.

CUSTODIAN. The person whom an owner has entrusted with keeping, maintaining and controlling his or her animal, or a person who keeps, harbors or maintains an animal.

DISTURBANCE. A disturbance caused by an animal that is distressing, loud or unusual, and disturbs the peace or quiet of any place, neighborhood, family or persons in the town for an unreasonable amount of time, and is documented by an enforcement agent.

ENCLOSURE. A fence or structure of at least six feet in height, suitable to prevent the entry of young children, and suitable to confine a vicious animal. Such enclosures shall be securely locked and designed with secure side, top and bottom, and shall be designed to prevent the animal from escaping.

ENFORCEMENT AGENT. That person, whether employed by the town or otherwise provided for, who is responsible for the enforcement of this chapter, and may include an officer of the Police Department.

IMPOUND. The enforcement agent's act of taking or receiving into custody 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 five or more dogs under controlled conditions.

LEASH. A chain, rope or strap, made of leather, fabric or other material that is:

(1) Not more than six feet in length;

(2) Capable of being fastened to a collar or harness of a dog and used to lead, restrain and control the dog; and

(3) Of sufficient strength for those purposes.

LIVESTOCK. Any equine, cattle, sheep, goat, asses, bovine, pig, hog or swine. ***EQUINE*** shall have the same definition as contained in A.R.S. § 12-553(E).

OWNER. The person who most recently purchased, adopted or otherwise legally acquired an animal.

POUND. Any establishment authorized for the confinement, maintenance, safekeeping and control of animals that come into the custody of the enforcement agent in the performance of his or her official duties.

PRIVATE PROPERTY. Any residential, commercial, industrial, mining or agricultural property that is not owned by the owner of the livestock or animal.

RABIES QUARANTINE AREA. Any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to this area.

REPETITIOUS DISTURBANCE. A disturbance, as defined herein, that occurs on more than two occasions over a period of 30

days or less.

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 veterinarian licensed to practice in this state, or any veterinarian employed in this state by a governmental agency.

VETERINARY HOSPITAL. Any establishment operated by a veterinarian licensed to practice in this state that provides clinical facilities and houses animals or birds for dental, medical or surgical treatment. A ***VETERINARY HOSPITAL*** may have adjacent to it, in conjunction with it, or as an integral part of it, pens, stalls, cages or kennels for quarantine, observation or boarding.

VICIOUS. An animal having a propensity to bite, attack, chase or otherwise endanger the safety of any human being or other animal without provocation, either on public or private property, and is declared ***VICIOUS*** after a hearing before a Justice of the Peace.

The following shall be prima facie evidence of an animal's ***VICIOUS*** nature:

(1) Has, without provocation, attacked or bitten a person engaged in a lawful activity; or

(2) Has, while off the property of the owner and without provocation, killed or seriously injured another animal; or

(3) Has, without provocation, chased, confronted or approached a person on a street, sidewalk or other public property in a menacing fashion such as would put an average person in fear of attack; or

(4) Has, without provocation, exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of a person or other animal; or

(5) Has attacked in a manner that causes or should cause its owner to know that it is potentially vicious; or

(6) Has been trained for dog fights or is owned or kept for dog fighting.

(Ord. 488-08, passed 10-20-2008; Ord. 622-14, passed 9-2-2014)

§ 90.03 RESTRICTIONS ON PLACES WHERE KEPT.

(A) No corral, barn, enclosure or other structures for the purpose of housing, keeping or caring for any animal shall be allowed within 50 feet of the boundary between the owner's lot or lots and any adjacent, occupied residential lot or lots, unless it is a fly-tight enclosure approved by the County Health Department.

(B) It shall be unlawful for any person to cause or allow any stable or place where any animal is, or may be kept, to become unclean or unwholesome.

(Prior Code, Ch. 3, § 3-3) (Ord. 98, passed 9-21-1987; Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

§ 90.04 SWINE, FOWL OR BEES.

(A) Notwithstanding any other provision of the County Sanitary Code and the County Animal Control Ordinance to the contrary, it shall be unlawful to keep, maintain and hold any swine, adult male poultry or bees within the municipality, except that adult male poultry or fowl and miniature potbellied pigs may be kept, provided they are so kept to be in accordance with all of the provisions of all ordinances.

(B) Adult male poultry or fowl and miniature potbellied pigs shall be at all times penned or confined and not allowed to run-at-large, and no more than three potbellied pigs shall be allowed per household.

(C) ***POTBELLIED PIG*** shall mean only miniature Vietnamese potbellied pigs or other similar miniature potbellied pigs that do not exceed 100 pounds in weight. Further, any person owning, keeping, possessing, harboring or maintaining any potbellied pig in excess of four months of age shall be required to register and pay the license fees as prescribed by the town or the county for the keeping of dogs and cats.

(Prior Code, Ch. 3, § 3-5) (Ord. 98, passed 9-21-1987; Ord. 173, passed 9-20-1993; Ord. 622-14, passed 9-2-2014) Penalty, see §

§ 90.05 ROAMING LIVESTOCK.

(A) *Purpose and intent.*

(1) It is the purpose and intent of this section to provide for the regulation of roaming livestock in order to protect the health, safety and welfare of motor vehicle drivers and property owners. The increasing prevalence of roaming livestock within the town requires local regulation in order to protect the public safety.

(2) The state has granted municipalities the authority to prohibit the roaming of animals within the town. Therefore, the Mayor and Council find it is in the public interest to prohibit the roaming of livestock within the town pursuant to this section.

(B) *Roaming at large of livestock prohibited.*

(1) It shall be unlawful for any person to keep, or cause to be kept, any horses, mules, cattle, burros, goats, sheep or other livestock or fowl within the town, unless the person shall keep the livestock or fowl in a pen or similar enclosure to prevent their roaming at-large.

(2) No horse, cow, sheep, goat, burro, mule or other livestock so kept shall be allowed within 100 feet of any occupied residential dwelling other than that of the owner.

Prior Code, Ch. 3, § 3-4 (Ord. 98, passed 9-21-1987; Ord. 488-08, passed 10-20-2008; Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

§ 90.06 POWERS AND DUTIES OF ENFORCEMENT AGENT.

(A) The enforcement agent shall:

(1) Enforce the provisions of this chapter and the regulations promulgated hereunder.

(2) Issue citations for the violation of the provisions of this chapter and the regulations promulgated hereunder.

(3) Be responsible to contact the County Animal Control Unit to confirm or declare a rabies quarantine area within the area of jurisdiction. When a quarantine area has been declared, County Animal Control Officers shall meet with the State Veterinarian and representatives from the Department of Health Services and the Game and Fish Department to implement an emergency program for the control of rabies within area. Any regulations restricting or involving movement of livestock within the area shall be subject to approval by the State Veterinarian.

(B) The enforcement agent is authorized to use whatever force reasonably necessary to remove animals that are being confined within a motor vehicle or enclosed space, when it appears that the animal's life or health is endangered by extreme heat or lack of ventilation within the vehicle or enclosed space. The enforcement agent or the enforcement agent's employer shall not be liable for damages to property caused by such removal.

(C) The enforcement agent is authorized to go on private property in order to enforce this chapter or to take up any animal that is found at large, or is considered a disturbance or a repetitious disturbance, or to take up any dog found without required vaccination, licensing or identification tags; however, the enforcement agent may not enter a private structure for this purpose without a valid warrant or the consent of an occupant. The enforcement agent, at his or her discretion, may remove the animal for placement at the pound. In the judgment of the enforcement agent, if any dog at large or other animal that is dangerous or fierce and a threat to the public's safety cannot be safely impounded, it may be slain.

(Ord. 622-14, passed 9-2-2014)

§ 90.07 INTERFERENCE WITH ENFORCEMENT AGENT PROHIBITED.

No person shall interfere with the enforcement agent in the performance of his or her duties.

(Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

§ 90.08 ANIMALS CAUSING A DISTURBANCE.

It shall be unlawful to allow any animal to create a disturbance or repetitious disturbance by barking, howling, baying, or making any other distressing, loud or unusual sound as defined herein.

(Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

§ 90.09 VACCINATIONS.

Any person keeping, harboring or maintaining a dog over the age of three months within the town for a period in excess of 30 consecutive days shall have the dog vaccinated pursuant to county procedures.

(Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

Statutory reference:

Vaccination of dogs, see A.R.S. § 11-1010

§ 90.10 DOG LICENSING.

(A) Any person keeping, harboring or maintaining a dog over the age of three months within the town for a period in excess of 30 consecutive days shall license the dog with the county.

(B) Dogs over the age of three months shall wear a collar or harness to which is attached a valid license tag. Dogs used for control of livestock, dogs used or trained for hunting, dogs exhibited or trained at a kennel club event, or dogs engaged in races approved by the state racing commission, while being transported to and from such events, need not wear a collar or harness with a valid license attached; provided that they are properly vaccinated, licensed and controlled.

(C) If any dog is at large on the public streets, public parks, public property or the private property of a person other than the owner, then its owner or custodian is in violation of this chapter.

(D) Any custodian of a dog or person whose dog is at large is in violation of this chapter. A dog is not at large:

(1) If it is restrained by a leash, chain, rope or cord not more than six feet in length, and of sufficient strength to control its action.

(2) If it is used for control of livestock, while being used or trained for hunting or being exhibited or trained at a kennel club event, or while engaged in races approved by the Arizona Racing Commission.

(3) While it is actively engaged in dog obedience training, accompanied by and under the control of its owner or trainer; provided, that the person training it has in his or her possession a dog leash not more than six feet in length and of sufficient strength to control it, and, further, that it is actually enrolled in or has graduated from a dog obedience training school.

(4) If it, whether on or off the premises of the owner or custodian, is controlled as provided in division (D)(1), or is within a suitable enclosure that actually confines the dog.

(E) Any dog(s) at large shall be apprehended and impounded by an enforcement agent and turned over to County Animal Control.

(1) The agent shall have the right to enter upon private property when it shall be necessary to do so in order to apprehend any dog that has been found at large. Such entrance upon private property shall be in reasonable pursuit of such dog(s), and shall not include entry into a domicile unless it be at the invitation of the occupant.

(2) The agent may issue a citation(s) to the dog owner or person acting for the owner when the dog is at large. The procedure of the issuance of notice to appear shall be as provided for peace officers in A.R.S. § 13-3903, except the enforcement agent shall not make an arrest before issuing the notice. The issuance of citation(s) pursuant to this chapter shall be subject to provisions of A.R.S. § 13-3899.

(3) In the judgment of the enforcement agent, any dog at large or other animal that is dangerous, vicious, or fierce and a threat to human safety that cannot be safely impounded may be immediately slain.

(Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

Statutory reference:

County dog license, see A.R.S. § 11-1008

Display of license, see A.R.S. § 11-1102

§ 90.11 KENNEL PERMIT REQUIREMENTS.

(A) A person operating a kennel shall obtain a permit issued by the county, unless each individual dog is licensed.

(B) A dog remaining with the kennel is not required to be licensed individually by the county. A dog leaving the controlled kennel conditions shall be licensed by the county, unless the dog is only being transported to another kennel that has a permit issued by the respective governmental entity.

(Ord. 622-14, passed 9-2-2014) Penalty, see § 90.99

Statutory reference:

County kennel licenses, see A.R.S. § 11-1009

§ 90.99 PENALTY.

(A) Any person found responsible for violating any provisions of this chapter, except as otherwise provided herein, will be assessed a civil penalty in the amount not to exceed $250 per offense for each first offense, and a fine not to exceed $500 per offense for each second or subsequent offense(s) committed within 36 months.

(B) A person issued a civil citation for violating this chapter may request a hearing in the same manner as a dispute arising for civil traffic violations, which shall be adjudicated by the Town Magistrate. The state's burden of proof shall be by a preponderance of the evidence. Appeals shall be taken pursuant to A.R.S. § 22-425(B), and in accordance with *Arizona Superior Court Rules of Appellate Procedure - Civil*.

(C) Any person who allows livestock to roam at large in violation of § 90.05 is guilty of the following misdemeanors:

(1) Any person who allows livestock to roam at large within the town is guilty of a Class 3 misdemeanor;

(2) Any person who allows livestock to roam at large upon the private property of another within the town is guilty of a Class 2 misdemeanor; and

(3) Any person who allows livestock to roam at large within or upon any public right-of-way within the town is guilty of a Class 1 misdemeanor.

(Ord. 488-08, passed 10-20-2008; Ord. 622-14, passed 9-2-2014)

CHAPTER 91: FIRE PREVENTION

Section

Fire Department

FIRE DEPARTMENT

§ 91.01 CREATION AND COMPOSITION.

(A) There is hereby created a Fire Department for the town, which shall consist of a Chief, and as many regular full-time, part-time, paid-on-call and volunteer firefighters as may be deemed necessary from time to time by the Town Council upon recommendation of the Town Manager and Fire Chief. Only the Fire Chief and all regular full-time firefighters shall be subject to and receive benefits as provided for all full-time town employees, but all the full-time, part-time, paid-on-call and volunteer firefighters shall be subject to the town personnel rules and regulations. Further, part-time and paid-on-call firefighters shall be eligible for participation in the Volunteer Firefighter's Pension Fund, and the Chief and full-time firefighters shall be eligible to participate in the State or Public Safety Retirement Fund.

(B) Full-time, part-time and paid-on-call firefighters shall be appointed by the Town Manager upon recommendation of the Fire Chief in compliance with the town's personnel rules and regulations. The appointees shall be able-bodied citizens whose residence or business activities are normally within the confines of the town.

(Prior Code, Ch. 7, Art. II, § 7-26) (Ord. 299-10, passed 10-16-2000; Ord. 365-05, passed 1-18-2005)

§ 91.02 COMPLIANCE WITH REGULATIONS REQUIRED.

The Fire Department shall be operated and managed in accordance with the Departmental rules and regulations as may from time to time be recommended by the Fire Chief and Town Manager and approved by the Town Council.

(Prior Code, Ch. 7, Art. II, § 7-27) (Ord. 299-00, passed 10-16-2000)

§ 91.03 FIRE CHIEF; APPOINTMENT AND POWERS AND DUTIES.

The Chief of the Fire Department shall be appointed by the Town Manager. It shall be the duty of the Fire Chief to:

(A) Be accountable 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 and emergencies, if possible responds, plans and directs the handling thereof. During the process of a fire or emergency response, the authority of the Fire Chief shall be absolute in all matters directly concerning the emergency or the extinguishment of a fire and the disposition of property endangered by it;

(D) Conduct suitable drill or instructions in the operation and handling of equipment, first-aid and rescue work, salvage, a study of buildings in the town, water supplies and all other matters generally considered essential to the safety of life and property from fire;

(E) Assist the proper authorities in suppressing the crime of arson by investigation 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 inspections, the Chief is empowered to enter any and all buildings and premises with the town at any reasonable hour. Any person served with the written notice shall comply and notify the Chief of his or her compliance within a reasonable time;

(G) Keep complete records of all fires, inspections, apparatus and equipment, personnel and other information about the work of the Department available for inspection and furnish to the Town Manager upon request; and

(H) Enforce or cause to be enforced all ordinances, laws and regulations of the town and state, insofar as they pertain to fire and safety, in accordance with the adopted Uniform Fire Code.

(Prior Code, Ch. 7, Art. II, § 7-28) (Ord. 299-00, passed 10-16-2000)

§ 91.04 AUTHORITY TO ENTER ADJACENT PROPERTY.

It is lawful for any firefighter acting under the direction of the Chief and another officer in command to enter upon the premises adjacent to, or in the vicinity of, a building or other property that is on fire for the purpose of extinguishing the fire, and no person shall hinder, resist or obstruct any firefighter in the discharge of his or her duty as herein above provided.

(Prior Code, Ch. 7, Art. II, § 7-29) (Ord. 299-00, passed 10-16-2000) Penalty, see § 91.99

§ 91.05 INTERFERENCE.

The operations of the Fire Department in connection with extinguishing any fire or other emergency shall not be obstructed. Lawful commands of the Chief or officer of the Fire Department in charge of the scene, or any part thereof or any police officer assisting the Fire Department, shall not be disobeyed.

(Prior Code, Ch. 7, Art. II, § 7-30) (Ord. 299-00, passed 10-16-2000)

§ 91.06 BARRICADES.

The Chief or officer of the Fire Department in charge at the scene of an emergency is authorized to place ropes, guards, barricades or other obstructions across a street, alley, place or private property in the vicinity of the operation so as to prevent accidents or interference with the lawful efforts of the Fire Department to manage and control the situation and to handle fire apparatus.

(Prior Code, Ch. 7, Art. II, § 7-31) (Ord. 299-00, passed 10-16-2000)

§ 91.07 INVESTIGATIONS.

The Fire Department is authorized to investigate promptly the cause, origin and circumstances of each and every fire occurring in the jurisdiction involving loss of life or injury to person or destruction or damage to property and, if it appears that the fire is of suspicious origin, it is authorized to take immediate charge of all physical evidence relating to the cause of the fire and is authorized to pursue the investigation to its conclusion. The Chief is authorized to investigate the cause, origin and circumstances of authorized releases of hazardous materials. The Police Department is authorized to assist the Fire Department in its investigations when requested to do so.

(Prior Code, Ch. 7, Art. II, § 7-32) (Ord. 299-00, passed 10-16-2000)

§ 91.08 EQUIPMENT.

The Department shall be equipped with the 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 needed apparatus and equipment shall be made by the Fire Chief and Town Manager and approved by the Town Manager or Town Council consistent with the town's purchasing rules. All equipment of the Department shall be safely and conveniently housed in the place or places as may be designated by the Council. 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 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 or equipment shall be hired out or permitted to leave the fire station except in response to a call for aid at a fire within the approved response area or in response to a call for aid at a fire in an area of fire protection service authorized by the Town Council or under a mutual aid agreement or for maintenance, training and/or public events.

(Prior Code, Ch. 7, Art. II, § 7-33) (Ord. 299-00, passed 10-16-2000) Penalty, see § 91.99

§ 91.09 FIRE PROTECTION OUTSIDE THE TOWN.

The Council may enter into agreements or contracts to furnish fire protection outside the town or enter into mutual aid agreements, and the Fire Department is authorized to render firefighting service pursuant to the terms of the agreements or contracts.

(Prior Code, Ch. 7, Art. II, § 7-34) (Ord. 299-00, passed 10-16-2000)

§ 91.10 AUTHORITY OF THE CHIEF AND FIRE DEPARTMENT.

The Chief is authorized to administer and enforce the Uniform Fire Code. Under the Chief's jurisdiction, the Fire Department is authorized to enforce all ordinances of the jurisdiction pertaining to:

(A) The prevention of fires;

(B) The suppression or extinguishment of dangerous or hazardous fires;

(C) The storage, use and handling of hazardous materials;

(D) The installation and maintenance of automatic, manual and fire alarm systems and fire extinguishment equipment;

(E) The maintenance and regulation of exits and fire escapes;

(F) The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction; and

(G) The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

(Prior Code, Ch. 7, Art. II, § 7-35) (Ord. 299-00, passed 10-16-2000)

§ 91.11 AUTHORITY TO INSPECT.

The Fire Department shall inspect, as often as necessary, buildings and premises, including the other hazards or appliances designated by the Chief for the purpose of ascertaining and causing to be corrected, any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of the Uniform Fire Code and of any other law or standard affecting fire safety.

(Prior Code, Ch. 7, Art. II, § 7-36) (Ord. 299-00, passed 10-16-2000)

§ 91.12 RIGHT OF ENTRY.

The town shall adopt from time to time the most appropriate version of the Uniform Fire Code and the Fire Department of the town, under the supervision of the Fire Chief, with or without the assistance of the town's building and code enforcement officer, shall whenever necessary, make an inspection to enforce any of the provisions of the Uniform Fire Code. Whenever the Chief has reasonable cause to believe that there exists in any building or upon any premises any condition which makes the building or premises

unsafe, the Chief is authorized to enter the building or premises at all reasonable times to inspect the same or to perform any duty authorized by the Uniform Fire Code. Provided however, that if the building or premises is occupied, the Chief shall first present credentials and demand entry, and if refused shall secure a warrant and if the building or premises is unoccupied, the Chief shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry or in the alternative secure a warrant.

(Prior Code, Ch. 7, Art. II, § 7-37) (Ord. 299-00, passed 10-16-2000)

§ 91.13 NEW CONSTRUCTION AND ALTERATIONS.

(A) Construction or work for which Fire Department approval is required, shall be subject to inspection by the Chief and the construction shall remain accessible and exposed for inspection purposes until approved by the Chief.

(B) Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of the Uniform Fire Code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

(C) It shall be the duty of the permit applicant, contractor or both to cause the work to remain accessible and exposed for inspection purposes. Neither the Chief nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(Prior Code, Ch. 7, Art. II, § 7-38) (Ord. 299-00, passed 10-16-2000)

§ 91.14 RIGHT-OF-WAY AND ALARMS.

(A) All motor equipment of the Department shall have right-of-way over all other non-emergency traffic when responding to an alarm. No unauthorized vehicle shall follow within 600 feet of any apparatus belonging to the Fire Department nor park any vehicle or otherwise cause any obstructions to be placed within ten feet of the entrance to any fire station or other place where fire or emergency apparatus is stored or within 15 feet of any fire hydrant. No person shall drive any vehicle over a fire hose except on specific orders from the Fire Chief or other officer in charge where the hose is used.

(B) Suitable arrangements or equipment shall be provided to all members of the Fire Department so that they may be notified and properly respond in the event of an alarm. It is unlawful for any person to knowingly turn in, or cause to be turned in, a false alarm.

(Prior Code, Ch. 7, Art. II, § 7-39) (Ord. 299-00, passed 10-16-2000) Penalty, see § 91.99

§ 91.15 FIREWORKS.

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

(1) ***CONSUMER FIREWORKS.*** Those fireworks defined by A.R.S. § 36-1601.

(2) ***DISPLAY FIREWORKS.*** Those fireworks defined by A.R.S. § 36-1601.

(3) ***FIREWORK.*** 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.

(4) ***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.

(5) ***PERMISSIBLE CONSUMER FIREWORKS.*** Those fireworks as defined by A.R.S. § 36-1601 that may be sold within the town even where the use of those items has been prohibited.

(6) ***SUPERVISED PUBLIC DISPLAY.*** A monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief or his or her designee.

(B) *Fireworks prohibited; exceptions.*

(1) The use, discharge or ignition of fireworks within the town is prohibited.

(2) Nothing in this section or article 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 properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Fire Chief has authority to impose conditions on any permits granted.

(4) Failure to comply with any permit requirements issued by the Fire Chief is a Class 1 misdemeanor criminal offense punishable by a fine of up to $2,500 plus applicable surcharges and up to six months in jail, or both.

(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, except novelty items as defined by Town Code, including permissible consumer fireworks is prohibited; and

(b) Consumer fireworks authorized for sale under state law may not be sold to persons who are under 16 years of age.

(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 town's website and filed with the Clerk's Office.

(4) Failure to comply with divisions (D)(1) and (2) of this section is a Class 1 misdemeanor criminal offense punishable by a fine of up to $2,500 plus applicable surcharges and up to six months in jail, or both.

(E) *Authority to enforce violations of this article; means of enforcement.*

(1) A Town Police Officer or the Town Attorney may issue criminal complaints to enforce violations of this § 91.15.

(2) The Florence Fire Chief or his or her designee, or any person authorized pursuant to this section to issue a criminal 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 criminal complaint.

(3) A Town Police Officer or the Town Attorney may issue criminal complaints to enforce this article.

(F) *Liability for emergency responses related to use of fireworks; definitions.*

(1) A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.

(2) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to division (F)(1) 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 person's liability for the expense of an emergency response shall not exceed $25,000 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(3) For the purposes of this section:

(a) ***EXPENSES OF AN EMERGENCY RESPONSE*** means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident; and

(b) ***REASONABLE COSTS*** includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

(G) *Penalty.*

(1) The penalty for violating any prohibition or requirement imposed by § 91.15 of the Florence Town Code is a punishable Class 1 misdemeanor criminal offense punishable by a fine of up to $2,500 plus applicable surcharges and up to six months in jail, or both unless another penalty is specifically provided for.

(Ord. 543-10, passed 9-20-2010)

§ 91.99 PENALTY.

Violations of a provision of this chapter shall be punished as a Class 1 misdemeanor, and the individual shall be subject to a minimum fine of $250 up to a maximum fine of $2,500 and up to six months in jail, or both a fine and a term in jail as determined by the Town Magistrate to be appropriate under the circumstances.

(Prior Code, Ch. 7, Art. I, § 7-1) (Ord. 299-00, passed 10-16-2000)

CHAPTER 92: POLICE DEPARTMENT

Section

Cross-reference:

For provisions covering creation of Fire Department, see Ch. 91

GENERAL PROVISIONS

§ 92.01 CREATED; COMPOSITION.

There is hereby created a Police Department for the municipality which shall consist of a Chief of Police who shall also serve as Marshal, and as many police officers as may from time to time be deemed necessary by the Council for the safety and good order of the municipality.

(Prior Code, Ch. 15, Art. I, § 15-26)

§ 92.02 COMPENSATION OF OFFICERS.

The Chief of Police and the police officers of the municipality shall be compensated as determined by the Council. The Chief of Police shall not receive any perquisites, commissions or compensations for his or her services as Chief of Police or Marshal, except as the Council may prescribe.

(Prior Code, Ch. 15, Art. I, § 15-28)

§ 92.03 DEPARTMENTAL RULES AND REGULATIONS.

The Police Department shall be operated and managed in accordance with the Departmental rules and regulations as may from time to time be adopted by the Council.

(Prior Code, Ch. 15, Art. I, § 15-29)

§ 92.04 DUTIES GENERALLY.

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

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

(B) Take charge of the jail and all prisoners confined therein, and all those who are sentenced to labor on the streets or public works of the municipality, and to see that orders and sentences with reference to such are fully executed and complied with;

(C) Deliver any persons who may be confined in the jail upon conviction of a crime committed under the jurisdiction of the Magistrate's Court to any authorized officer of the municipality who shall at any time request the prisoners. Any authorized person so requesting and receiving prisoners shall work the prisoners on the streets or alleys of the municipality or on any and all authorized work as may be determined by the Council;

(D) Render the account of the Police Department, its duties and receipts as may be required by the Council, and keep records of the office open to inspection by the Council at any time;

(E) Direct traffic and ensure the orderly flow thereof and investigate and make reports of traffic accidents; and

(F) Perform additional duties as may be required by the Council.

(Prior Code, Ch. 15, Art. I, § 15-30)

§ 92.05 ANSWERING CALLS OUTSIDE THE MUNICIPALITY.

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

(Prior Code, Ch. 15, Art. I, § 15-31)

ALARM SYSTEMS

§ 92.20 PURPOSE.

This subchapter is intended to regulate the activities and responsibilities of those persons who purchase, lease or rent and those persons who own or conduct the business of selling, leasing, renting, maintaining or monitoring alarm systems, devices or services. It is further intended to encourage the improvement in reliability of these systems, devices and services and to insure that the Police Department personnel will not be unduly diverted from responding to actual criminal activity as a result of false alarms. This subchapter specifically encompasses "burglar alarms" and "panic" or "hold-up alarms" both audible and inaudible (silent).

(Ord. 456-07, passed 9-4-2007)

§ 92.21 DEFINITIONS.

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

ACT OF GOD. An unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight.

ALARM or ***ALARM SYSTEM.***

(1) Any electrical instrument(s) or other device(s) which as one of its purposes is used to protect buildings, premises or persons from criminal acts, unauthorized entries, fire or medical emergencies by warning persons of a crime, unauthorized entry, or medical emergency through the emission or transmission of a sound or signal.

(2) Exceptions:

(a) Single unit smoke detectors or personal protection alerting devices which alert only the user and which do not require special wiring.

(b) Alarms installed in or on motorized vehicles.

ALARM AGENT. Any person who is employed by an alarm business either directly or indirectly, whose duties include any of the following: maintaining, servicing, repairing any alarm or alarm system in or on any building, place or premises. Any person whose duties consist solely of resetting an alarm following activation shall not be deemed to be an ***ALARM AGENT***.

ALARM BUSINESS. Any person, firm, partnership, corporation or other entity which owns or conducts the business of selling, leasing, renting, maintaining or monitoring alarm systems, devices or services, provided, however, that such activities undertaken by agencies of the town for public safety purposes and not for profit shall not be deemed an ***ALARM BUSINESS***.

ALARM SUBSCRIBER. Any person, firm, partnership, corporation or business which leases, rents or purchases any monitored alarm system, device or service from an alarm business or which leases or rents an audible alarm system or device.

AUDIBLE ALARM. A device designed for the detection of an unauthorized entry on premises and which when activated generates an audible sound on the premises.

COMMON CAUSE. A common technical difficulty or malfunction which causes an alarm system to generate a series of false alarms. Said series of false alarms shall be counted as one false alarm only if the false alarms have occurred within a 72 hour period,

and the responsible alarm business has documented, to the Florence Police Department, the action taken to rectify the cause and a 30 day period expires with the alarm system generating no additional false alarms from the documented cause.

FALSE ALARMS. Any activation of an alarm not caused by or as a result of a criminal act, unauthorized entry, fire, medical emergency or act of God except for activation for testing purposes when the Police Department has been given advance notice of such testing, or activation caused by the Police Department.

MONITORED ALARM. A device designed for the detection of an unauthorized entry, criminal activity, medical or life threatening emergencies, in premises and which when activated generates an inaudible signal to a monitoring station. A ***MONITORED ALARM*** may also generate an audible sound on the premises.

POLICE CHIEF or ***POLICE DEPARTMENT.*** The Police Chief or the Police Department of the town.

PROPRIETOR ALARM. Any alarm, or alarm system which is not leased or rented from, or owned or maintained under contract by an alarm business.

(Ord. 456-07, passed 9-4-2007)

§ 92.22 ADMINISTRATION BY POLICE DEPARTMENT.

The provisions of this subchapter shall be administered by the Police Department.

(Ord. 456-07, passed 9-4-2007)

§ 92.23 ALARM BUSINESS DUTIES.

The duties of an alarm business shall be as follows:

(A) To install and be available to maintain the alarm or alarm system in good working order and to take reasonable measures to prevent the occurrence of false alarms.

(B) To instruct each of its alarm subscribers and/or the principal occupants of the building or premises protected by an alarm system in the proper use and operation of the system. Such instruction will specifically include all necessary instructions in turning the alarm on and off and in avoiding false alarms.

(C) To provide each purchaser and subscriber with a copy of the pertinent provisions of this subchapter relating to alarm subscriber duties, false alarm assessments and appeal procedures.

(D) Upon leasing or renting an audible alarm system:

(1) To conspicuously place on the premises a sign or decal identifying the pertinent alarm business including the telephone number to call when the alarm has been activated.

(2) To maintain records of the locations of these alarm systems, devices or services and the name and telephone number of the person and alternate to be notified whenever the alarm is activated and to readily report such information to the Police Department upon request.

(3) To inactivate or cause to be inactivated the audible alarm within one hour of the notification of its activation in the event the primary and alternate cannot be contacted or do not respond.

(E) Upon leasing, renting, selling or monitoring an inaudible alarm system:

(1) To establish a central receiving station in order to monitor these alarm systems.

(2) To organize its central receiving station in order to be able to readily and positively identify the type of alarm, i.e., burglary, robbery or hold-up, and the location of the alarm, if there is more than one system.

(3) To maintain records as to each of these alarm systems, devices or services which should include the name of the owner or occupant of the premises, the name and telephone number of the subscriber, a primary person and at least one alternate responsible for responding to the premises when the alarm is activated, and information concerning whether the alarm system includes an audible alarm.

(4) To make notification of activated alarm systems to the Police Department in the manner prescribed by the Police Chief including such reasonable information concerning the alarm system as the Police Department may request.

(5) To arrange for either the alarm subscriber, alarm agent or other responsible representative to go to the premises of an activated alarm system in order to be available to assist the Police Department in determining the reason for activation and securing the premises. In no event shall there be an unreasonable delay in arriving at the location of the alarm. If the Police Department departs the premises prior to the arrival of the subscriber, alarm agent or other responsible representative, then the subscriber, alarm business or proprietor may document their required response through the use of time-stamped cards. In the event this requirement is not met and the Police Department is unable to determine the reason for the activation, such activation shall be deemed a false alarm.

(F) To cease responsibility for an alarm system pursuant to this subchapter, the alarm business shall promptly notify the Police Department in the event the alarm business ceases to lease, rent, maintain, service or monitor any alarm system. Said notice shall be sent within ten days of the receipt of the warning notice issued pursuant to § 92.29.

(G) Alarm businesses which do not monitor, maintain, service or install alarms or alarm systems shall not be subject to divisions (A), (B), (C), (D), (E), or (F) of this section, but shall be responsible for instructing each person who purchases an alarm or alarm system in the proper use and operation of the alarm. Such instruction will specifically include all necessary instructions in turning off said alarms(s) and in avoiding false alarms.

(H) Alarm businesses which monitor but do not sell lease, rent, install, service or maintain alarms or alarm systems shall not be subject to divisions (A), (B), or (D) of this section.

(I) Alarm businesses which sell or install alarms or alarm systems but do not lease, rent, monitor, service or maintain them shall not be subject to divisions (A), (D), (E), or (F) of this section.

(J) Alarm businesses which sell, install, lease, rent, service or maintain alarms or alarm systems but do not monitor alarms or alarm systems shall not be subject to divisions (E)(1), (E)(2), (E)(4) or (E)(5) of this section.

(Ord. 456-07, passed 9-4-2007)

§ 92.24 ALARM SUBSCRIBER'S DUTIES.

The duties of an alarm subscriber shall be as follows:

(A) To instruct all personnel who are authorized to place the system or device into operation in the appropriate method of operation.

(B) To inform personnel who are authorized to place the alarm system into operation of the provisions of this subchapter emphasizing the importance of avoiding false alarms. A current copy of the provisions of this subchapter shall be maintained on the premises and be made available to persons who are authorized to place an alarm system into operation.

(Ord. 456-07, passed 9-4-2007)

§ 92.25 PROPRIETOR ALARM OWNER'S RESPONSIBILITIES.

The duties of the owner of a proprietor alarm shall be as follows:

(A) To be familiar with the provisions of this subchapter.

(B) To maintain the alarm or alarm system in good working order and take reasonable measures to prevent the occurrence of false alarms.

(C) To notify the Police Department of the name and telephone number of the primary person, and at least one alternate, to be notified in case the alarm is activated.

(D) Upon the purchase of any alarm system device or service which includes an audible alarm:

(1) To notify the Police Department of the name, address and telephone number of the primary person and at least one alternate who should be notified when the alarm is activated.

(2) To inactivate or cause to be inactivated the alarm system within 15 minutes of notification of its activation.

(Ord. 456-07, passed 9-4-2007)

§ 92.26 PERMITS AND EXEMPTIONS.

(A) The provisions of this subchapter shall not be applicable to audible alarms affixed to automobiles or to single unit smoke detectors which alert only the user and do not require special wiring.

(B) A permit from the town shall be required for each alarm business.

(C) Every alarm business shall pay a permit fee as prescribed in the Town Fee Schedule.

(D) Alarm business permits shall be renewed on or before January 1 of each year.

(E) The application for these permits shall be submitted to the office of the Police Chief utilizing the format as may be prescribed by the Police Chief.

(F) The application for an alarm business permit shall include, but not be limited to:

(1) The name, address and telephone number of the alarm business.

(2) An express agreement by the alarm business that the dispatch records of the alarm business relating solely to information to be supplied to the Police Department in case of an alarm shall be immediately available at any time for inspection by agents of the Police Department.

(G) All applications shall be approved unless it is determined that the applicant is not qualified for a permit because:

(1) The applicant has knowingly and willfully given false information on the application; or

(2) The applicant or any of his or her officers has violated a provision of this subchapter; or

(3) The applicant or any of his or her officers has been convicted of a felony.

(H) A copy of the alarm business permit shall be at all times physically present at the alarm business' monitoring station and shall be available for inspection by the Police Department.

(Ord. 456-07, passed 9-4-2007)

§ 92.27 SUSPENSION OR REVOCATION OF PERMITS; APPEAL.

(A) The Police Chief may suspend or revoke an alarm business permit on any of the following grounds:

(1) Failure of the permittee to comply with the requirements of this subchapter.

(2) Conviction of the permittee or any of its officers of a felony.

(3) When any of its officers, agents or directors has knowingly made any false, misleading or fraudulent statement of a material fact in any report or record required pursuant to this subchapter.

(B) The suspension or revocation may be appealed to the Town Manager in accordance with the provisions of § 92.31 of this subchapter.

(Ord. 456-07, passed 9-4-2007)

§ 92.28 PROHIBITIONS.

(A) It shall be unlawful for any person to engage in, conduct, or carry on an alarm business without first applying for and receiving a permit therefor in accordance with the provisions of this subchapter.

(B) It shall be unlawful for any person to engage in, represent him or herself to be, or operate as, an alarm agent without actually being employed as an alarm agent within the definition of this subchapter.

(Ord. 456-07, passed 9-4-2007)

§ 92.29 WARNING NOTICE.

When any alarm system generates two false alarms within a consecutive 180 day period, the Police Department shall send a warning notice to both the alarm subscriber and alarm business or the proprietor alarm owner that two subsequent false alarms within said period will subject the notified parties to the sanctions as provided herein.

(Ord. 456-07, passed 9-4-2007)

§ 92.30 POLICE REVIEW OF FALSE ALARMS.

(A) Except as provided in § 92.33, any alarm system which has four or more false alarms within a consecutive 180 day period shall be subject to assessment as provided herein.

(B) Except as provided in § 92.33, if the Police Department records four or more false alarms within a consecutive 180 day period:

(1) The Police Department shall notify both the alarm subscriber and alarm business or the proprietor alarm owner by mail of such fact and direct that a report be submitted to the Police Chief within ten days of receipt of the notice. The report shall contain specific defenses, if any, as to why the alleged false alarms should not be considered false alarms. Evidence that a false alarm was caused by an act of God, common cause or action of the telephone company shall constitute affirmative defenses to an assessment for the particular false alarm. In addition, any false alarm that is reported as such to the Police Department prior to any police officers arriving at the scene shall also constitute an affirmative defense to an assessment for the particular false alarm.

(2) The report required in division (B)(1) shall be received within the time specified. If the report is not timely submitted, any notified party shall be deemed to have waived his or her right to any further review or bearing as provided herein and the alarm business and alarm subscriber or the proprietor alarm owner operating the alarm system generating the false alarms will be assessed pursuant to division (B)(5) of this section.

(3) If the report required by division (B)(1) is submitted, the Police Chief or his or her designee shall review the specific defenses, if any, set forth in the report to the initial determination of false alarms. If it is determined that a valid defense to the initial determination of false alarm has been accepted, a notice will be sent to all notified parties that no assessment will be made at that time. The notice shall specifically set forth the findings and conclusions of the Police Chief with respect to the review of the report submitted.

(4) If the Police Chief or his or her designee determines that a defense to the initial determination of false alarms has not been alleged or accepted, a notice shall be sent by mail to both the alarm subscriber and alarm business or the proprietor alarm owner that they will be assessed pursuant to division (B)(5) of this section. The notice of decision shall contain the specific findings and conclusions of the Police Chief with respect to the review of the report submitted.

(5) Assessments imposed pursuant to divisions (B)(2) and (B)(4) of this section shall be as follows:

(a) For the first false alarm within a 180 day consecutive day period which is subject to assessment hereunder, the amount of $100.

(b) For each subsequent false alarm occurring within the same 180 day period referred to in division (B)(5)(a) of this section, $150.

(C) The alarm subscriber and the alarm business shall, except as provided in § 92.31, be jointly and severally responsible for the payment of assessments imposed upon their alarm system.

(Ord. 456-07, passed 9-4-2007)

§ 92.31 APPEAL PROCEDURES.

(A) Any party aggrieved by a decision of the Police Chief or his or her designee made pursuant to § 92.30(B)(3) or (B)(4) may, within ten days of receipt of notice of the decision, appeal to the Florence Municipal Court. A copy of the appeal request shall be sent to the Police Chief or his or her designee.

(B) The request for an appeal shall set forth the specific objections to the decision of the Police Chief which form the basis of the appeal.

(C) The Florence Municipal Court shall set a time and place for the hearing as soon as practicable.

(D) The hearing proceeding shall be conducted in an informal process:

(1) The Court shall not be bound by the technical rules of evidence in the conduct of such hearings.

(2) All parties to the hearing shall have the right to present evidence in support of or in opposition to the decision of the Police Chief.

(E) The decision of the Magistrate shall be based upon the evidence presented and it shall:

(1) Affirm the decision of the Police Chief or his or her designee in which case any assessment imposed pursuant to § 92.30(B)(5) shall be sustained; or

(2) Reverse the decision of the Police Chief or his or her designee, in whole or in part, in which case the assessment shall be imposed or rescinded accordingly.

(F) When the decision of the Police Chief is affirmed in appeals involving an alarm subscriber and alarm business permittee, the Town Manager may designate the alarm subscriber or the alarm business permittee as solely responsible for the payment of the assessment.

(Ord. 456-07, passed 9-4-2007)

§ 92.32 ALARM SYSTEM OPERATION PROHIBITIONS.

(A) Upon a final determination of assessment pursuant to § 92.30(B)(2) or (B)(4) or § 92.31(E)(1) of this subchapter for the fourth and any subsequent false alarms as set forth in § 92.30 of this subchapter, the responsible party shall tender the fee assessed within ten days of the date ordered or discontinue operation of the alarm system. In the event the operation of said alarm system is not discontinued and the assessment not tendered, its continued operation by the alarm subscriber, alarm business, or proprietor alarm owner is unlawful.

(B) Upon a final determination of assessment pursuant to § 92.30(B)(2) or (B)(4) or § 92.31(E)(1) of this subchapter for the tenth false alarm within a consecutive 180 day period, it shall be unlawful to operate the alarm system in such a manner that results in any subsequent false alarms within a 90 day period from the date of receipt of the final determination for the tenth false alarm.

(Ord. 456-07, passed 9-4-2007)

§ 92.33 GRACE PERIOD.

(A) Newly installed and reinstalled alarm systems shall be allowed up to ten false alarms within the period of 30 days from the date the alarm system becomes operational before the alarm system becomes subject to a review of false alarms. Upon the eleventh false alarm within the 30 day grace period, the alarm system shall be subject to the provisions of § 92.30(B) as a first false alarm subject to assessment.

(B) The grace period provided in division (A) of this section shall apply only if the alarm business, or proprietor alarm owner notifies the Police Chief or his or her designee in writing within ten days of the completion of installation or reinstallation. The written notice shall specify the date the system was installed or reinstalled. For reinstalled alarm systems, the notice shall also describe the nature and extent of the reinstallation.

(Ord. 456-07, passed 9-4-2007)

§ 92.34 REGULATIONS AND PROHIBITIONS.

(A) It shall be unlawful for any person to activate any "hold-up", "robbery alarm", or medical emergency for any reason other than to warn of an actual robbery, or medical emergency, or to activate any burglar alarm for any reason other than to warn of an unauthorized entry into an alarm protected premises. This division shall not apply to the testing of alarm systems when the Police

Department has been given advance notice of such testing.

(B) No person or business who (which) purchases, leases or rents an audible alarm system, device or service shall allow said alarm to sound in excess of 15 minutes. After an alarm has been audible for a continuous period of four hours, the town may disconnect or muffle the alarm.

(C) It shall be unlawful for any alarm business to report false information to the Police Department in connection with the reporting of an alarm or false alarm. For purposes of this division, "false information" shall mean any information which is in fact incorrect, when the correct information is or has been supplied to and placed in the business records of that alarm business, and which relates to the address of the premises of the alarm subscriber to which the police are directed, or to the alarm subscriber or other persons residing on such premises, or to the type of alarm which is being reported at the premises, such as silent, hold-up, panic, fire, medical emergency or other specific type of alarm.

(D) Acts declared unlawful by the subchapter shall be punishable by a maximum fine of $2,500 plus surcharges and by up to six months in jail, or both.

(Ord. 456-07, passed 9-4-2007)

§ 92.35 CONFIDENTIALITY.

The information furnished and secured pursuant to this subchapter shall be confidential and shall not be subject to public inspection.

(Ord. 456-07, passed 9-4-2007)

CHAPTER 93: NUISANCES

Section

Lot Clearing

Cross-reference:

Offenses involving public peace and order, see Chapter 132

LOT CLEARING

§ 93.01 DEFINITIONS.

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

LITTER. Any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety. ***LITTER*** includes:

(1) All putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, abandoned automobiles, solid market and industrial waste;

(2) Any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever;

(3) Any growth of weeds, brush, grass or other vegetable growth to a height of over six inches;

(4) Outside storage of any accumulation of interior furniture, inoperative or unused appliances, mattresses, bedding, carpeting, boxes, bags, bottles, barrels, crates, pallets, interior plumbing and electrical fixtures, shop tools, equipment, inoperable vehicles, automotive parts, tires and any other miscellaneous junk visible from the public right-of-way; and

(5) Any structure that is so dilapidated as to cause a hazard to the health, safety and welfare of the public.

PRIVATE PREMISES. Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant. ***PRIVATE PREMISES*** includes any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to the dwelling, house, building or other structures.

PUBLIC PLACE. Any street, sidewalk, boulevard, alley or other public way, and any public park, square, space, ground or building.

(Prior Code, Ch. 12, Art. II, § 12-26) (Am. Ord. 565-11, passed 10-17-2011)

§ 93.02 PLACEMENT OR ACCUMULATION OF LITTER; UNLAWFUL.

(A) It is unlawful for a person to place any litter on any private or public property not owned or under his or her control, or place and/or allow to accumulate on any property owned by or under his or her control, any litter.

(B) In addition to any penalty which may be imposed for violation of this section, a person convicted of violating this section is liable for all costs which may be assessed pursuant to this subchapter for the removal of the litter.

(Prior Code, Ch. 12, Art. II, § 12-28) (Ord. 186-95, passed 1-17-1995) Penalty, see § 10.99

§ 93.03 REMOVAL; GENERALLY.

(A) The town's code enforcement officer shall compel the removal of litter by the procedure outlined in this subchapter.

(B) If a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of litter located on property owned or controlled by him or her, he or she shall be given written notice to remove the litter within 30 days from the date the notice was received by him or her, and prior to the date of compliance on the notice. The notice shall be received no less than 30 days before the date set thereon for compliance and shall contain:

(1) An estimate of the cost of removal by the municipality;

(2) A statement that unless the person owning or controlling the property complies therewith within 30 days from the date the notice is received, the municipality will file and prosecute a complaint in the town's Magistrate Court for a violation of this subchapter and may, in addition at the expense of the person owing or controlling the property, perform the necessary work at a cost not to exceed the estimate given in the notice; and

(3) A statement that the person may appeal both the notice and assessment in writing through the Town Manager within 30 days from the date the notice is received and prior to the date of compliance.

(C) The notice shall be personally served on the owner or person controlling the property, by a police officer of the municipality in the manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner or person controlling the property at his or her last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to him or her by certified or registered mail at his or her last known address.

(D) Prior to the date set for compliance on the notice, the owner or person controlling the property may appeal both the notice and estimated assessment in writing to the Town Manager and, if at the same time requested, the Council from the demand of the code enforcement officer. The Town Manager, and if at the same time requested, the Council, shall within 14 days after receiving the appeal, hear and determine the same and the decision of the Town Manager and/or Council shall be final. The Town Manager and/or Council may either affirm or reverse the decision of the code enforcement officer or modify the scope of the work as required in the notice.

(Prior Code, Ch. 12, Art. II, § 12-29) (Ord. 186-95, passed 1-17-1995)

§ 93.04 REMOVAL; BY MUNICIPALITY.

(A) When a person to whom notice has been given pursuant to § 93.03, and on or before the date of compliance on the notice, or within the further time as may have been granted by the Town Manager and/or Council or Town Magistrate, fails, neglects or refuses to remove the litter from the property, the Town Manager may cause the same to be removed and disposed of at the expense of the owner or person controlling the property. Upon completion of the work, the Town Manager shall prepare a verified statement of account of the actual cost of the removal or abatement, the date the work was completed and the street address and the legal description of the property on which the work was done, including 5% for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of the verified statement upon the person owning or controlling the property in the manner prescribed in § 93.03. The owner or person controlling the property shall have 30 days from the date of service upon him or her to appeal in writing to the Town Magistrate from the amount of the final assessment as contained in the verified statement. If an appeal is not filed with the Magistrate within the 30 day period, the amount of the assessment, as determined by the Town Manager, shall become final and binding. If an appeal is taken, the Magistrate shall hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the Magistrate shall be final and binding.

(B) If no appeal is taken from the amount of the final assessment, or if an appeal is taken and the Magistrate 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 lien shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The municipality shall have the right to bring an action to enforce the lien, but the failure to take the action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment for the purposes described herein, and any number of liens on the same lot or tract of land may be enforced in the same action.

(Prior Code, Ch. 12, Art. II, § 12-30) (Ord. 186-95, passed 1-17-1995)

CHAPTER 94: HEALTH

Section

§ 94.01 COUNTY SANITARY CODE; ADOPTED BY REFERENCE.

The Pinal County Sanitary Code is hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, Ch. 8, § 8-2)

CHAPTER 95: PARKS AND RECREATION

Section

§ 95.01 PURPOSE.

The purpose of this subchapter is to establish regulations to provide for the safe and peaceful use of town park property by the public, for the recreational benefit and enjoyment of the public and for the protection and preservation of the property, facilities and natural resources of the town.

(Prior Code, Ch. 13, Art. I, § 13-1) (Ord. 359-03, passed 12-15-2003)

§ 95.02 AUTHORITY.

(A) The Town Council authorizes the Town Manager to promulgate special rules and administrative policies necessary and appropriate to administer these regulations and to enforce the same.

(B) The policies shall be in writing and made available to the public during normal business hours in the office of the Town Parks and Recreation Department.

(Prior Code, Ch. 13, Art. I, § 13-2) (Ord. 359-03, passed 12-15-2003)

§ 95.03 ENFORCEMENT.

(A) Any violations of this chapter shall be unlawful and subject to criminal prosecution and upon conviction shall be punishable under § 10.99 of the Town Code.

(B) Enforcement shall be the responsibility of the Town Manager or designee to include the Town Parks and Recreation Department, Police Department or other appropriate town employees.

(Prior Code, Ch. 13, Art. I, § 13-3) (Ord. 359-03, passed 12-15-2003) Penalty, see § 10.99

§ 95.04 DEFINITIONS.

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

PARKS AND RECREATION DIRECTOR. The person immediately in charge of the Parks and Recreation Department, and to whom all Department employees are responsible.

PARK PROPERTY. Any land, its landscaping and vegetation, buildings, fixtures, monuments or structures located thereon, devoted to park or recreational uses and owned, operated or established by the Town of Florence or the Town Council.

(Prior Code, Ch. 13, Art. I, § 13-4) (Ord. 359-03, passed 12-15-2003)

§ 95.05 USE BY THE GENERAL PUBLIC; HOURS OF USE.

(A) Park property and recreation programs are open to use by all members of the public regardless of race, sex, national origin, color or physical disabilities.

(B) Permitted hours of use shall be between 5:00 a.m. and 10:00 p.m., Sunday through Thursday, and 5:00 a.m. and 12:00 a.m.

Friday and Saturday, unless the person has acquired the appropriate permit from the Town Parks and Recreation Department.

(C) In park property with functions sports lighting, the hours of use may be extended to 12:00 midnight for conducting sporting events and other events approved by permit.

(D) Hours of use shall not apply to the use of public sidewalks or public streets located within any park property which are being used as a transportation corridor.

(E) No person shall enter park property which has been closed to use and is so posted by the town.

(F) Town employees and law enforcement officers acting within their authority shall be exempt from the provisions of this section.

(Prior Code, Ch. 13, Art. I, § 13-5) (Ord. 359-03, passed 12-15-2003; Ord. 546-10, passed 11-1-2010) Penalty, see § 10.99

§ 95.06 PERMIT PROCEDURES.

(A) A permit shall be obtained from the Town Parks and Recreation Department whenever any person or group desires to reserve town designated park areas to conduct activities.

(B) Application for a permit must be received a minimum of ten working days prior to the anticipated use, on forms provided by the Town Parks and Recreation Department.

(C) Permits shall be issued to persons 18 years or older by the Director or designee within a reasonable period of time following receipt of application, in accordance with this chapter and administrative policies pertaining to park use.

(D) Permits issued pursuant to this section must be in the possession of the permittee during the activity and shown upon request.

(E) Functions shall be confined to the specific part of the facility assigned to the permit holder.

(F) If control personnel, parking attendant, traffic control devices and the like, are necessary to provide safe and orderly use, they shall be supplied by the permit holder.

(G) Continuous use of facilities by clubs, organizations and associations shall be permitted through signed agreement which may be reissued as necessary at the discretion of the Parks and Recreation Director or designee. A permit issued pursuant to this section shall not exceed one year.

(H) Activities sponsored or co-sponsored by the town shall have first priority in the use of any park property.

(I) Any request for a use not contemplated by this chapter, administrative policies or denied by the Parks and Recreation Director, may be forwarded to the Town Manager for consideration.

(J) Protest rallies, picketing activities or other gatherings to exercise free speech rights under the First Amendment shall be exempt from these permit requirements.

(Prior Code, Ch. 13, Art. I, § 13-6) (Ord. 359-03, passed 12-15-2003)

§ 95.07 FEES AND CHARGES.

(A) The Parks and Recreation Board may be authorized to establish a uniform schedule of fees for the services with all receipts to be paid into the general fund of the municipality. The schedule of fees shall become effective upon approval by the Town Manager.

(B) All fees and deposits must be paid prior to use, unless other arrangements are made with the Parks and Recreation Director or designee and written within the permit issued.

(Prior Code, Ch. 13, Art. I, § 13-7) (Ord. 359-03, passed 12-15-2003; Ord. 644-15, passed 12-7-2015)

§ 95.08 DOMESTICATED ANIMALS AND WILDLIFE.

(A) With the exception of dogs and cats, no domesticated animal or wildlife shall be brought onto park property unless authorized by permit.

(B) No person shall bring domesticated animals or wildlife upon park property unless on a leash, and is at all times entirely within the control of the person bringing it upon park property.

(C) Domestic animals are not permitted at any time in certain posted areas of park property.

(D) Persons bringing domestic animals or wildlife upon park property are responsible for immediate cleanup and removal of the animal's defecation. It shall be unlawful for any person to cause or permit domestic animals or wildlife to be on park property unless the person has in his or her immediate possession an appropriate depository for the transmission of excrement to a waste receptacle. This provision shall not apply to a person who is physically disabled.

(E) No person shall catch, injure, destroy or interfere in any way with any wildlife on park property.

(Prior Code, Ch. 13, Art. I, § 13-8) (Ord. 359-03, passed 12-15-2003) Penalty, see § 10.99

§ 95.09 ACTIVITIES REQUIRING PERMIT.

The following activities shall not be conducted on park property unless authorized by permit:

(A) Playing an audio device, use a public address device or any device to amplify music;

(B) Operation of a motor vehicle of any type, including, but not limited to, automobiles, motorcycles, motorbikes, except on roads or parking areas designated for that purpose;

(C) Leaving personal property unattended for more than four hours;

(D) Carrying, possessing or discharging a bow and arrow, dart, firearm, knife with a blade of more than three inches in length or other dangerous weapons. Law enforcement officers acting within their authority shall be exempt;

(E) Flying or launching powered model airplanes or rockets;

(F) Cutting or sawing any live or dead trees or their parts with any type of equipment, power or otherwise, or remove any live or dead trees;

(G) No signs, notices, decorations or objects of any kind shall be attached to, located on or painted on any part of park property;

(H) Conducting or soliciting of any business, trade or occupation;

(I) Enclosure of any area or erection of any structures;

(J) Planting of vegetation or causing vegetation to be planted;

(K) Digging into the surface of park property;

(L) Horseback riding; law enforcement officers acting with their authority shall be exempt;

(M) Roller-skating, skateboards and bicycling in areas so posted; and

(N) Use of any portion of a park for golfing purposes, or make use of any golf clubs or golf balls.

(Prior Code, Ch. 13, Art. I, § 13-9) (Ord. 359-03, passed 12-15-2003)

§ 95.10 PROHIBITED ACTIVITIES.

The following activities shall be prohibited on park property:

(A) Servicing any automobile, including washing, waxing, repairing or performing other work, except in case of any emergency;

(B) Defacing, destroying or injuring in any way, misusing or removing any park property;

(C) Interfering with any town employee acting in the course of his or her official duties;

(D) Possessing and discharging any fireworks or explosives on park property;

(E) Depositing, leaving or spilling refuse or other substances other than in receptacles provided for this purpose;

(F) Depositing refuse from private premises in park property trash receptacles;

(G) Possessing a glass beverage container in any park, trail or facility, nor shall any person purposely throw, toss or otherwise propel or break any glass object on park property, park area or access road leading to park property;

(H) Urinating or defecating other than in the proper restroom facilities provided;

(I) Congregating or assembling in or about any restroom or entry-ways of buildings in such a manner as to hinder or obstruct the proper use thereof;

(J) Violating any regulation posted for the operation of an individual recreation center or facility;

(K) Utilizing a playing field which is wet, or otherwise unsuitable for play and which may cause damage to the field;

(L) Camping or overnight parking; unless it is a town-sponsored activity;

(M) Fires are permitted for the purpose of cooking only in picnic areas and are restricted to grills constructed for this purpose and privately owned grills or stoves. Wood fires on park property are prohibited for any purpose;

(N) Trapping, except when necessary by the State Game and Fish Department or other law enforcement authority; and

(O) Consuming spirituous liquor as defined by state law. This division shall not apply to a person consuming beer from a broken package on park property except as otherwise posted.

(Prior Code, Ch. 13, Art. I, § 13-10) (Ord. 359-03, passed 12-15-2003) Penalty, see § 10.99

§ 95.11 OTHER.

(A) Lost objects found on park property must be turned over to the town police or Town Parks and Recreation Department and may be recovered by proper identification at Police Headquarters or Town Parks and Recreation Office.

(B) Picnic areas not requiring a permit are operated on a "first come, first serve" basis. Picnic armadas shall be reserved by permit on a "first come, first serve basis", which must be made in person at the Parks and Recreation Office.

(Prior Code, Ch. 13, Art. I, § 13-11) (Ord. 359-03, passed 12-15-2003)

CHAPTER 96: STREETS AND SIDEWALKS

Section

GENERAL PROVISIONS

§ 96.01 OBSTRUCTION OF STREETS AND THE LIKE.

It shall be unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the municipality by committing any act or doing any thing which is injurious to the health or indecent or offensive to the senses, or to do in or upon any streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by anyone, in or upon, facing or fronting on any of the streets, alleys, sidewalks, parks or other public grounds in the municipality.

(Prior Code, Ch. 16, Art. I, § 16-2) Penalty, see § 10.99

Statutory reference:

Criminal nuisance, see A.R.S. § 13-2908

Obstruction of streets, see A.R.S. § 13-2906

§ 96.02 PROTECTION OF CONSTRUCTION; REPAIR.

It shall be unlawful for any person to walk, ride or drive upon or over any sidewalk or street crossing during the construction or repair thereof, or before the same is opened to public use.

(Prior Code, Ch. 16, Art. I, § 16-3) Penalty, see § 10.99

§ 96.03 WATER FLOW UPON STREETS PROHIBITED.

(A) It shall be unlawful for any person to wilfully 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 the traffic, or to cause damage to the public streets of the municipality.

(B) It shall be unlawful for any person to wilfully 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 the traffic, or to cause damage to the public streets of the municipality 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, interest or through the wilful or negligent failure of the person to accept irrigation water after it has been ordered by him or her.

(Prior Code, Ch. 16, Art. I, § 16-4) Penalty, see § 10.99

§ 96.04 SPITTING.

It shall be unlawful for any person to spit upon any of the public sidewalks or crosswalks in the municipality or upon any public path, byway or highway, or in or on any public ground or park in the municipality, or upon the floor or interior of any public building in the municipality.

(Prior Code, Ch. 16, Art. I, § 16-5) Penalty, see § 10.99

§ 96.05 SIGNS AND BANNERS.

It shall be unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole or utility pole without first obtaining authorization from the Council.

(Prior Code, Ch. 16, Art. I, § 16-6) Penalty, see § 10.99

§ 96.06 NUMBERING OF STRUCTURES.

(A) The intersection of Main Street and Butte Avenue will be the starting point for all east-west and north-south street numbers in the municipality, and all number designations not in conformity with this designation shall be null and void. The municipality shall maintain a street numbering map to aid in the use of this numbering system.

(B) All occupants or owners of buildings in the municipality that have been assigned a number shall post that number on the building in a conspicuous place so as to be readily visible from the street. In no event shall a numeral be less than four inches in height by two inches in width.

(C) Failure to display the correct building number shall be a misdemeanor.

(Prior Code, Ch. 16, Art. I, § 16-7) (Ord. 92, passed 12-8-1986)

EXCAVATIONS

§ 96.20 SCOPE.

This subchapter applies to street excavations.

(Prior Code, Ch. 16, Art. II, § 16-32)

§ 96.21 SPECIFICATIONS GENERALLY.

(A) All work and materials shall conform to the *Maricopa Association of Governments Details, Specifications and Standards* approved by the town (hereinafter referred to as M.A.G. Specifications), and revisions as to these standard specifications apply to trench backfill material, backfill compaction and roadway surface restoration except as noted in these special provisions. In case of conflict between M.A.G. Specifications and these provisions, the provisions herein shall apply.

(B) Other agency specifications for construction material which are equal to M.A.G. Specifications, listed herein, may be substituted as satisfactory alternatives with prior written approval of the Director of Public Works.

(C) Other construction methods, which are determined from engineering studies and laboratory tests, may be substituted as satisfactory alternatives with prior written approval of the Director of Public Works.

(Prior Code, Ch. 16, Art. II, § 16-33) (Ord. 55, passed 12-15-1983)

§ 96.22 ENGINEERING PLANS; SPECIFICATIONS.

(A) All preparation of plans, specifications, construction and inspection within a municipal right-of-way shall be performed under the supervision of a Civil Engineer registered in the state and employed by the owner, who shall be the Engineer of Record. This provision shall only apply if the project is of the size or importance that the Director of Public Works deems it necessary.

(B) Plans shall be submitted on a maximum size sheet of 24 inches by 36 inches and must be neat, clear, legible and complete in all respects. Profiles will be required in projects involving installation of sewer and underground irrigation lines in dedicated rights-of-way. Power facilities must also be submitted in profile where the trade size of a single conduit exceeds six inches in diameter or where multiple conduits including the concrete encasements are 60 square inches or greater in cross-section areas. In addition, profiles may be required by the Director of Public Works in cases of possible alignment or grade conflicts, cover problems or crossing conflicts. Plans may be submitted concurrently with the application for a construction permit but at least 14 working days will be required for review.

(C) The Director of Public Works shall require submission of a set of as-built plans in all cases.

(Prior Code, Ch. 16, Art. II, § 16-34) (Ord. 55, passed 12-15-1983)

§ 96.23 BACKFILL AND COMPACTION.

(A) Backfill shall consist of sound earth material (other than open graded rock) free from concrete, timber, asphalt pavement or other debris. When select material, or A.B.C. material, is substituted or specified, it shall conform to the applicable specifications for construction of highways of the M.A.G. Specifications.

(B) Compaction of backfill materials shall be governed by the following:

(1) That portion of the backfill from the bottom of the trench to eight inches, compacted depth, over the top of the pipe shall be back-filled with uniformly graded material with maximum size passing a one and one-eight-inch screen. This material shall be uniformly jetted to ensure proper bedding of pipe. Backfill around underground electric lines must meet the specification of the responsible electrical utility.

(2) For the purpose of these special provisions, ***WATER SETTLING*** is defined as the addition of water to backfill material in an excavation in such a quantity as to make the water content of the material higher than the optimum moisture as determined by Standard Proctor Test (AASHO T-99). Water settling is not permitted where the excavation is in an existing pavement or where any portion of the excavation falls within a distance from the edge of existing pavement or back of curb equal to one- half the depth of the trench, measured from the edge of pavement or gutter line.

(3) Water settling is permitted in new subdivisions under the following conditions:

(a) Fill material in lifts not exceeding eight feet in depth shall be leveled, the trench flooded and the material jetted to within one foot of the pipe with sufficient water to ensure filling of all voids with backfill material.

(b) No paving will be permitted over water settled trenches until compaction test results have been approved by the Director of Public Works. Water settling is permitted beyond the limits of division (B)(2) above with a required compaction of 85%, or the natural compaction of the native material, whichever is higher.

(C) Where an excavation meets the criteria of division (B)(2) above, the excavation shall be filled with A.B.C. or granular select material, placed at optimum moisture in lifts sufficiently thin to ensure required compaction for the full depth of the lift, and in no case greater than 30 inches compacted depth, unless previously approved in writing by the Director of Public Works. Granular select material shall not exceed three inches in diameter and shall be graded in such a manner as to ensure the exclusion of any and all voids in the backfill. The upper two feet is to be mechanically compacted to not less than 95% of maximum density. Sufficient water may be added to raise the moisture content to optimum only. Below these two feet, the material shall be compacted to not less than 85% of the maximum density for the backfill material as determined by AASHO Test T-99. Field determination of density shall be made in accordance with AASHO Test T-147 or other test procedure previously approved in writing by the Director of Public Works.

(D) The minimum cover for utility lines shall be 36 inches, other than direct burial cable which shall be 24 inches. The minimum cover for storm drainage or irrigation pipe shall be 18 inches. ***COVER*** is defined as the difference in elevation between the top of the line or pipe and the ultimate gutter grade of the roadway. If paving is not completed within 30 days after installation of the underground facilities, a temporary earth cover sufficient to meet the above requirements must be placed and maintained.

(E) For facilities outside the area defined in division (B)(2) above, ***COVER*** is defined as the difference in elevation between the top of the line or pipe and the natural or regraded ground surface, whichever is lesser.

(Prior Code, Ch. 16, Art. II, § 16-35) (Ord. 55, passed 12-15-1983)

§ 96.24 COMPACTION TEST REPORTS.

(A) The cost of making compaction tests shall be paid by the owner or the contractor. The tests shall be made at the locations and depths specified by the Director of Public Works or his or her representative. A minimum of one set of tests will be required for each four feet of trench depth for trenches within the area defined in § 96.23(B)(2). The minimum number of passing tests per set anticipated to prove specification compliance may be estimated at the following rates:

(1) Pavement cut crossings: one test per crossing;

(2) Pavement cuts or trenches within two feet of pavement edge: two tests per 500 lineal feet;

(3) At all other locations: one test per 400 lineal feet;

(4) Test may be taken at four foot vertical increments in the same vertical plane at the option of the Engineer of Record; and

(B) Copies of all test reports shall be sent directly to the Engineer of Record from the testing laboratory, and to the Director of Public Works within five days after tests are conducted.

(C) Pavement cutting and restoration shall be as follows:

(1) All cuts in asphalt or concrete pavement shall have saw cut or neat and straight edges. Excavated pavement material shall be removed from the site.

(2) The asphaltic material used for replacement of pavement cuts shall conform to the applicable M.A.G. Specifications. The thickness of the pavement and aggregate base replaced shall be consistent with the thickness of the existing asphalt pavement and base cut shall not be less than two inches of asphaltic pavement over nine inches compacted depth of aggregate base compacted to 100% of maximum density for the material. For Portland cement concrete paving cut replacement, this same specification will apply. The existing pavement shall be trimmed to a neat edge and the edge shall be treated with a proper emulsion to ensure a bond between the existing pavement and the patch.

(3) It is required that all roadway crossing of lines four inches in diameter or less to be installed under pavement which is less than two years old, be bored under the pavement.

(Prior Code, Ch. 16, Art. II, § 16-36) (Ord. 55, passed 12-15-1983)

§ 96.25 SURFACED RESTORATION OF GRAVELED OR EARTH SURFACED ROADS.

The surface replacement of gravel surfaced roads shall be consistent with the existing surface material in place and may consist of select material or A.B.C. as directed by the Director of Public Works. Fill placed on existing gravel surfaced roads or earth surfaced roads to obtain minimum allowable cover over the pipe or utility lines shall be placed to proper grade for the full width of the existing roadway and shall be compacted and graded to the satisfaction of the Director of Public Works.

(Prior Code, Ch. 16, Art. II, § 16-37) (Ord. 55, passed 12-15-1983)

§ 96.26 MISCELLANEOUS PROVISIONS.

(A) The contractor shall secure written permission of the Director of Public Works prior to the start of any construction operations within a municipal right-of-way. Three sets of approved plans must be submitted with the application at least three working days before work is scheduled to begin.

(B) The permittee shall notify the property owner or resident of adjoining occupied property at least two working days prior to disruption of access to the property, and at no time deny access to the property longer than one normal working day, and shall provide plank for crossings, if necessary.

(C) The permittee shall maintain all existing traffic control signs within the construction area, and shall reset all signs in their original locations as soon as construction operations will permit. The permittee shall place and maintain traffic warning signs during the course of work, as required by the Director of Public Works.

(D) Only rubber-tired equipment shall be used on pavement except that crawler equipment using street pads may be used.

(E) Existing regulations of the County Health Department, as applicable, shall be rigidly observed and enforced. Water or approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earth work to prevent the unnecessary discharge of dust and dirt into the air.

(F) During the course of work, the permittee shall maintain the work area in a clean and orderly condition. Excess excavation, debris and the like, will not be permitted to accumulate on the road surface or shoulders. Work shall progress in such a manner that no condition such as soft trenches, drop-offs from the edge of pavement and the like, will exist. Upon completion of installation, the permittee shall clean the pavement surface, pull and dress shoulders and otherwise put in order the entire work area to the satisfaction of the Director of Public Works. If the work is not completed in a manner acceptable to the Director of Public Works, the utility or any other permittee doing the work will be held responsible and further permits will not be issued pending the completion of the work.

(Prior Code, Ch. 16, Art. II, § 16-38) (Ord. 55, passed 12-15-1983)

§ 96.27 DRIVEWAY AND/OR SIDEWALK POLICY IN THE TOWN RIGHT-OF-WAY.

The policy applies to concrete driveways and sidewalks that extend from private property into the town right-of-way and connect to existing pavement or curb.

(A) The homeowner shall get a driveway and/or sidewalk installation permit from the town building official.

(B) (1) The driveway and/or sidewalk shall be paid for by the homeowner.

(2) If necessary for installation, the homeowner shall pay for curb and sidewalk saw cut, removal and replacement.

(3) Homeowners with existing paved driveways will be allowed to replace their existing driveways with concrete.

(4) These homeowners will be responsible for the proper disposal of the asphaltic pavement.

(C) A one-half-inch thick expansion joint shall be installed at the property line (right-of-way line) across the driveway and/or sidewalk.

(D) The edges of the concrete in the right of way shall be rounded to a radius of no less than one- fourth inch.

(E) In areas where there is no curb, driveways and/or sidewalks shall be constructed in such a manner that the new concrete will not interfere with existing drainage along the side of the paved roadway. The existing paved roadway shall be trimmed to a straight line and the concrete shall be placed to the edge of pavement. The concrete shall be flush with the pavement.

(F) In areas with existing roll curb, the concrete for the driveway and/or sidewalk shall be placed flush with the top of the existing roll curb.

(G) In areas with existing vertical curb, with an existing curb depression at the curb connection, M.A.G. (Maricopa Association of Governments) Standard Detail 250 shall be used for the sidewalk portion of the driveway.

(H) In areas with existing vertical curb that do not have a curb depression at the curb connection, the existing curb shall be saw cut and removed in a manner not to disturb the existing paved roadway. A new depressed curb and sidewalk shall be installed per *M.A.G. Standard Details 250 and 220*, Type A.

(Prior Code, Ch. 16, Art. II, § 16-39) (Ord. 280-99, passed 7-19-1999)

STREET LIGHTING; REQUIREMENTS; IMPROVEMENT DISTRICTS

§ 96.40 STREET LIGHTING; REQUIREMENTS.

(A) All residential and commercial developments require the installation and energizing of street lighting on public streets within and

adjacent to the project in accordance with standards established pursuant to this section.

(B) The Town Manager or his or her designee shall promulgate written standards for the intensity of street lighting, acceptable fixtures and poles, acceptable locations, installation practices and the other related matters as the Town Manager or his or her designee determines to be appropriate.

(Prior Code, Ch. 16, Art. V, § 16-180) (Ord. 410-05, passed 11-7-2005)

§ 96.41 STREET LIGHTING SYSTEM; ELECTRIC UTILITY COMPANIES; STANDARDS.

(A) The town is serviced by multiple electric utility companies (EUC). Different standards for installation and design apply in each service area.

(B) The area includes that portion of the town in which EUC has been granted a certificate of convenience and necessity to provide electric utility service by the Arizona Corporation Commission (ACC). The street lighting shall be designed by the owner's Engineer and the plans submitted to the town for review and approval. The town may impose a charge on the owner for each review and approval of the plans. Upon approval of the plans by the town, the developer shall pay the design and installation costs. The street lighting system will be inspected by the town and/or EUC prior to final plat approval. If the town determines that the street lighting system meets town standards, the street lighting system will be dedicated to the town or EUC in conjunction with the final plat approval. Ownership of the street lighting system will be conveyed to the town or EUC by dedication on the final plat, which upon recording with the Pinal County Recorder, shall constitute acceptance of the dedication by the town. If the project is not a subdivision, ownership of the street lighting system shall be conveyed to the town or EUC by an instrument acceptable to the Town Attorney and recorded in the office of the Pinal County Recorder.

(Prior Code, Ch. 16, Art. V, § 16-181) (Ord. 410-05, passed 11-7-2005)

§ 96.42 STREET LIGHTING SYSTEMS; DESIGN, PLANS, INSTALLATIONS AND DEDICATIONS.

(A) Developers of residential and commercial property are responsible for all design, installation, plan review and approval and energizing costs of street lighting on public streets within their project and all adjacent minor and major arterial streets fronting their project and upon which the project has an access point. If a developer of a residential or commercial property contends that the requirement to install street lighting adjacent to their site is excessive, an appeal may be filed in writing with the Town Manager or his or her designee. The determination of the Town Manager or his or her designee upon the appeal shall be final.

(B) The design, plans and installation shall be in accordance with the standards established by the town and the applicable utility service provider.

(C) The developer shall retain a professional Engineer registered in the state to prepare the lighting system design and appropriate calculations relative to illumination levels. Illumination design shall follow the recommendations of the American National Standard Practice for Roadway Lighting, Illuminating Engineering Society of North America and town street lighting standards.

(Prior Code, Ch. 16, Art. V, § 16-182) (Ord. 410-05, passed 11-7-2005)

§ 96.43 STREET LIGHTING IMPROVEMENT DISTRICTS.

(A) The cost of the electricity, operation and maintenance of the street lighting system shall be assessed by the town against the owners of the real property as follows:

(1) Within a residential subdivision, the cost of the electricity, operation and maintenance of all street lights on streets within the subdivision, including major arterial, minor arterial and collector streets shall be charged to the property owner(s) through creation of a Street Light Improvement District. The developer shall initiate the formation of the Street Light Improvement District prior to the final plat approval by executing a petition for formation of a Street Light Improvement District in a form acceptable to the Town Attorney.

(2) Within a commercial subdivision, the cost of the electricity, operation and maintenance of all street lights on streets within the subdivision, including major arterial, minor arterial and collector streets on which access is provided to the commercial subdivision shall be charged to the property owner through creation of a Street Light Improvement District. The developer shall initiate the formation of the Street Light Improvement District prior to the final plat approval by executing a petition for formation of a Street Light

Improvement District in a form acceptable to the Town Attorney.

(3) The town shall require each party dedicating the street lights to the town to warranty the street lights against defects in design, installation and operation for a two-year period commencing on the date of dedication. Normal wear and tear arising from the operation of the street lights shall be excepted from the warranty requirement.

(4) For any other property, the cost of the electricity, operation and maintenance of all street lights fronting the property or on any street for which access is provided to the property may be charged to the property owner at the discretion of the town.

(B) Any owner of real property upon presentation of a petition signed by a majority of the owners of real property within the area may request that the town install additional street lights. Upon review of the petition by the town, a public hearing shall be held upon the request. Following the public hearing, upon presentation of a petition for formation of a Street Light Improvement District in a form acceptable to the Town Attorney, the Town Council may commence improvement district proceedings to form a Street Light Improvement District and to assess the cost of the electricity, operation and maintenance of additional street lights against the property within the Street Light Improvement District.

(Prior Code, Ch. 16, Art. V, § 16-183) (Ord. 410-05, passed 11-7-2005)

Statutory reference:

Similar provisions, see A.R.S. §§ 48-572et seq.

CHAPTER 97: MUNICIPAL CEMETERY

Section

GENERAL PROVISIONS

§ 97.001 DEFINITIONS.

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

CEMETERY. The burial park for earth interments.

GRAVE. A space of ground in a burial park used, or intended to be used, for burial.

INTERMENT. The disposition of human remains by burial.

MEMORIAL. A marker, tablet, headstone or tombstone name plate.

MONUMENT. A memorial of concrete, granite or other approved stone that extends above the surface of the lawn.

PLOT. Space in the cemetery used, or intended to be used, for the interment of human remains. The term includes and applies to one or more than one adjoining grave.

TOWN. Includes the staff representing Florence Memorial Park.

(Prior Code, Ch. 16, Art. IV, § 16-101) (Ord. 130, passed 2-5-1990)

§ 97.002 SCOPE.

This chapter applies to the municipal cemetery.

(Prior Code, Ch. 16, Art. IV, § 16-102)

§ 97.003 EXEMPTIONS AND AMENDMENTS.

The town may provide an exemption from this chapter for all interments, headstones, plot borders and plantings in existence prior to February 5, 1990, and may amend or repeal this chapter.

(Prior Code, Ch. 16, Art. IV, § 16-103) (Ord. 130, passed 2-5-1990)

§ 97.004 ENFORCEMENT.

The Chief of Police and the Director of Public Works and other employees as the town may designate, may enforce all rules and regulations and exclude from the cemetery any person in violation of the cemetery rules. The town and its designated employees shall have charge of the grounds and buildings and at all times shall have supervision and control of all persons in the cemetery, including the conduct of funerals, traffic, employees, plot owners and visitors.

(Prior Code, Ch. 16, Art. IV, § 16-104) (Ord. 130, passed 2-5-1990)

§ 97.005 STATEMENTS OF SALES AGENTS.

The certificate of conveyance and this chapter and any amendments thereto shall be the sole agreement between the town and the plot owner and no written or oral statement of a sales agent shall be binding upon the town.

(Prior Code, Ch. 16, Art. IV, § 16-105) (Ord. 130, passed 2-5-1990)

§ 97.006 USE OF GUARDS AND RESPONSIBILITY OF DAMAGE.

The town shall have the right to maintain guards if in its discretion it deems it necessary, but is under no legal obligation to do so. Whether or not guards are used, the town disclaims all responsibility for loss or damage from causes beyond its reasonable control, including but not limited to damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or order of any military or civil authority, whether the damage be direct or collateral.

(Prior Code, Ch. 16, Art. IV, § 16-106) (Ord. 130, passed 2-5-1990)

§ 97.007 CHARGE FOR UNUSUAL REPAIRS NECESSITATED BY ACTS OF GOD AND THE LIKE.

If it becomes necessary to repair or reconstruct any marble, granite, bronze or concrete work on any section or plot or any portion or portions thereof in the cemetery which has been damaged by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or by the order of any military or civil authority, the town shall give a ten-day written notice of necessity for the repair to the plot owner of record. The notice shall be given by depositing the same in the United States mail addressed to the plot owner of record at his or her address stated in the books of the cemetery. If the plot owner fails to repair the damage within a reasonable time, the town may direct that the repairs be made and charge the expense against the plot and the plot owner of record.

(Prior Code, Ch. 16, Art. IV, § 16-107) (Ord. 130, passed 2-5-1990)

§ 97.008 CHANGE IN ADDRESS OF PLOT OWNERS.

It shall be the duty of the plot owner to notify the town of any change of address. Notice sent to the plot owner at the last address on file in the office of the town shall be considered sufficient and proper legal notice.

(Prior Code, Ch. 16, Art. IV, § 16-108) (Ord. 130, passed 2-5-1990)

§ 97.009 DESIGN AND CONSTRUCTION OF MEMORIALS.

(A) The town officials shall have authority to reject or remove any plan, design or completed work for any memorial which, on account of size, design inscription, kind or quality of stone, is, in the opinion of the town, unsuited to the lot on which it is or will be placed.

(B) The town reserves the right to stop all work of any nature whenever in its opinion proper preparations therefore have not been made, or when the tools and machinery being used are insufficient, defective or when the work is being performed in such a manner as to threaten life or property or so as to interfere with the proper operation of work or when any person employed on the work violates this chapter.

(Prior Code, Ch. 16, Art. IV, § 16-109) (Ord. 130, passed 2-5-1990)

§ 97.010 ADMISSION.

The town reserves the right to compel all persons coming into the cemetery to present proper identifications and/or permits to the town staff for examination. The town reserves the right to refuse admission to anyone not a lot owner or relative of a person interred in the cemetery and to refuse the use of any of the cemetery facilities at any time to any person or persons who refuse to comply with this chapter or other applicable law.

(Prior Code, Ch. 16, Art. IV, § 16-110) (Ord. 130, passed 2-5-1990)

§ 97.011 CONSENT REQUIRED FOR OPENING OF CASKETS.

Once the funeral service is completed and the casket is placed in the receiving vault or other space, the town reserves the right to refuse permission to anyone to open the casket or to touch the body without the consent of the legal representatives of the deceased; provided, however, that if required, the town may take appropriate steps to correct any obnoxious or improper conditions.

(Prior Code, Ch. 16, Art. IV, § 16-111) (Ord. 130, passed 2-5-1990)

§ 97.012 ROADWAYS AND REPLATTING.

(A) *Right to replat, regrade and use property.* The right and privilege at any time and from time to time to resurvey, enlarge, diminish, replat, alter in shape or otherwise to change all or any part, portion or subdivision of the property (including the right to lay out, establish, close, eliminate or otherwise to modify or change the location of roads, walks or drives) and to file amended maps or plats thereof, and to use the same for the erection of buildings or for any purpose or uses connected with, incident to or convenient for the care, preservation or preparation for the disposal or interment of dead bodies, or other cemetery purposes, together with easements and rights-of-way over and through the premises for, and the right and privilege of installing, maintaining and operating pipelines, conduits or drains for sprinklers, drainage, electric or communication lines, or for any other purpose, is hereby expressly reserved to the town.

(B) *No right granted in alleyways.* No easement or right of interment is granted to any plot owner in any road, drive, alley or walk within the cemetery, but the road, drive, alley or walk may be used as a means of access to the cemetery or buildings as long as the town devotes it to that purpose.

(Prior Code, Ch. 16, Art. IV, § 16-112) (Ord. 130, passed 2-5-1990)

INTERMENTS AND DISINTERMENTS

§ 97.030 COMPLIANCE WITH APPLICABLE LAW.

Besides being subject to this chapter, all interments, disinterments and removals shall also be subject to the orders and laws of the properly constituted authorities of the town, county and state.

(Prior Code, Ch. 16, Art. IV, § 16-121) (Ord. 130, passed 2-5-1990)

§ 97.031 PERMIT AND GENERAL REGULATIONS.

(A) Burial permits shall be obtained prior to any opening of burial ceremonies, and shall be issued by the town for purposes of maintaining records of the burial.

(B) A permit shall be obtained as required by law for making a disinterment, but the town shall assume no liability for damage to any casket or burial case in agreeing to or performing the disinterment.

(C) All interments and disinterments must be made at the time, in the manner and subject to the payment of the charges as set from time to time on the basis of cost by the cemetery management.

(D) All funerals upon reaching the cemetery shall be under the supervision of the cemetery management.

(E) The right is reserved by the town to insist upon at least a one-week notice prior to any disinterment of remains.

(F) No interments or disinterments shall be permitted on Sundays, or on any of the following holidays: New Year's Day, Lincoln's Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day or Christmas Day. An extra charge will be required for funerals held on Saturday.

(G) When instructions from the plot owner regarding the location of an interment space in a plot cannot be obtained, are indefinite or when for any reason the interment space cannot be open where specified, the management may, at its own discretion, open it in the location in the plot as it deems best and proper, so as not to delay the funeral. The town shall not be liable in damages for any error so made.

(H) Tents, artificial grass, lowering devices and other equipment owned by the town shall be used exclusively in making interments and disinterments.

(I) The charges for the opening and/or closing of the grave must be paid and arrangements for the payment of any and all indebtedness due to the town prior to the time of the issuance of the permit for interment or disinterment. Opening and closing fees can be paid in advance with the understanding that they are not refundable.

(Prior Code, Ch. 16, Art. IV, § 16-122) (Ord. 156, passed 1-7-1991)

§ 97.032 REMOVAL FOR PROFIT PROHIBITED.

Removal by the heirs, of a body, so that the plot may be sold for profit or removal contrary to the expressed or implied wish of the original plot owner is repugnant to the ordinary sense of decency and is forbidden.

(Prior Code, Ch. 16, Art. IV, § 16-123) (Ord. 130, passed 2-5-1990)

§ 97.033 RELOCATION ALLOWED.

A body may be removed from its original plot to a larger plot in the cemetery when there has been an exchange or purchase for that purpose.

(Prior Code, Ch. 16, Art. IV, § 16-124) (Ord. 130, passed 2-5-1990)

§ 97.034 OPENING OF PLOT.

The town may open a plot for any purpose on proper written authorization by any plot owner of record made out on forms approved by the town and duly filed in its office, unless there are written instruction's to the contrary on file with the town. When instructions from the plot owner regarding the location of the interment space in a plot cannot be obtained, are indefinite or when for any reason the interment space cannot be opened where specified, the management may, in its discretion, open it in the location in the plot as it deems best and proper, so as not to delay the funeral, and the town shall not be liable in damages for any error so made.

(Prior Code, Ch. 16, Art. IV, § 16-125) (Ord. 130, passed 2-5-1990)

§ 97.035 ERRORS IN PLACEMENT.

The town shall not be held responsible for any order given by telephone, or for any mistake occurring as a result of erroneous instructions as to the particular space, size and location in a plot where interment is desired. Further, the town reserves the right to correct any errors that may be made either in making interments, disinterments or removals, or in the description, transfer or conveyance of any interment property either by canceling the conveyance and substituting and conveying in lieu thereof other interment property of equal value and in so far as possible similar in location, as may be selected by the town, or, in the sole discretion of the town, by refunding the purchase price of the property. In the event the error shall involve the interment of the remains of any person on the wrong property, the town also reserves the right to remove and reenter the remains in the other property of equal value and similar location as may be substituted therefore.

(Prior Code, Ch. 16, Art. IV, § 16-126) (Ord. 130, passed 2-5-1990)

§ 97.036 RESPONSIBILITY FOR PERMITS AND EMBALMING.

The town shall not be liable for the interment permit nor for the identity of the person sought to be interred, nor shall the town be responsible for the embalming of the body.

(Prior Code, Ch. 16, Art. IV, § 16-127) (Ord. 130, passed 2-5-1990)

§ 97.037 PAYMENT REQUIRED.

No interment shall be permitted or memorial placed in or on any property not fully paid for except by special consent of the town in writing and, in the event the consent is given, any and all interments or memorials placed in or on the property shall be considered as temporary, and no rights shall be acquired by the plot purchaser until the property is fully paid for in cash. Further, in the event the purchaser of the property shall fail to meet all payments within 30 days after the same are due then the town may reenter the property and hold the same as its former estate. The town thereupon shall release the owner from all obligations thereunder, and it may retain the payments as may have been made toward the purchase of the property as liquidated damages. The town also reserves the right, without notice, to remove to single graves, to be chosen by the town, any memorial and each of the remains then interred on the unpaid for property.

(Prior Code, Ch. 16, Art. IV, § 16-128) (Ord. 130, passed 2-5-1990)

§ 97.038 ONE BODY PER PLOT.

Not more than one body, or the remains of more than one body, shall be interred in one grave unless approved by the town, in which case a maximum of three urns may be placed in one grave. The lot owner must pay the fee set by the town for each interment.

(Prior Code, Ch. 16, Art. IV, § 16-129) (Ord. 130, passed 2-5-1990; Ord. 281-99, passed 10-18-1999)

§ 97.039 PURCHASE AND TRANSFER OF INTERMENT RIGHTS.

(A) *Time and charges.* All interments, disinterments and removals must be made at the time and in the manner and only upon the payment of the reasonable charges as may be from time to time fixed by the cemetery management.

(B) *Consent required for nonresidents.* It is recognized that special circumstances may arise under which plots should be sold to those who are not residents. When the instances occur, special dispensation of these rules may be granted by the town.

(C) *Transfer charges.* The town may fix a charge as established in the Town of Florence Schedule of Fees for all transfers of ownership of interment rights. No transfer of ownership shall be completed or effective until all fees are paid.

(D) *Interment rights.* All interment rights are presumed to be the sole and separate property of the owner named in the instrument of conveyance.

(E) *Consent of association.* No transfer or assignment of any interment rights, or interest therein, shall be valid until the consent of the town has been endorsed thereon and the same has been recorded in the books or records of the town.

(F) *Indebtedness.* The town may refuse to consent to a transfer or to an assignment as long as there is any indebtedness due to the town from recorded interment rights owners.

(G) *May not subdivide plot.* The subdivision of interment rights is not allowed and no individual shall be interred in any plot not having an interest therein, except by written consent of all parties interested in the plot and of the town.

(Prior Code, Ch. 16, Art. IV, § 16-130) (Ord. 130, passed 2-5-1990; Ord. 644-15, passed 12-7-2015)

CONTROL OF PLOT WORK AND DECORATION

§ 97.055 WORK TO BE DONE BY TOWN.

All grading, landscape work and improvements of any kind and all care on plots, shall be done, and all trees and shrubs and herbage of any kind shall be planted, trimmed, cut or removed, and all openings and closings of plots, and all interments, disinterments and removals shall be made under the direction of the town.

(Prior Code, Ch. 16, Art. IV, § 16-141) (Ord. 130, passed 2-5-1990)

§ 97.056 FLORAL REGULATIONS.

No flower receptacles may be placed on any plot unless approved by the town and they shall be of metal of approved size and design and, in the case of a burial park, set wholly beneath the level of the lawn. The town shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as, in the judgment of the Director of Public Works, they become unsightly, dangerous or when they do not conform to the standards maintained. The town shall not be liable for floral pieces, baskets or frames in which or to which the floral pieces are attached. The town shall not be liable for lost, misplaced or broken flower vases. The town shall not be liable for plants, herbage or plantings of any kind damaged by the elements, thieves, vandals or by any other causes beyond its control.

(Prior Code, Ch. 16, Art. IV, § 16-142) (Ord. 130, passed 2-5-1990)

§ 97.057 REMOVAL OF FLORAL FRAMES.

Floral frames when removed from the plot site, unless called for within five days by those lawfully entitled to them, may be disposed of by the town in any manner it sees fit.

(Prior Code, Ch. 16, Art. IV, § 16-143) (Ord. 130, passed 2-5-1990)

§ 97.058 REMOVAL OF MISPLACED ARTICLES.

The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, vases, glass, wood or iron cases and similar articles shall

not be permitted on cemetery avenues, walks, alleys and roads, and if so placed shall be removed by the town.

(Prior Code, Ch. 16, Art. IV, § 16-144) (Ord. 130, passed 2-5-1990)

§ 97.059 PLANTS.

(A) The placing of permanent plant materials, including trees, shrubs and ground covers, shall not be permitted on cemetery avenues, walks, alleys and roads, and if so placed, shall be removed by the town.

(B) The planting of permanent plant materials shall adhere to the following approved plant list which is taken from the Low Water Using Plant List Pinal Active Management Area.

(1) The criteria used in determining plants appropriate for the cemetery were:

(a) Low water usage plants; and

(b) Root systems of plants will not be detrimental to grave sites. For this reason, no trees are approved for grave plot site planting.

(2) For additional information about these plants, consult either of the following books. Both are at the public library.

(a) *Plants for Dry Climates* by Mary Rose Duffield and Warren D. Jones.

(b) *Sunset New Western Garden Book* by the editors of Sunset Books and *Sunset Magazine*, Lane Publishing Co., Menlo Park, California.

(3) When marked with an asterisk (*), only this specific species or variety can be used.

(a) *Shrubs.*

Botanical Name	***Common Name***	***Plant Height (Feet)***
Acacia decora *	Acacia/Wattle	8
Aloysia triphylla *	Lemon Verbena	6
Ambrosia deltoidea	Triangleleaf Bur-sage	
Ambrosia dumosa	White Bur-sage	
Atriplex spp.	Saltbrush	8
Baccharis spp.	Desert Broom	7
Berberis haematocarpa *	Red Barberry	
Buddleia spp.	Summer Lilac	10
Caesalpinia spp.	Bird of Paradise	10
Calliandra spp.	Fairy Duster	8
Callistemon phoeniceus *	Salt Resistant Bottlebrush	
Callistemon Viminalis "Captain Cook"*	Dwarf Bottlebrush	5
Calothamnus spp.	Net Bush	8
Cassia	Cassia/Senna	
Cassia		

-alata		10
-artemisioides		5
-bicapsularis		10
-corymbosa		10
-didymobotrya		10
-splendida		12
-sturtii		6
-surattensis		8
-tomentosa		8
Chrysothamnus nauseosus	Rabbit Brush	
Cistus spp.	Rockrose	5
Convolvulus cneorum	Bush Morning Glory	4
Cordia boissieri	Texas Olive	15
Cordia parvifolia	Little Leaf Cordia	10

Botanical Name	***Common Name***	***Plant Height (Feet)***
Dalea spinosa	Smoke Tree	12
Dodonaea viscosa	Hop Bush	15
Encelia farinosa	Brittlebush	3
Ephedra spp.	Mormon Tree	
Eremaea beaufortioides	Erema	
Eremaea pauciflora	Snow Gum	
Eremaea violacea	Violet Eremea	
Erogonum spp.	Buckwheat	4
Foresiera neomexicana	Desert Olive	8
Genista hispanica *	Spanish Broom	2
Grevillea rosmarinifolia *	Rosemary	
Haplopappus laricifolia	Turpentine Bush	
Hyptis emoryi	Desert Lavender	
Jatropha spp.		
Juniperus chinesis varieties *	Juniper	8
Justicia spp.	Shrimp Plant	4
Kunzea spp.		
Lantana camera	Bush Lantana	6
Larrea tridentata	Creosote Bush	8
Leucophyllum frutescenes	Texas Ranger	10

Lycium spp.		
Mimosa biuncifera	Wait A Minute Bush	
Mimosa dysocarpa	Velvet Pad Mimosa	
Nerium oleander *	Oleander/dwarf varieties only	
-"Petite Pink" *		3
-"Petite Salmon" *		3
-"Algiers" *		4
-"Casablanca" *		4

Botanical Name	***Common Name***	***Plant Height (Feet)***
Plumbago auriculata	Cape Plumbago	6
Puncia granatum	Pomegranate	12
Rhus ovata *	Mountain Laurel	10
Rhus trilobata *	Skunkbush	5
Rhus virens *	Evergreen Sumac	6
Rosmarinus officinalis	Rosemary	4
Ruellia califirnica	Reullia	
Ruellia peninsularis	Reulla	3
Salvia spp.	Sage	5
Sececio cineraria (Senecia)	Dusty Miller	
Simmondsia chinensis	Jojoba	6
Sophora spp.	Texas Mountain Laurel	15
Tecoma stans	Yellow Bells	6
Teucrium spp.	Bush Germander	6
Vauquelinia californica	Rosewood	15

(b) *Succulents.*

Botanical Name	***Common Name***
Aloe spp.	Aloe
Dasylirion wheeleri	Desert Spoon
Hesperaloe parvifloria	Red Yucca
Nolina spp.	Bear Grass

(c) *Annuals and/or perennials.*

Botanical Name	***Common Name***
Abronia villosa	Sand Verbena
Artotis spp.	African Daisy
Argemone pleicantha	Prickly Poppy
Baeria chrysostoma	Goldfield
Bahia absinthifolia	Bahia, Desert Daisy
Baileya multiradiata	Desert Marigold
Cassia covesii	Cassia
Catharanthus roseus cultivars	Madagascar Periwinkle
Celosia spp.	Cockscomb
Cosomos spp.	Cosmos
Dimorphotheca spp.	African Daisy
Dyssodia pentachaeta	Dyssodia
Eschscholzia californica	California Poppy
Eschscholzia mexicana	Mexican Gold Poppy
Gilia leptantha	Showy Blue Gilia
Gomphrena globosa	Globe Amaranth

Botanical Name	***Common Name***
Helichrysum bracteatum	Everlasting Daisy
Helipterum spp.	
Kallstoremia grandifloria	Arizona Poppy
Layia playtyglossa	Tidy Tpis
Lesquerella gordoni	Gold Crucifer
Linaria spp.	Toadflax
Lupinus densiflorus	Lupine
Lupinus sparsiflorus	
Matricaria grandiflora	Pineapple Weed
Melampodium leucanthum	Blackfoot Daisy
Mentzelia spp.	Blazing Star
Orthocarpus purpurascens	Owls Clover
Pectis papposa	Chinch Weed
Penstemon spp.	Beard Tongue

Phacelia spp.	
Tagetes spp.	Marigold
Ursinia spp.	Ursinia

(Prior Code, Ch. 16, Art. IV, § 16-145) (Ord. 130, passed 2-5-1990)

§ 97.060 DESIGN AND CONSTRUCTION OF PLOT BOARDERS.

(A) The town officials shall have the authority to review and reject any plan, design or completed work for any plot border which, on account of size, design, kind or quality, is, in the opinion of the town, unsuited to the plot on which it is or will be placed. All the designs and work shall comply with the following specifications:

(1) *Border around plots*. Construction materials should be limited to blocks, brick or concrete. Dimensions should not exceed eight inches in width nor 20 inches in height above grade or ground level.

(2) *Fences*. Construction material should be limited to wrought iron and not exceed 36 inches in height above grade or ground level including the height of the border or base. The fences should be constructed in ten foot removable sections.

(3) *Monuments*. Construction material should be limited to concrete, granite or other approved stone and should not exceed 36 inches in height above grade or ground level. Wooden crosses may be allowed if they maintain 36 inches in height above grade or ground level.

(4) *Grave caps*. Construction material should be limited to concrete and should not exceed four feet in width nor eight feet in length nor eight inches in height. Vaults on top of ground level are not allowed and shall not be permitted.

(B) The plot owner of the interment right or his or her heirs are responsible for border maintenance.

(Prior Code, Ch. 16, Art. IV, § 16-146) (Ord. 130, passed 2-5-1990)

PUBLIC CONDUCT

§ 97.075 USE OF WALKWAYS REQUIRED.

Persons within the cemetery grounds shall use only the avenues, walks, alleys and roads. Any person injured while walking on the grass, unless it is the only way to reach his or her plot, or while on any portion of the cemetery other than the avenues, walks, alleys or roads, shall in no way hold the town liable for any injuries sustained.

(Prior Code, Ch. 16, Art. IV, § 16-161) (Ord. 130, passed 2-5-1990)

§ 97.076 TRESPASSING PROHIBITED.

(A) Only the plot owner and his or her relatives shall be permitted on the cemetery plot; plots are sacred and private property and must not be invaded.

(B) Any other person thereon shall be considered a trespasser, and the town shall owe no duty to the trespasser to keep the property, or the memorial thereon, in a reasonably safe condition.

(Prior Code, Ch. 16, Art. IV, § 16-162) (Ord. 130, passed 2-5-1990)

§ 97.077 FLOWERS, ANIMALS AND THE LIKE.

All persons are prohibited from gathering flowers, either wild or cultivated, or breaking trees, shrubbery or plants, or feeding or disturbing the birds, fish or other animal life.

(Prior Code, Ch. 16, Art. IV, § 16-163) (Ord. 130, passed 2-5-1990)

§ 97.078 LOITERING PROHIBITED.

Persons other than plot owners or relatives shall not be permitted to loiter in the cemetery.

(Prior Code, Ch. 16, Art. IV, § 16-164) (Ord. 130, passed 2-5-1990)

§ 97.079 DISORDERLY CONDUCT.

Boisterous or unseemly conduct shall not be permitted on cemetery grounds.

(Prior Code, Ch. 16, Art. IV, § 16-165) (Ord. 130, passed 2-5-1990)

§ 97.080 RUBBISH.

The throwing of rubbish on the drives and paths or on any part of the grounds is prohibited.

(Prior Code, Ch. 16, Art. IV, § 16-166) (Ord. 130, passed 2-5-1990) Penalty, see § 10.99

§ 97.081 AUTOMOBILES.

(A) Automobiles shall not be driven through the grounds at a greater speed than 15 mph, and must always be kept on the right-hand side of the cemetery roadway.

(B) Automobiles are not allowed to park or to come to a full stop in front of any open grave unless the automobiles are in attendance at the funeral.

(Prior Code, Ch. 16, Art. IV, § 16-167) (Ord. 130, passed 2-5-1990)

§ 97.082 NOTICES AND ADVERTISEMENTS.

No signs, notices or advertisements of any kind shall be allowed in the cemetery, unless placed by the town.

(Prior Code, Ch. 16, Art. IV, § 16-168) (Ord. 130, passed 2-5-1990) Penalty, see § 10.99

§ 97.083 PETS.

Pets shall not be allowed on the cemetery grounds unless leashed.

(Prior Code, Ch. 16, Art. IV, § 16-169) (Ord. 130, passed 2-5-1990) Penalty, see § 10.99

§ 97.084 HOURS OPEN.

The cemetery grounds shall be open from dawn to dusk.

(Prior Code, Ch. 16, Art. IV, § 16-170) (Ord. 130, passed 2-5-1990)

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: GENERAL PROVISIONS

Section

§ 110.01 PURPOSE AND SCOPE.

The purpose of this chapter is both regulatory and revenue generating. The regulations are for the protection of the health, safety and welfare of the residents, business owners and visitors of the town. Regulations found in other chapters of this title, which pertain to specific types of businesses, shall be in addition to those found within this chapter.

(Prior Code, Ch. 9, Art. I, § 9-1) (Ord. 351-04, passed 9-7-2004)

§ 110.02 BUSINESS LICENSE AND CERTIFICATE OF OCCUPANCY REQUIRED.

(A) It is unlawful for any person to carry on any exempt or nonexempt business, game or amusement, calling, profession or occupation within the municipal limits of the town without having first procured a business license and certificate of occupancy from the town. An applicant and/or licensee must comply with any and all regulations imposed upon the business, game or amusement, calling, profession or occupation by any governmental or other authority with jurisdiction, as well as all provisions of this code, all town ordinances, county ordinances and state laws affecting the health, safety and welfare of the public.

(B) A separate business license shall be required for each separate business, game or amusement, calling, profession or occupation. Only one license is required for each business, game or amusement, calling, profession or occupation if operated at more than one location. Each location shall have a copy of the license issued to the business prominently displayed as required by this chapter. Each license shall indicate the name and location of the business, game or amusement, calling, profession or occupation. No licensee shall carry on, pursue or conduct a business, game or amusement, calling, profession or occupation at a location other than one indicated upon the license issued to the licensee.

(C) A separate certificate of occupancy shall be required for each location of a business, game or amusement, calling, profession or occupation and for each separate location wherein the business is being conducted, even if only one business, game or amusement, calling, profession or occupation is being conducted at more than one location. Each location shall prominently display the certificate issued to that location as required by this chapter. Each certificate shall certify that the described business, game or amusement, calling, profession or occupation is authorized at that specified location.

(D) Each applicant for a business license identified in this chapter to be issued by the town shall provide fingerprint identification to the Chief of Police. The Chief of Police shall, when otherwise permitted and pursuant to A.R.S. § 41-1750 and 5 U.S.C. § 9101 or 42 U.S.C. §§ 14611 *et seq.*, forward those fingerprints accompanied by appropriate fees to the state Department of Public Safety and the Federal Bureau of Investigation for the purpose of seeking criminal history record information on the applicant. The information shall be used only for the purpose of evaluating the fitness of applicants for the following types of licenses from the town:

(1) Canvassers;

(2) Sexually oriented business owners and/or employees;

(3) Transient merchants;

(4) Peddlers;

(5) Solicitors;

(6) Escort service owners and/or employees;

(7) Auctioneers;

(8) Pawn shop owners and/or employees; and

(9) Second-hand dealers.

(Prior Code, Ch. 9, Art. I, § 9-2) (Ord. 351-04, passed 9-7-2004) Penalty, see § 10.99

§ 110.03 ISSUANCE OF LICENSE.

(A) The Finance Director shall prepare and issue business licenses under this chapter for every person, firm, company or corporation required to procure a license hereunder, and to state in each license the fee thereof, the period of time covered, the name of the person, firm, company or corporation or other entity for whom issued, the business, game or amusement, calling, profession or occupation licensed, and the location(s) or place(s) of business where the business, game or amusement, calling, profession or occupation is to be carried on.

(B) The license shall be issued in the name of the applicant, the letters "dba" (doing business as), followed by the name of the business, unless the license is issued to a corporation, limited liability company or similar entity, which license shall be in the name of the corporation, limited liability company or similar entity.

(C) Application for a business license shall be made on forms furnished by the Finance Department. Every application shall be accompanied by an application fee, as provided hereinafter. In the event no license is issued, the application fee shall not be returned to

the applicant but shall be applied to cover part of the cost of processing the application. In the event that a license is approved, the fee will be deducted from the business license fee, except as provided in Chapter 115. The fee does not apply to those businesses who are approved exempt. The Finance Department shall be responsible for the acceptance and processing of all applications.

(Prior Code, Ch. 9, Art. I, § 9-3) (Ord. 351-04, passed 9-7-2004)

§ 110.04 FEE SCHEDULE.

The license tax set out in the following schedule is hereby established for businesses, occupations, trades, callings and professions listed herein and shall be paid by all persons who shall practice, transact, carry on or engage in the business, occupations, trades, callings and professions. The license tax set out herein shall be collected annually during the month of December unless otherwise specified and shall be paid by December 31. The schedule shall be the currently adopted schedule as attached herein.

(Prior Code, Ch. 9, Art. I, § 9-4) (Ord. 351-04, passed 9-7-2004)

§ 110.05 ISSUANCE OF CERTIFICATE OF OCCUPANCY.

(A) The following department heads or their designees must approve the certificate of occupancy before issuance:

(1) Planning Director or designee;

(2) Fire Chief; and

(3) Public Works Director.

(B) Where any business, game or amusement, calling, profession or occupation is subjected to a certificate of health or sanitary examination by the county, the applicant must produce a certificate or permit from the County Health Department evidencing compliance with county health and sanitary regulations before a business license will be issued.

(C) The Planning and Zoning Department shall issue the certificate of occupancy pursuant to the building codes adopted by the municipality and the fees established therein.

(Prior Code, Ch. 9, Art. I, § 9-5) (Ord. 351-04, passed 9-7-2004)

§ 110.06 PAYMENT OF LICENSE FEES.

(A) All business license fees shall be paid at the office of the Finance Director or in such a manner as may be specified by the Finance Director. The licenses shall expire on the last day respectively of December of each year. License renewal fees shall be paid before expiration of the previous license. The Finance Director may require re-application before renewal, if the Finance Director determines that there has been a substantial change in the business.

(B) Any business subject to licensing under this chapter, which fails to pay its license fee within the time period specified in division (A) above, shall, in addition to any other penalties imposed for violating the Town Code, be subject to a late penalty fee of $5 per month in addition to the regular business license fee due and payable.

(C) The purpose of the license fee is to help offset the costs incurred by the town in processing the application for a license and for the inspection by the department heads or their designees of the premises. The amount of the license fee shall be established from time to time by resolution of the Town Council.

Business License Fee Schedule	
Permit	***Amount***
Application fee; general	$10
Application fee; category 9.700 (non refundable and non-	

applicable against license fee)	$100
General business license; other than specified below	$50
Distillers, brewer or winer's license	$125
On-sale retailers for all liquor	$250
On-sale retailers; beer and wine	$175
Off-sale retailer; beer and wine	$125
Grocers license; beer and wine	$175
Restaurant retailer; beer and wine	$200
On-sale retailers; beer only	$150
Off-sale retailer; beer only	$100
Restaurant retailer; beer only	$175
Off-sale retailer; all spirituous liquor	$150
Grocers license; all spirituous liquor	$200
Hotel-motel, restaurant retailer or club; all spirituous liquor	$250
Bank: capital, surplus and financial institutions undivided profits are:	
Less than $300,000	$100
300,000 and over	$150
Barber shops and owner	$50
Barber; individual	$25

Business License Fee Schedule	
Permit	***Amount***
Beauty shops and owner	$50
Beauty operators and/or individual hotels, motels, hospitals, rest homes, sanitariums and sanatoriums	$25
01-10 rooms	$50
11-50 rooms	$75
Over 50 rooms	$100
Chapters 111, 113, 114	
Application fee	$10
Per day	$25
Each helper	$5
Per month in excess of one month	$300
Article 9.700	

Business license	$500
Employee license	$100
Other	
Carnival	$75
Late fees per month	$5
January 1 through September 30 full fee	
Pro-rate at October 1 to December 31-One-half license fee (all excepting Chapter 115)	

(Prior Code, Ch. 9, Art. I, § 9-6) (Ord. 351-04, passed 9-7-2004)

§ 110.07 POSTING OF LICENSE.

Every person, firm, company or corporation having a business license and certificate of occupancy under the provisions of this chapter, and carrying on a business, game or amusement, calling, profession or occupation at a fixed place of business, shall keep a license and certificate posted and exhibited, while in force, in some conspicuous part of the place of business. Every person having a business license and not having a fixed place of business shall carry a license with him or her at all times while carrying on that business, game or amusement, calling, profession or occupation for which the license was issued. Every person, firm, company or corporation having a business license and/or certificate of occupancy under the provisions of this chapter shall produce and exhibit the same, whenever requested to do so by the Planning Director or the Director's designee, any police officer of the town or any department head or authorized representative of any department head, who is required to approve the issuance of a license or certificate.

(Prior Code, Ch. 9, Art. I, § 9-7) (Ord. 351-04, passed 9-7-2004)

§ 110.08 ENFORCEMENT AUTHORITY.

(A) It shall be the duty of the Town Clerk, or others to whom the duty is given, to cause complaints to be filed against all persons violating any of the provisions of this chapter. The municipal police law enforcement officers shall have the power to issue citations.

(B) The aforementioned persons shall have the power to enter free of charge at any reasonable time any place of business for which a business license is required by this chapter. The person shall have the right to inspect for compliance with the regulations regarding the particular license, and to demand the exhibition of the license for the current term from any person engaged or employed in the transaction of any business. If any person fails to exhibit a license, the failure shall constitute a violation of this chapter.

(C) The Planning and Zoning Department shall have enforcement authority in regard to certificates of occupancy pursuant to the then adopted version of the building codes adopted by the municipality.

(Prior Code, Ch. 9, Art. I, § 9-8) (Ord. 351-04, passed 9-7-2004)

§ 110.09 TRANSFER OF LICENSE.

No business license or certificate of occupancy granted or issued under any of the provisions of this chapter shall be in any manner assignable or transferable to anyone other than is therein mentioned or named to do business. No license or certificate shall authorize any other business than is therein mentioned or named to be done or transacted, nor authorize any business to be conducted at any place except as is therein mentioned or named, without first obtaining authorization from the appropriate department heads upon application to the Finance Director.

(Prior Code, Ch. 9, Art. I, § 9-9) (Ord. 351-04, passed 9-7-2004) Penalty, see § 110.99

§ 110.10 EXEMPTIONS.

(A) No business license shall be required for the following:

(1) The practice, transaction or carrying on of any business, game or amusement, calling, profession or occupation which is solely engaged in delivery;

(2) By an agency or department of the United States Government for which the government has failed to make provisions allowing states and municipalities to so tax;

(3) Hospitals, whether or not operated for profit;

(4) Physicians, surgeons or nurses not engaged in private practice;

(5) Rental units of three or less, if in a Noncommercial Zoning District;

(6) Sellers of agricultural produce grown within the town by the seller;

(7) Religious, charitable or other nonprofit organizations, institutions or associations;

(8) Any hobby or crafts sales in which the seller is the creator or a non-paid representative of the creator and for which the gross sales of each hobbyist and craftsperson shall not exceed $3,000 in any 12 month period of time; and

(9) Employees of any business, game or amusement, calling, profession or occupation either possessing a business license or exempt from having to possess a business license.

(B) No certificate of occupancy shall be required for the following:

(1) Any business, game or amusement, calling, profession or occupation physically located outside the municipal limits of the town; and

(2) Any business, game or amusement, calling, profession or occupation doing business within the municipal limits of the town without a fixed place of business.

(Prior Code, Ch. 9, Art. I, § 9-10) (Ord. 351-04, passed 9-7-2004) Penalty, see § 110.99

§ 110.11 NOTICE OF TERMINATION OF BUSINESS REQUIRED.

Every licensee shall notify the Finance Director in writing of the termination of his or her business, game or amusement, calling, profession or occupation, either before the termination date or within ten days thereafter.

(Prior Code, Ch. 9, Art. I, § 9-11) (Ord. 351-04, passed 9-7-2004)

§ 110.12 REVOCATION.

A person, firm, company or corporation may be denied a business license, or if the person, firm, company or corporation currently possesses a business license it may be revoked, for any of the following causes:

(A) Fraud, misrepresentation or false statement contained in the application for the business license;

(B) Fraud, misrepresentation or false statement made in the course of carrying on the business;

(C) Any violation of this chapter;

(D) Conviction of any felony or misdemeanor involving moral turpitude; or

(E) Conducting business in violation of any town ordinance, county ordinance or state law relating to the public health, safety and welfare.

(Prior Code, Ch. 9, Art. I, § 9-12) (Ord. 351-04, passed 9-7-2004)

§ 110.13 APPEAL; NOTICE AND HEARING.

Any person, firm, company or corporation aggrieved by the denial of an application for a business license, and any person, firm, company or corporation whose business license has been revoked, shall have the right of appeal to the Town Manager. The appeal shall be taken by filing with the Town Clerk, within 14 days after denial, a written statement setting forth fully the grounds for the appeal. The Town Manager shall set a time and a place for hearing of the appeal, and notice of the hearing shall be given to the appellant at least ten days prior to the date set for the hearing. The mailing of the notice to the address on the business license application shall constitute proper notice to the licensee. The decision of the Town Manager on the appeal shall be final except as otherwise provided under state law.

(Prior Code, Ch. 9, Art. I, § 9-13) (Ord. 351-04, passed 9-7-2004)

§ 110.14 PRIVILEGE TAX ORDINANCE NOT AFFECTED BY CODE.

Nothing in this code shall affect Ord. 98, adopted July 6, 1987 or any ordinance amendatory thereof. All ordinances are hereby recognized as continuing in full force and effect, to the same extent as if set out at length in this code.

(Prior Code, Ch. 9, Art. I, § 9-14) (Ord. 351-04, passed 9-7-2004)

§ 110.99 PENALTY.

Any person, firm, company or corporation convicted of violating any of the provisions of this chapter shall be punishable as provided in § 10.99 for a Class 3 misdemeanor, and shall be subject to revocation of the entity's business license. Each separate day or part thereof during which any violation of this chapter occurs or continues shall constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

(Prior Code, Ch. 9, Art. I, § 9-15) (Ord. 351-04, passed 9-7-2004)

CHAPTER 111: PEDDLER, SOLICITOR, TRANSIENT MERCHANT AND STREET VENDOR

Section

§ 111.01 DEFINITIONS.

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

PEDDLER and ***STREET VENDOR.*** Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

PORTABLE SIGN. Any sign not permanently affixed to the ground or the structure on the site it occupies.

SIGN. Any device for visual communication that is used to, or intended to attract the attention of the public for business or professional purposes, when the display of this device is visible beyond the boundaries of the property upon which the display is located. The term ***SIGN*** shall not include any flag or badge or insignia of any government or governmental agency. The term ***SIGN*** shall not include the displays or advertising devices in a merchant's window or within the interior of a building.

SOLICITOR. Any person, whether a resident of the town or not, who goes from house to house, from place to place, or from street to street, soliciting, taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not the individual has, carries or exposes for sale, a sample of the subject of the order or whether or not he or she is collecting advance payments on the orders. The definition includes any person who, for himself, herself or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel or motel room, lodging house, apartment, shop or other place within the town for the primary purpose of exhibiting samples and taking orders for future delivery.

STRUCTURE. Any object constructed or installed by a person, having a permanent location on the ground.

TEMPORARY SIGN. Any sign not intended for permanent display.

TRANSIENT MERCHANT. Any person, whether as owner, agent, consignee or employee, whether a resident of the town or not, who engages in business of selling and delivery of goods, wares and merchandise within the town, and who, in furtherance of the business, hires, leases, uses or occupies any approved structures within the town for the exhibition and sale of the goods, wares and merchandise.

(Prior Code, Ch. 9, Art. II, § 9-101) (Ord. 351-04, passed 9-7-2004)

§ 111.02 LICENSE REQUIRED.

(A) *Requirement.* It is unlawful for any peddler, street vendor, solicitor or transient merchant to engage in any business within the town without first obtaining a license therefore in compliance with the provisions of this chapter. All licenses must be paid at the time of application to the town.

(B) *Prohibited practices.*

(1) It is unlawful for any peddler, street vendor, solicitor or transient merchant to make exclusive use of any location on any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise.

(2) It is unlawful for any peddler, street vendor, solicitor or transient merchant to operate in a congested area where the operation impedes or inconveniences the public use of the street, alley, sidewalk or right-of-way. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, creates a rebuttable presumption that the area was congested and the public impeded or inconvenienced.

(3) It is unlawful to conduct business within the town in any structure or area where conducting business is prohibited by the Zoning Code of the town or is otherwise prohibited by Fire or Building Code regulations.

(4) It is unlawful to conduct business within a public park without the permission of the Parks and Recreation Director.

(5) It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this chapter.

(6) The conviction of any person for conducting business without a license, as required under this chapter, shall not excuse or exempt the person from the payment of any license fee or penalty due and unpaid at the time of the conviction.

(Prior Code, Ch. 9, Art. II, § 9-102) (Ord. 351-04, passed 9-7-2004) Penalty, see § 111.99

§ 111.03 EXEMPTIONS.

(A) The terms of this chapter do not include the acts of persons selling personal property at wholesale to dealers in the articles, nor to newsboys, nor to the acts of merchants or their employees in delivering goods in the regular course of business.

(B) Nothing contained in this chapter prohibits any sale required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

(C) Applicants for a license under this chapter shall file with the Finance Director a sworn application in writing on a form to be furnished by the Finance Director which shall give the following information:

(1) Name and physical description of applicant;

(2) Complete permanent home and local address of the applicant and, in the case of a transient merchant, the local address from which proposed sales will be made;

(3) A brief description of the nature of the business and the goods to be sold;

(4) If employed, the name and address of the employer, together with credentials from their establishing the exact relationship (no post office box will be accepted);

(5) The length of time for which the right to do business is desired;

(6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where the goods or products are located at the time the application is filed, and the proposed method of delivery;

(7) A recent photograph of the applicant which picture shall be approximately two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner (including any and all helpers);

(8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefore;

(9) The most recent cities or towns, not to exceed 3, where the applicant carried on business immediately preceding the date of application and the address from which the business was conducted in those municipalities;

(10) At the time of filing the application, a fee shall be paid by the applicant to the Finance Director to cover the cost of processing (see Town of Florence Schedule of Fees); and

(11) Description of vehicles, including license numbers to be used in business.

(Prior Code, Ch. 9, Art. II, § 9-103) (Ord. 351-04, passed 9-7-2004)

§ 111.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of each application, it shall be referred to the Chief of Police who shall immediately institute the investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public good. If a fingerprint check is not considered necessary by the Chief of Police, the application shall be endorsed or rejected within 72 hours. If the Chief of Police deems a fingerprint check necessary, the application shall be endorsed or rejected within 14 days.

(B) If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on the application his or her disapproval and his or her reasons for the same, and return the application to the Finance Director, who shall notify the applicant that his or her application is disapproved and that no license will be issued.

(C) (1) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his or her approval and return the application to the Finance Director who shall, upon payment of the prescribed license fee, deliver to the applicant his or her license.

(2) The license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold hereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in the licensed business.

(3) Each peddler, solicitor or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued.

(4) The Finance Director shall keep a permanent record of all licenses issued.

(Prior Code, Ch. 9, Art. II, § 9-104) (Ord. 351-04, passed 9-7-2004) Penalty, see § 111.99

§ 111.05 FEES.

Every applicant for a license under this chapter shall pay the daily fees listed in the Town of Florence Schedule of Fees.

(Prior Code, Ch. 9, Art. II, § 9-105) (Ord. 351-04, passed 9-7-2004)

§ 111.06 EXHIBITION OF LICENSE.

Licensees are required to exhibit their original certificate of license at the request of any citizen. Exhibition of any copy or facsimile of the original shall not be considered compliance with this section.

(Prior Code, Ch. 9, Art. II, § 9-106) (Ord. 351-04, passed 9-7-2004)

§ 111.07 DUTY OF POLICE TO ENFORCE.

It shall be the duty of the police of the town to require any person peddling, soliciting or canvassing, and who is not known by the officer to be duly licensed, to produce his or her license and to enforce the provisions of this chapter against any person found to be violating the same.

(Prior Code, Ch. 9, Art. II, § 9-107) (Ord. 351-04, passed 9-7-2004)

§ 111.08 RECORDS.

The Chief of Police shall report to the Finance Director all convictions for violations of this chapter, and the Finance Director shall maintain a record for each license issued and record the reports of violations therein.

(Prior Code, Ch. 9, Art. II, § 9-108) (Ord. 351-04, passed 9-7-2004)

§ 111.09 REVOCATION OF LICENSES.

(A) Licenses issued under the provisions of this chapter may be revoked by the Town Manager by issuing a summary order that shall be mailed by certified mail or personally delivered forthwith, for any of the following causes:

(1) Fraud, misrepresentation or incorrect statement contained in the application for license;

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his or her business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor; and

(5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, 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) Notice of the hearing for permanent revocation of a license shall be given by the Town Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. The notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least 48 hours prior to the date set for hearing, which shall be set no later than seven days following

summary revocation. It shall be delivered by a police officer in the same manner as a summons at least 48 hours prior to the date set for hearing.

(Prior Code, Ch. 9, Art. II, § 9-109) (Ord. 351-04, passed 9-7-2004)

§ 111.10 APPEAL.

Any person aggrieved, by the action of the Chief of Police or the Finance Director, may appeal to the Town Manager. The notice of the complaint shall contain a written statement setting forth fully the grounds for the appeal. The Town Manager shall set a time and place for a hearing on the appeal, and notice of the hearing shall be given to the appellant. Failure to appear on the set date and time will result in dismissal of appeal.

(Prior Code, Ch. 9, Art. II, § 9-110) (Ord. 351-04, passed 9-7-2004)

§ 111.11 RE-APPLICATION.

No licensee or company whose license has been revoked or refused shall make further application until at least one year has elapsed since the last previous revocation.

(Prior Code, Ch. 9, Art. II, § 9-111) (Ord. 351-04, passed 9-7-2004) Penalty, see § 111.99

§ 111.12 RELIGIOUS AND CHARITABLE ORGANIZATION; EXEMPTION.

(A) Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of the organization upon the streets, in office or business buildings, by house to house canvass or in public places for a charitable, religious, patriotic or philanthropic purpose shall be exempt from the provisions herein and shall not be subject to the provisions, provided there is filed a sworn application, in writing, on a form to be furnished by the Finance Director, which shall give the following information:

(1) Tax exempt number for the organization;

(2) Name and purpose of the cause for which permit is sought;

(3) Names and addresses of the officers and directors of the organization;

(4) Information regarding the location, date and hours of operation of the activity; and

(5) Whether or not any commission, fees, wages or emoluments are to be expended in connection with the solicitation and the amount thereof.

(B) Upon being satisfied that the organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the Finance Director shall issue a permit without charge to the organization, association or corporation to solicit in the town. The organizations, associations or corporations shall furnish all of its members, agents or representatives conducting solicitation, credentials in writing stating the name of the organization, name of agent and purpose of solicitation.

(Prior Code, Ch. 9, Art. III, § 9-201) (Ord. 351-04, passed 9-7-2004)

§ 111.99 PENALTY.

(A) Any person found to be in violation of §§ 111.01 through 111.11 shall be punished as provided in § 10.99 for a Class 3 misdemeanor. The conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. II, § 9-112) (Ord. 351-04, passed 9-7-2004)

(B) Any person found to be in violation of § 111.12 is to be punished as provided in § 10.99 for a Class 3 misdemeanor. The

conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. III, § 9-202) (Ord. 351-04, passed 9-7-2004)

CHAPTER 112: SPECIAL EVENTS

Section

§ 112.01 DEFINITIONS.

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

BLOCK PARTY. A gathering of residents of a neighborhood for social purposes where the gathering is (i) limited to the residents of the immediate neighborhood and (ii) a public street will be used by the gathering.

BOUTIQUE. An event operated by a homeowner, religious organization, or not-for-profit organization for the purpose of selling local handmade arts and crafts.

CARNIVAL, LARGE-SCALE. A temporary event that generally includes activities such as amusement rides, entertainment, game booths, food stands, exhibitions, and animal displays located on one acre or more.

CARNIVAL, SMALL-SCALE. A temporary event that generally includes activities such as amusement rides, entertainment, game booths, food stands, exhibitions, and animal displays located on less than one acre.

CIRCUS. A temporary event or show at which a combination of attractions and exhibitions, such as rides, illusions, freak shows, eating concessions, and gaming booths, including a main tent attraction along with side shows, are available for the purpose of amusement and entertainment and at which the public pays either an admittance or participation fee.

CONDUCT. To commence, manage, own, solicit, canvass, practice, transact, engage in, or carry on.

ENGAGING. The exercise of corporate or franchise powers.

FIREWORKS EXHIBITION. An organized event open to the public or to which invitations have been issued to the public where pyrotechnics are exploded.

MULTIPLE SPECIAL EVENTS. More than one special event held at a single location.

PARADE. Any march, demonstration, procession, motorcade or race consisting of persons, animals, or vehicles or a combination thereof upon the streets, parks, or other public grounds within the town intended to attract public attention that interferes with the normal flow or regulation of pedestrian and/or vehicular traffic upon the streets, parks, or other public grounds.

PROMOTER. Any person who produces or conducts a special event.

PUBLIC ASSEMBLY. Any meeting, demonstration, picket line, rally, or gathering of more than 50 persons for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrian or vehicular traffic, exceeds parking capacity, or occupies any public area in a place open to the general public. ***PUBLIC ASSEMBLY*** does not include block parties.

SHOW. Any exhibition, display, production, or gathering intended to draw the public, including, but not limited to, musical and theatrical productions, merchandise booths, games of chance, amusements, flea markets, bazaars, circuses, large-scale carnivals, fairs, conventions, celebrations, promotions, rallies, and other public gatherings of this nature.

SIDEWALK. Any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

SPECIAL EVENT. Means, but is not limited to, events such as a boutique, large-scale carnival, circus, fireworks exhibition, multiple special events, single event swap meet and auction, parade, public assembly, or show.

SPECIAL EVENT PERMIT. A permit required by this chapter.

SPECIAL EVENT VENDOR. Any person, other than a show promoter or its employee, who occupies a space, cell, booth or other temporary structure or location in conjunction with, associated with, or attendant to an organized show.

STREET. Any place or way set aside or open to the general public for purposes of vehicular, including bicycle, traffic, including any berm or shoulder, parkway, right-of-way, or median strip thereof.

SWAP MEET AND AUCTION, SINGLE EVENT. Commercial activities held in an open area where one or more licensed sellers bring goods for auctioning to the public.

VENDOR. Any person, other than a promoter or its employee, who occupies a space, booth, or other temporary structure or location in conjunction with, associated with, or attendant to an organized boutique, single event swap meet and auction.

(Ord. 549-10, passed 1-3-2011)

§ 112.02 ADMINISTRATION.

(A) The Deputy Town Manager, or designee, shall uniformly administer the special event application process and consider each special event permit application upon its merits and shall not discriminate in granting, denying, modifying, revoking, or suspending permits based upon political, religious, ethnic, racial, disability, sexual orientation, or gender related grounds.

(B) Fees and business licenses fall under the jurisdiction of the Finance Director.

(Ord. 549-10, passed 1-3-2011)

PERMITS

§ 112.15 BUSINESS LICENSE REQUIRED.

It shall be unlawful for any person to participate as a special event vendor in a special event in the town without first obtaining and maintaining in effect, the proper business license.

(Ord. 549-10, passed 1-3-2011) Penalty, see § 112.55

§ 112.16 LICENSE FEES.

Every applicant for a license under this chapter shall pay the fees listed in the Town of Florence Fee Schedule. Any participant not listed as a special event vendor through the special event organization or organizer permitted by this chapter will pay the license fee per occupation. This section is for business license fees: see § 112.18 for special event application fees.

(Ord. 549-10, passed 1-3-2011; Ord. 645-15, passed 12-7-2015)

§ 112.17 REQUIRED; EXEMPTIONS.

(A) Unless exempted by division (D) below, it shall be unlawful for any person to conduct any special event within the town without a special event permit.

(B) All special events that require a special event permit pursuant to this chapter shall, as a condition of the special event permit, comply with the requirements of this chapter, the town zoning code, all other applicable codes and ordinances of the town, and all applicable federal and state laws.

(C) The issuance of a special event permit is not deemed evidence or proof that the permittee has complied with the provisions of this chapter, nor shall it prevent prosecution by the town of any violation of this chapter.

(D) A special event permit shall not be required when:

(1) The general law of the state or federal government precludes the town from requiring a special event permit for the event; or

(2) The event is conducted on property owned or leased by a school district and used for school purposes or is owned or leased by a religious institution and used for religious purposes. Examples are a school book fair, or Parent Teacher Organization (PTO) family night.

(Ord. 549-10, passed 1-3-2011)

§ 112.18 APPLICATION AND FEE.

(A) All special event permit applications shall be submitted to the Deputy Town Manager or designee, who shall determine whether a special event permit is required. Except as provided in § 112.43 (Parades and public assemblies), an applicant for a special event permit shall submit such application at least 60 days prior to the proposed first day of the special event.

(B) Every applicant for a special event permit shall:

(1) Pay a nonrefundable application fee in an amount established by the town fee schedule. If, after submitting the application, it is determined that the event is not a special event, the fee shall be refunded; and

(2) Complete and submit a special event permit application.

(C) The special event permit application shall be forwarded to all appropriate town departments for review and approval. The application shall be approved or denied within 15 days from the date it is received.

(D) If the application is not approved or denied within the applicable review period, excluding completion of any required inspections which will occur on the date of the events, the reviewing official shall be deemed to have approved the application.

(E) Approval by individual town departments to which the application has been referred shall not prevent the application from being denied for other reasons.

(Ord. 549-10, passed 1-3-2011; Ord. 645-15, passed 12-7-2015)

§ 112.19 GENERAL APPLICATION REQUIREMENTS.

Except public assemblies, which shall comply with § 112.43, all special event permit applications shall include the following information:

(A) The name, address, telephone numbers (including cellular telephone number, if possible), fax number and electronic mail address of the person or entity seeking to conduct the special event;

(B) If applicable, the names, addresses, telephone numbers (including cellular telephone number, if possible), fax number and electronic mail address of the headquarters of the organization for which the special event is to be conducted, if any, and the authorized and responsible heads of the organization;

(C) The requested date(s) of the special event;

(D) The location of the special event;

(E) The approximate number of persons or vendors who will participate in or constitute the special event. Large-scale carnivals, circuses, and shows shall also state the approximate number of and describe the animals and rides that will be included in the large-scale carnival, circus, or show;

(F) The hours when the special event will start and terminate on each day it is held;

(G) A site plan showing the location of all permanent and temporary structures (including tents or vendor booths) to be used, parking areas, public bathroom and trash facilities, and staging areas for the special event. Site plans for large-scale carnivals, circuses, fireworks exhibitions, or shows shall also indicate, as appropriate, the locations of fireworks detonation areas, spectator areas, and rides;

(H) A traffic and pedestrian circulation and control plan that identifies how many off-duty sheriff's office, police department, or other law enforcement personnel will be employed;

(I) A security plan describing how (including how many personnel will be used) to control crowds during the special event and ensure the safety of those who attend;

(J) The approximate number of attendees or spectators;

(K) A designation of any public facilities or equipment to be utilized; and

(L) Any additional information that is reasonably necessary to make a fair determination as to whether a special event permit should be issued and taking into consideration the proximity to residential uses.

(Ord. 549-10, passed 1-3-2011)

§ 112.20 ISSUANCE OF PERMIT.

(A) The town shall issue a permit as provided for herein when, from a consideration of the application and from such other

information as may otherwise be obtained, it finds that:

(1) The conduct of the event will not substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic contiguous to its location;

(2) The conduct of the event will not require the diversion of so great a number of town police officers to properly police the areas contiguous thereto as to prevent normal police protection of the town;

(3) The concentration of persons, vehicles, and/or animals at the location of the event will not unduly interfere with public works operations, proper fire and police protection of, or ambulance service to, areas contiguous to such location;

(4) The conduct of the event is not reasonably likely to cause injury to persons or property;

(5) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the event location;

(6) There are sufficient parking places near or on the site of the event to accommodate the number of vehicles reasonably expected;

(7) The applicant has secured the police protection, if any, as required by Police Chief; and

(8) No event(s) is scheduled elsewhere in the town where the police resources required for that event(s) are so great that the deployment of police services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property.

(B) Immediately upon the issuance of a special event permit, the following will be notified:

(1) Town Manager;

(2) Code Enforcement Officer;

(3) Finance Director;

(4) Fire Chief;

(5) Chief of Police;

(6) Public Works Director/Street Superintendent; and

(7) Town Clerk.

(C) Each permit shall state the following information:

(1) Date(s);

(2) Location;

(3) Hours of operation; and

(4) Such other information as necessary to the enforcement of this chapter.

(D) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(Ord. 549-10, passed 1-3-2011)

§ 112.21 PROHIBITED SPECIAL EVENT CONDUCT; REVOCATION.

(A) The following prohibitions shall apply to all special events:

(1) It shall be unlawful for any person to participate in a special event for which the person knows a permit has not been granted;

(2) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly permitted special event to knowingly fail to comply with any condition of the permit;

(3) It shall be unlawful for any person to engage in any special event activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful

enjoyment of their property;

(4) It shall be unlawful for any person participating in a special event to utilize sound amplification equipment at decibel levels that exceed those limits imposed by Title XIII, § 132.02 herein unless specifically authorized by the permit; and

(B) The Deputy Town Manager shall have the authority to revoke a special event permit instantly upon violation of the conditions or standards for issuance as set forth in this section or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the special event would have an immediate and adverse effect upon the welfare and safety of persons or property.

(Ord. 549-10, passed 1-3-2011) Penalty, see § 112.55

§ 112.22 MISTAKE; COLLECTION OF CORRECT AMOUNT.

In no case shall any mistake made in stating, fixing, or collecting the amount of any special event permit fee prevent or prejudice the town from collecting the correct amount due as provided in this chapter.

(Ord. 549-10, passed 1-3-2011)

§ 112.23 RIGHT OF ENTRY.

The Code Enforcement Officer, police officers, fire official and Deputy Town Manager shall have and exercise the power to enter, free of charge, during the special event and to demand the exhibition of the special event permit from any person conducting the special event. Denial of the right of entry by any person conducting a special event as required under this chapter shall be a civil violation.

(Ord. 549-10, passed 1-3-2011)

§ 112.24 DISPLAY; IDENTIFICATION; PERMISSION OF PROPERTY OWNER; EXHIBITION UPON DEMAND.

(A) Every person having a special event permit under the provisions of this chapter shall keep such permit openly posted and exhibited in a conspicuous part of such location.

(B) Every person having a special event under the provisions of this chapter shall produce and exhibit such permit, and, when applicable, written permission to conduct the event at the location or personal identification, whenever requested to do so by the Deputy Town Manager, any police officer, fire official or the Code Enforcement Officer.

(Ord. 549-10, passed 1-3-2011)

§ 112.25 OTHER CERTIFICATES OR PERMITS REQUIRED.

(A) When any business is required by federal, state, county, or local law to obtain any other license, permit, certificate, or examination, a special event permit shall not be issued until the applicant produces proof of such license, permit, certificate, or examination, including a use permit required by the zoning code of the town or any license, permit, certificate, or examination required by various health departments, as provided in A.R.S. §§ 36-101 *et seq*.

(B) Obtaining any license, permit, certificate, or examination required by federal, state, county, or local law shall be the sole responsibility of the applicant.

(C) The issuance of a special event permit shall not be evidence that the town knew or should have known that another permit, certificate, or examination was required or was otherwise improperly issued.

(Ord. 549-10, passed 1-3-2011)

§ 112.26 DENIAL, MODIFICATION, REVOCATION, OR SUSPENSION; APPEAL TO TOWN MANAGER.

(A) A special event permit application may be denied or a special event permit may be modified, suspended, or revoked for any of the following causes.

(1) Fraud, misrepresentation, or false statement contained in the permit application.

(2) Any violation of this chapter or failure to meet any licensing requirement, including timely payment of fees.

(3) Conducting the permitted business in violation of any federal, state, county, or local law.

(4) The permittee is convicted of untrue, fraudulent, misleading, or deceptive advertising.

(5) The permittee is a corporation or similar entity and is no longer qualified to transact business in the State of Arizona.

(B) The applicant shall be notified in writing that the application has been denied or the permit has been modified, revoked, or suspended. The letter shall be personally delivered or mailed certified and shall specify the grounds or reasons for the denial, modification, revocation, or suspension.

(C) The applicant or permittee or any other aggrieved person may appeal the denial of the application or modification, revocation, or suspension of the permit to the Town Manager by filing a written statement fully describing the grounds for the appeal with the Town Clerk within five business days of the date of the denial letter.

(D) The Town Clerk shall set a time and place for a hearing to be held before the Town Manager within 15 business days of the filing of the appeal. A notice setting forth the date, time, and place of the hearing shall be personally delivered or mailed certified by the Town Clerk to the appellant.

(E) The Town Manager shall issue a written decision and mail notice thereof within five business days after the hearing setting forth the findings and grounds for the decision to the applicant or permittee.

(Ord. 549-10, passed 1-3-2011)

REQUIREMENTS

§ 112.40 GENERAL REQUIREMENTS.

(A) Special events to be conducted at a town park shall obtain a permit from the Parks and Recreation Department in addition to a special event permit.

(B) Special events to be conducted on private property shall obtain authorization from the property owner for the use of the property for such purpose.

(C) If the special event will include sale or service of alcohol, a special event liquor license is required.

(D) If the special event will include the sale of goods or food, a list of vendors and items to be sold shall be provided with the application and all applicable laws and regulations regarding transaction privilege taxes, vendor fee and license and the sale of food shall be complied with.

(E) Where a street closure is approved, the applicant must have written permission from the affected property owners.

(F) If the application is for the use of any town property or if any town services shall be required for the special event, the applicant shall pay, in addition to an application fee and prior to the issuance of a permit, the charges for those services in accordance the town fee schedule.

(G) The Deputy Town Manager shall consult with the Chief of Police to determine whether and to what extent additional police protection will be reasonably necessary for the special event for traffic control and public safety. This decision shall be based on the size, location, duration, time, and date of the special event; the expected sale or service of alcoholic beverages; the number of streets and intersections blocked; and the need to detour or preempt citizen travel and use of the streets and sidewalks. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the special event. If additional police protection is deemed necessary by the Chief of Police, he or she shall so inform the Deputy Town Manager. The applicant shall furnish the town with a police special security services agreement to secure the police protection deemed necessary by the Chief of Police at the sole expense of the applicant.

(H) No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a town street, sidewalk, or right-of-way.

(Ord. 549-10, passed 1-3-2011)

§ 112.41 SPECIAL PROVISIONS RELATED TO BOUTIQUES.

A boutique shall be required to obtain and maintain a special event permit if:

(A) The boutique is not carried on wholly within a dwelling unit, a religion related building, or within a commercial structure;

(B) The boutique operates for more than 15 days during a calendar year;

(C) The boutique produces offensive noise, vibration, smoke, dust, odors, heat, or glare;

(D) The boutique and any related activities are not limited to the hours between 8:00 a.m. and 10:00 p.m.

(E) The boutique does not provide adequate parking, and the activity generates additional traffic, which would create a traffic or safety hazard; or

(F) The boutique uses more than three off-site temporary signs. Signs may only be used during the hours that the boutique is open. Placement criteria and all other applicable sign code restrictions shall apply.

(Ord. 549-10, passed 1-3-2011)

§ 112.42 SPECIAL PROVISIONS RELATED TO FIREWORKS EXHIBITIONS.

The promoter, owner, or operator of a fireworks exhibition, and its employees, agents, and/or subcontractors, shall strictly comply with all applicable federal, state, county, and local laws, rules, regulations, and ordinances in conducting any fireworks exhibition.

(Ord. 549-10, passed 1-3-2011)

§ 112.43 SPECIAL PROVISIONS RELATED TO PARADES AND PUBLIC ASSEMBLIES.

(A) No person shall engage in or conduct any parade or public assembly unless a special event permit is issued by the town.

(B) This section shall not apply to the following:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of school authorities;

(3) A governmental agency acting within the scope of its functions; and

(4) Spontaneous events occasioned by news or affairs coming into public knowledge within two days of such public assembly, provided that the organizer thereof gives written notice to the town at least 24 hours prior to such parade or public assembly.

(C) For single, non-recurring parades or public assemblies, an application for a permit shall be filed with the Deputy Town Manager at least 30 and not more than 180 days before the parade or public assembly is proposed to commence. The Deputy Town Manager may waive the minimum filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the parade or public assembly, the anticipated number of participants, and the town services required in connection with the event, determines the waiver will not present a hazard to public safety.

(D) For parades or public assemblies held on a regular or recurring basis at the same location, an application for a permit covering all such parades or assemblies during that calendar year may be filed with the Deputy Town Manager at least 30 and not more than 180 days before the date and time at which the first such parade or public assembly is proposed to commence. The Deputy Town Manager may waive the minimum period after due consideration of the factors specified in division (C) of this section.

(E) The application for a parade or public assembly permit shall set forth the following information:

(1) The name, address, and telephone number of the person seeking to conduct such parade or public assembly;

(2) The names, addresses, and telephone numbers of the headquarters of the organization for which the parade or public assembly is to be conducted, if any, and the authorized and responsible heads of the organization;

(3) The requested date(s) of the parade or public assembly;

(4) The route to be traveled, including the starting and termination points;

(5) The approximate number of persons, animals and vehicles that will constitute such parade or public assembly and the type of animals and description of the vehicles;

(6) The hours when such parade or public assembly will start and terminate;

(7) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets proposed to be traveled;

(8) The location by street of any staging or assembly areas for such parade or public assembly;

(9) The time at which units of the parade or public assembly will begin to assemble at any such staging or assembly area;

(10) The intervals of space to be maintained between units of such parade or public assembly;

(11) If the parade or public assembly is designed to be held by, or on behalf of, any person other than the applicant, the applicant for such permit shall file a letter from that person with the Deputy Town Manager authorizing the applicant to apply for the permit on his or her behalf;

(12) The type of public assembly, including a description of activities planned during the event;

(13) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly;

(14) The approximate number of participants (spectators are by definition not participants);

(15) The approximate number of spectators;

(16) A designation of any public facilities or equipment to be utilized; and

(17) Any additional information that the town finds reasonably necessary to a fair determination as to whether a permit should issue.

(F) Persons engaging in parades or public assemblies conducted for the sole purpose of political or other speech protected under the First Amendment of the United States Constitution are not required to pay for any police protection provided by the town.

(G) The Deputy Town Manager shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

(1) The conduct of the parade or public assembly will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;

(2) The conduct of the parade or public assembly will not require the diversion of so great a number of town police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the town;

(3) The concentration of persons, animals, and vehicles at staging or public assembly points of the parade or public assembly will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such staging and public assembly areas;

(4) The conduct of the parade or public assembly is not reasonably likely to cause injury to persons or property;

(5) The parade or public assembly is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays;

(6) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any staging and public assembly areas;

(7) There are sufficient parking places near the site of the parade or public assembly to accommodate the number of vehicles

reasonably expected;

(8) The applicant has secured the police protection required, if any;

(9) Such parade or public assembly is not for the primary purpose of advertising any product, goods, or event that is primarily for private profit, and the parade itself is not primarily for profit. The prohibition against advertising any product, goods, or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the parade;

(10) No parade or public assembly permit application for the same time and location is already granted or has been received and will be granted;

(11) No parade or public assembly permit application for the same time but not location is already granted or has been received and shall be granted, and the police resources required for that prior parade or public assembly are so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property; and

(12) No event is scheduled elsewhere in the town where the police resources required for that event are so great that the deployment of police services for the proposed parade or public assembly would have an immediate and adverse effect upon the welfare and safety of persons and property.

(13) The Deputy Town Manager shall act promptly upon a timely filed application for a parade or public assembly permit but in no event shall grant or deny a permit less than ten days prior to the event. If the Deputy Town Manager disapproves the application, s/he shall notify the applicant either by personal delivery or certified mail at least ten days prior to the event of his or her action and state the reasons for denial.

(H) The Deputy Town Manager, in denying an application for a parade or public assembly permit, may authorize the conduct of the parade or public assembly at a date, time, location, or route different from that named by the applicant. The applicant must, within five days, file a written notice of acceptance. An alternate parade or public assembly permit shall conform to the requirements of, and shall have the effect of, a permit issued under this section.

(I) Any applicant shall have the right to appeal the denial of a parade or public assembly permit to the Town Manager. The denied applicant shall make the appeal within five days after receipt of the denial by filing a written notice with the Town Clerk. The Town Manager shall act upon the appeal within five days of receipt of the notice of appeal.

(J) Immediately upon the issuance of a parade or public assembly permit, the Deputy Town Manager shall send a copy thereof to the following:

(1) Town Manager;

(2) Finance Director;

(3) Fire Chief;

(4) Chief of Police;

(5) Public Works Director;

(6) Town Clerk; and

(7) Postmaster.

(K) Each permit shall state the following information:

(1) Starting and approximate ending time;

(2) The portions of the streets that may be occupied by the parade or public assembly; and

(3) Such other information as the town shall find necessary to the enforcement of this section.

(L) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade or public assembly chairman or other person heading such activity shall carry the parade or public assembly permit upon his person during the conduct of the parade or public assembly.

(M) The following prohibitions shall apply to all parades and public assemblies:

(1) It shall be unlawful for any person to stage, present, or conduct any parade or public assembly without first having obtained a permit as herein provided; and

(2) It shall be unlawful for any person participating in a parade or public assembly to utilize sound amplification equipment at decibel levels that exceed those limits imposed by Title XIII, § 132.02 of this code unless expressly authorized by the permit.

(N) The public shall conduct itself as follows.

(1) No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or public assembly or with any person, vehicle, or animal participating or used in a parade or public assembly.

(2) No driver of a vehicle shall drive between the vehicles or persons comprising a parade or public assembly when such vehicles or persons are in motion and are conspicuously designated as a parade or public assembly.

(Ord. 549-10, passed 1-3-2011) Penalty, see § 112.55

§ 112.44 WAIVER OF SPECIAL EVENT FEES.

The Town Council, by a majority vote, in a regularly scheduled Town Council meeting may waive special event fees, including business license fees and permit fees, for community-sponsored events. Community-sponsored events are town events or events that are scheduled by non-profit organizations, open to town-wide citizen participation, that collect vendor fees as part of their special event.

(Ord. 549-10, passed 1-3-2011)

PENALTIES

§ 112.55 VIOLATION OF CHAPTER.

(A) Any person found to be in violation of this chapter is guilty of a Class 3 misdemeanor. The conduct of any special event in violation of this chapter shall constitute a separate violation for each and every day that such special event is conducted.

(B) Any duly authorized officer of the Florence Police Department, the Florence Code Enforcement Officer and the Florence Town Prosecutor may cause complaints to be filed against persons violating any of the provisions of this chapter.

(Ord. 549-10, passed 1-3-2011)

§ 112.56 CONVICTION NOT TO EXCUSE NONPAYMENT OF FEE.

The finding of responsibility for a civil violation or the conviction of any person for conducting a special event without a permit, as required under this chapter, shall not excuse or exempt such person from the payment of any permit fee or penalty due and unpaid at the time of such conviction.

(Ord. 549-10, passed 1-3-2011)

§ 112.57 PROHIBITED SPECIAL EVENT LOCATIONS.

No person shall conduct a special event within the town in any structure or area where conducting such special event is prohibited by the zoning code of the town or is otherwise prohibited by fire or building code regulations.

(Ord. 549-10, passed 1-3-2011)

§ 112.58 COURT ACTION.

In any action brought under or arising out of any of the provisions of this chapter, the fact that the defendant is a person who conducted a special event for which a special event permit is required by this chapter, or exhibited a sign, business card, or other advertisement indicating such business, shall be prima facie evidence of the liability of such defendant to obtain a special event permit and pay a permit fee under this chapter.

(Ord. 549-10, passed 1-3-2011)

CHAPTER 113: ROADSIDE SALES

Section

§ 113.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context indicates or requires a different meaning.

ROADSIDE SALES. The sale of any produce, product or merchandise, other than prepared food, not at a fixed location.

(Prior Code, Ch. 9, Art. V, § 9-401) (Ord. 351-04, passed 9-7-2004)

§ 113.02 LICENSE REQUIRED.

It shall be unlawful for any person to conduct a roadside sale in the town without first obtaining and maintaining in effect, a license.

(Prior Code, Ch. 9, Art. V, § 9-402) (Ord. 351-04, passed 9-7-2004) Penalty, see § 113.99

§ 113.03 FEES.

Every applicant for a license under this chapter shall pay the daily fees listed in the Town of Florence Schedule of Fees.

(Prior Code, Ch. 9, Art. V, § 9-403) (Ord. 351-04, passed 9-7-2004)

§ 113.04 SPECIAL REQUIREMENTS.

(A) *Location.* Roadside sales must be set up in one location only at any one time. The roadside sale business shall not repeat the same location more than once in any seven-day period.

(B) *Permission to set up.* Any vendor setting up in any location must obtain permission from the owner of the property he or she is to occupy prior to the date of doing business. A letter of permission from the owner must be presented along with a phone number of the owner and the tax parcel identification number of the property when applying for a business license.

(C) *Seller's identity and authorization.* Every person conducting a roadside sale shall carry with him or her at all times while conducting the business, his or her license, personal identification and the written permission of the property owner for use of the property.

(D) *Validity of license; renewal.* The license shall be valid for one month, but may be renewed at the request of the licensee so

long as the licensee remains in compliance with requirements of this chapter.

(Prior Code, Ch. 9, Art. V, § 9-404) (Ord. 351-04, passed 9-7-2004)

§ 113.99 PENALTY.

Any person found to be in violation of this chapter shall be punishable as provided in § 10.99 for a Class 3 misdemeanor. The conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. V, § 9-405) (Ord. 351-04, passed 9-7-2004)

CHAPTER 114: EDIBLE FOODSTUFFS VENDOR

Section

§ 114.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context indicates or requires a different meaning.

EDIBLE FOODSTUFFS VENDOR. Any person who conducts the business of selling edible foodstuff by foot, cart, wagon, automobile or any other type of conveyance from place-to-place, from house-to-house, from street-to-street or business-to-business and regulated by the County Health Department. ***EDIBLE FOODSTUFFS VENDOR*** includes hot dog stands, sandwich wagons, ice cream trucks and similar businesses, but shall not include food producers described in § 113.01.

(Prior Code, Ch. 9, Art. VI, § 9-501) (Ord. 351-04, passed 9-7-2004)

§ 114.02 LICENSE REQUIRED.

It shall be unlawful for any person to conduct a business of edible foodstuffs without first obtaining and maintaining in effect. a license.

(Prior Code, Ch. 9, Art. VI, § 9-502) (Ord. 351-04, passed 9-7-2004) Penalty, see § 114.99

§ 114.03 HEALTH DEPARTMENT CERTIFICATE.

A current County Health Department certificate will be required for every foodstuff vendor.

(Prior Code, Ch. 9, Art. VI, § 9-503) (Ord. 351-04, passed 9-7-2004)

§ 114.04 FEES.

Every applicant for a license under this chapter shall pay the daily fees listed in the Town of Florence Schedule of Fees.

(Prior Code, Ch. 9, Art. VI, § 9-504) (Ord. 351-04, passed 9-7-2004)

§ 114.05 WAIVER OF FEES.

Fees may be waived if a vendor or groups of vendors are included in § 112.44.

(Prior Code, Ch. 9, Art. VI, § 9-506) (Ord. 351-04, passed 9-7-2004)

§ 114.99 PENALTY.

Any person found to be in violation of this chapter shall be punishable as provided in § 10.99 for a Class 3 misdemeanor. The conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. VI, § 9-505) (Ord. 351-04, passed 9-7-2004)

CHAPTER 115: PAWNSHOPS, SECOND-HAND DEALERS, JUNK COLLECTORS AND AUCTION HOUSES

Section

§ 115.01 DEFINITIONS.

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

AUCTION HOUSE. Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where the items offered for auction are sold immediately to the highest bidder.

JUNK COLLECTOR. A person not having a fixed place of business in the town who goes from house to house and from place to place, gathering, collecting, buying, selling or otherwise dealing in any old rags, sacks, bottles, cans, papers, metals or other articles commonly known as junk, pawns or pledges of personal property, or the business of purchasing personal property and reselling or agreeing to resell the article to vendors, their personal representatives or their assignees, at prices agreed upon at or before the time of the purchase, whether the business be the principal or sole business so carried on, managed or conducted, or merely incidental to, in connection with or a branch or department of some other business or businesses.

PAWNBROKER. A person engaged in conducting, managing or carrying on the business of pawn broking or the business of loaning money for himself or herself or for any other person, receiving as security of the repayment thereof.

PAWNSHOP. Any room, store or place in which the business is engaged in, carried on or conducted.

SECOND-HAND DEALER. A person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in second-hand goods, wares or merchandise or articles, whether the business be the principal or sole business so carried on, managed or conducted, or be merely incidental to, in connection with a branch or department of some other business or businesses.

(Prior Code, Ch. 9, Art. VII, § 9-601) (Ord. 351-04, passed 9-7-2004)

§ 115.02 REPORT TO POLICE CHIEF REQUIRED.

Every person licensed to engage in the business of an auction house, junk dealer, pawnshop or second-hand dealer shall be required to make out and deliver to the Chief of Police, within two business days after receipt, a full, true and complete report of all goods, wares, merchandise or articles received on deposit, in pawn, pledge, trade or exchange or by purchase. The report shall show the hour of the day and the date when the articles were received and shall show the signature of the seller and his or her name and address, as nearly as the same are known or can be ascertained by the auction house, junk dealer, pawnshop or second-hand dealer, which description shall reveal the dress, sex, approximate height, age, complexion, color of hair and any distinguishing marks of the person. The report filed by the auction house, junk dealer, pawnshop or second-hand dealer shall show the number of the pawn ticket, if any is given, the amount loaned for the article or the amount paid therefore, the quantity or number purchased and a brief description thereof.

(Prior Code, Ch. 9, Art. VII, § 9-602) (Ord. 351-04, passed 9-7-2004)

§ 115.03 REPORT TO BE IN ENGLISH.

All reports required by the provisions of this chapter, made out and delivered to the Chief of Police, shall be written or printed in the English language in a clear and legible manner.

(Prior Code, Ch. 9, Art. VII, § 9-603) (Ord. 351-04, passed 9-7-2004)

§ 115.04 REPORT FILING REQUIREMENTS; FAILURE TO MEET; PENALTY.

(A) It is unlawful for any pawnbroker, second-hand dealer, junk dealer or junk collector to deface, alter, change or destroy, part with, conceal, give away, sell or dispose of any goods, wares, merchandise or article before or until one week after making out and delivering to the Chief of Police the report herein above required in accordance with the provisions herein stated. Special permission to sell in less than seven days may be obtained upon personal inspection and written permission of the Chief of Police.

(B) Each failure, neglect or refusal to make out and deliver to the Chief of Police the report required herein, within the time required and each defacement, alteration, change, destruction, parting with, concealing, gift, sale or disposition of any goods, wares, merchandise or article before or until one week after the making out and delivery of the report, shall constitute a violation of this chapter, punishable as provided in § 10.99.

(Prior Code, Ch. 9, Art. VII, § 9-604) Penalty, see § 115.99

§ 115.05 REVOCATION OF LICENSE.

The business license of any person licensed under this chapter may be revoked by the Council for any violation of this chapter.

(Prior Code, Ch. 9, Art. VII, § 9-605) (Ord. 351-04, passed 9-7-2004)

§ 115.99 PENALTY.

Any person found to be in violation of this chapter shall be punishable as provided in § 10.99 for a Class 3 misdemeanor. The conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. VII, § 9-606) (Ord. 351-04, passed 9-7-2004)

CHAPTER 116: SEXUALLY ORIENTED BUSINESS

Section

General Provisions

Licenses

Adult Businesses

GENERAL PROVISIONS

§ 116.01 DEFINITIONS.

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

ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or

specified anatomical areas.

ADULT BOOK STORE*, *ADULT NOVELTY STORE or ***ADULT VIDEO STORE.***

(1) A commercial establishment which regularly excludes all minors from the premises, or a section thereof, because of the sexually explicit nature of the items sold, rented or displayed therein, or which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding condoms and other birth control, pharmaceutical and disease prevention products.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult book store, adult novelty store or adult video store. The other business purposes will not serve to exempt any commercial establishments from being categorized as an adult book store, adult novelty store or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. Notwithstanding the foregoing, no video rental store shall be deemed to be an adult video store if the offering for sale or rental for consideration of the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas is not a principle business purpose or is tangential to the principle business purposes of the commercial establishment. For these purposes, to constitute a principle business purpose, a commercial video store must either regularly exclude all minors from the premises or a section thereof because of the sexually explicit nature of the items sold, rented or displayed therein, or have at least 30% of its inventory characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, restaurant or similar commercial establishment or any other commercial establishment which regularly features the following:

(1) Persons who appear in a state of nudity or semi-nudity;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; and

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; and

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, computer simulations, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown or displayed which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER. A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

EMPLOYEE. A person who works or performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not the person is paid a salary, wage or other compensation by the operator of the business. ***EMPLOYEE*** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT. Includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; and

(4) The relocation of any sexually oriented business.

LICENSEE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a license.

NUDE MODEL STUDIO. Any place where a person who appears in a state of nudity or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. ***NUDE MODEL STUDIO*** shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by public taxation, a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or a modeling class, or the facility for such a class, operated in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

NUDITY or ***STATE OF NUDITY.*** Shall include the following:

(1) The appearance of the human male or female genitals, anus, cleft of the buttocks or areola of the female breast; and

(2) A state of dress which fails to opaquely cover the cleft of the buttocks, anus, male genitals, female genitals or areola of the female breast.

PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE or in a ***SEMI-NUDE CONDITION.*** A state of dress in which opaque clothing covers no more than the genitals, pubic region and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration the following:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; and

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.

SEXUALLY ORIENTATED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or any combination of the businesses.

SPECIFIED ANATOMICAL AREAS. Shall include the following:

(1) The human genitals in a state of sexual arousal;

(2) Less than completely and opaquely covered human genitals, the cleft of the buttocks, anus or the areola of the female breast; and

(3) The appearance of the cleft of the buttocks, anus, male or female genitals or areola of the female breast.

SPECIFIED CRIMINAL ACTIVITY. Includes any of the following offenses:

(1) Prostitution or promotion of prostitution, procuring or placing persons in a house of prostitution, operating or maintaining a house of prostitution, pandering, child prostitution, dissemination of obscenity, sale, furnishing distribution or display of harmful material to a minor, sexual performance by a child, possession or distribution of child pornography, public lewdness, indecent exposure, indecency with a child, sexual exploitation of a minor, public sexual indecency with a minor, sexual conduct with a minor, engaging in organized criminal activity, sexual assault, molestation of a child, gambling, distribution of a controlled substance, criminal attempt, conspiracy, facilitation or solicitation to commit any of the foregoing offenses, any similar offenses to those described above under the criminal or penal code of other states or countries.

(2) Offenses for which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; and

(b) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

(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, masturbation or sodomy; and

(3) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) and (2) above.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS. The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS. Includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange or similar means; and

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM. The room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette or other video reproduction.

(Prior Code, Ch. 9, Art. VIII, § 9-701) (Ord. 351-04, passed 9-7-2004)

§ 116.02 CLASSIFICATIONS.

Sexually oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores, adult novelty stores or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

(Prior Code, Ch. 9, Art. VIII, § 9-702) (Ord. 351-04, passed 9-7-2004)

§ 116.03 APPLICABILITY TO EXISTING BUSINESS.

The provisions of this chapter shall apply to the activities of all persons and sexually oriented businesses described herein, whether the businesses or activities were established or commenced before, on or after the effective date of the ordinance adopting this chapter.

(Prior Code, Ch. 9, Art. VIII, § 9-703) (Ord. 351-04, passed 9-7-2004)

LICENSES

§ 116.20 LICENSE REQUIRED.

(A) It shall be unlawful:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town for the particular type of business;

(2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed by the town as a sexually oriented business employee pursuant to this chapter; and

(3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(B) An application for a sexually oriented business license shall be filed in person at the office of the Finance Director on a form prescribed and provided by the town.

(C) All applicants shall be qualified according to the provisions of this chapter. The application may request and the applicant shall provide the information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business or who will participate directly in decisions relating to management of the business, shall sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted. All application signatures shall be made under oath and notarized.

(E) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) *An individual.* The individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

(b) *A partnership.* The partnership shall state its complete name and the names of all partners, whether the partnership is general or limited and a copy of the partnership agreement, if any; and

(c) *A corporation.* The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business's fictitious name and submit the required registration documents.

(3) Whether the applicant, or any person(s) residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(4) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of the other licensed businesses.

(6) The single classification of license for which the applicant is filing.

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.

(8) The applicant's mailing address, residential address and telephone number.

(9) A recent photograph of the applicant(s).

(10) Each applicant's driver's license number, Social Security number and/or his or her state or federally issued tax identification number.

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(12) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in this section.

(F) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the town the following information:

(1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;

(2) Age, date and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state and number of driver's permit or other identification card information;

(7) Social Security number; and

(8) Proof that the individual is at least 18 years of age.

(G) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether the applicant previously operated or is seeking to operate, in this or any other county, city, state or

country has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

(3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Prior Code, Ch. 9, Art. VIII, § 9-704) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.21 ISSUANCE OF LICENSE.

(A) Within 30 days after receipt of a completed sexually oriented business application, the town shall approve or deny the issuance of a license to an applicant. The town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age;

(2) An applicant or an applicant's spouse is overdue in payment to the town of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business;

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(4) An applicant or an applicant's spouse has been denied a license by the town to operate a sexually oriented business within the preceding 12 months or his, her's or its license to operate a sexually oriented business has been revoked within the preceding 12 months;

(5) An applicant or the applicant's spouse has been convicted of a specified criminal activity defined in this chapter;

(6) The premises to be used for the sexually oriented business have not been approved by the Health Department, Town Planning Department, Fire Department, Public Works Director and the building official as being in compliance with applicable laws and ordinances;

(7) The license fee required by this chapter has not been paid; and

(8) An applicant or the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter or any other applicable provision of state law.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to this section. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(C) A sexually oriented business license shall issue for only one classification as found in § 116.02.

(D) A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce the license for inspection upon request by a law enforcement officer or other authorized town official.

(E) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the town that the applicant has not been convicted of any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 116.22.

(Prior Code, Ch. 9, Art. VIII, § 9-705) (Ord. 351-04, passed 9-7-2004)

§ 116.22 LICENSE FEES.

(A) There is an annual non-refundable application fee for a sexually oriented business license.

(B) There is an annual non-refundable application fee for a sexually oriented business employee license (see Town of Florence

Schedule of Fees).

(Prior Code, Ch. 9, Art. VIII, § 9-706) (Ord. 351-04, passed 9-7-2004)

§ 116.23 INSPECTIONS.

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Planning Department, Public Works Department, federal, state, county or town departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

(B) It shall be unlawful for a licensee, operator or employee of a sexually oriented business to refuse to permit a law enforcement officer or any agency enumerated in division (A) above to inspect the premises at any time the premises is occupied or open for business.

(C) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Prior Code, Ch. 9, Art. VIII, § 9-707) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.24 EXPIRATION OF LICENSE.

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 116.20. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(B) When the town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license, if at least 90 days have elapsed since the date denial became final.

(Prior Code, Ch. 9, Art. VIII, § 9-708) (Ord. 351-04, passed 9-7-2004)

§ 116.25 SUSPENSION.

(A) *Suspension*. The town shall suspend a license for a period not to exceed 30 days if it determines that a license or an employee of a licensee has done any of the following:

(1) Violated or is not in compliance with any section of this chapter;

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

(3) Been on the sexually oriented business premises while in an intoxicated or disorderly condition; or

(4) Knowingly permitted gambling by any person on the sexually oriented business premises.

(B) *Revocation*.

(1) The town shall revoke a license if a cause of suspension in division (A) above occurs and the license has been suspended within the preceding 12 months.

(2) The town shall revoke a license if it determines that any of the following apply:

(a) A licensee gave false or misleading information in the material submitted during the application process;

(b) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

(c) A licensee has knowingly allowed prostitution on the premises;

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(e) Except in the case of an adult motel, a licensee or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term ***SEXUAL CONTACT*** shall have the same meaning as it is defined in A.R.S. § 13-1401;

(f) A licensee is delinquent in payment to the town, county or state for any taxes or fees past due;

(g) A licensee has been convicted of a ***SPECIFIED CRIMINAL ACTIVITY***; and

(h) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime contained within the definition of ***SPECIFIED CRIMINAL ACTIVITY***, for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed.

(C) *Length of revocation*. When the town revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license, if at least 90 days have elapsed since the date the revocation became effective.

(Prior Code, Ch. 9, Art. VIII, § 9-709) (Ord. 351-04, passed 9-7-2004)

§ 116.26 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(Prior Code, Ch. 9, Art. VIII, § 9-710) (Ord. 351-04, passed 9-7-2004)

§ 116.27 APPEAL.

(A) If the town determines that grounds exist for denial, suspension or revocation of a license under this chapter, it shall notify the applicant or licensee (respondent) in writing of its intent to deny, suspend or revoke, including a summary of the grounds therefore. The notification shall be by certified mail to the address on file with the Town Clerk. Within ten working days of the date of the notice, the respondent may provide to the Town Clerk in writing a response which shall include a statement of reasons why the license or permit shall not be denied, suspended or revoked and may include a request for a hearing. If a response is not received by the Town Clerk in the time stated, the denial, suspension or revocation shall be final and notice will be sent to the applicant or licensee. Within five working days after receipt of a response, the town shall either withdraw the intent to deny, suspend or revoked and so notify the respondent in writing by certified mail or shall schedule a hearing before the Town Manager assembled for that purpose and shall notify the respondent in writing by certified mail of the date, time and place of the hearing. The hearing shall be scheduled not less than 15 nor more than 20 working days after receipt by the town of the request for a hearing. The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The rules of evidence shall not apply. The Town Manager shall render a written decision within five working days after completion of the hearing and shall mail a copy of the decision by certified mail to the address of the respondent on file with the town. An applicant or licensee may continue to work or perform services under his, her's or its temporary permit or license pending receipt of the final decision of the Town Manager. The decision shall be final at the end of five working days after it is mailed and shall constitute a final administrative action.

(B) When the decision to deny, suspend or revoke a license becomes final, the applicant or licensee, whose application for a license has been denied or whose license has been suspended or revoked, shall have the right to seek judicial review of the decision in any court of competent jurisdiction.

(Prior Code, Ch. 9, Art. VIII, § 9-711) (Ord. 351-04, passed 9-7-2004)

ADULT BUSINESSES

§ 116.40 ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an ***ADULT MOTEL*** as

that term is defined in this chapter.

(B) It is unlawful for a person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license to rent or sub-rent a sleeping room to a person and, within ten hours from the time the room is rented, to rent or sub-rent the same sleeping room again.

(C) For the purposes of division (B) above, the terms ***RENT*** or ***SUB-RENT*** mean the act of permitting a room to be occupied for any form of consideration.

(Prior Code, Ch. 9, Art. VIII, § 9-712) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.41 VIEWING ROOMS.

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof, specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an Engineer or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object, and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the town.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subdivision must be by direct line of sight from the manager's station.

(6) It shall be the duty of the licensee to ensure that the view area specified in division (A)(5) above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) above.

(7) No viewing room may be occupied by more than one person at any time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot candles as measured at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times when any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or

carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(B) It shall be unlawful for a person having a duty under any provision of division (A) above to knowingly fail to fulfill that duty.

(Prior Code, Ch. 9, Art. VIII, § 9-713) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.42 ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Prior Code, Ch. 9, Art. VIII, § 9-714) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.43 NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Prior Code, Ch. 9, Art. VIII, § 9-715) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.44 PUBLIC NUDITY.

(A) It shall be unlawful for a person to knowingly or intentionally, in or upon the premises of a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(B) It shall be unlawful for a person to knowingly or intentionally, in or upon the premises of a sexually oriented business, appear in a semi-nude condition, unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be unlawful for an employee, while semi-nude, in or upon the premises of a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while the employee is semi-nude in a sexually oriented business.

(D) It shall be unlawful for an employee, while semi-nude, to touch a customer or the clothing of a customer.

(E) An employee may not touch the breast, buttocks or genitals of a patron, nor may a patron touch the breast, buttocks or genitals of an employee.

(F) A patron in a sexually oriented business may not place any money on the person or in or on the costume of an employee.

(Prior Code, Ch. 9, Art. VIII, § 9-716) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.45 MINORS PROHIBITED.

It shall be unlawful for any person knowingly to allow a person under the age of 18 years on the premises of a sexually oriented business, punishable as provided in § 10.99 of the Town Code.

(Prior Code, Ch. 9, Art. VIII, § 9-717) (Ord. 351-04, passed 9-7-2004) Penalty, see § 116.99

§ 116.46 HOURS OF OPERATION.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 noon on Sundays.

(Prior Code, Ch. 9, Art. VIII, § 9-718) (Ord. 351-04, passed 9-7-2004)

§ 116.47 EXEMPTIONS.

It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated as follows:

(A) By a proprietary school, licensed by the state, a college, junior college or university supported entirely or partly by taxation;

(B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;

(C) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class; or

(3) Where no more than one nude model is on the premises at any one time.

(Prior Code, Ch. 9, Art. VIII, § 9-719) (Ord. 351-04, passed 9-7-2004)

§ 116.48 INJUNCTION.

The operation of a sexually oriented business without a valid license in violation of this chapter shall constitute a nuisance and a person who operates or causes to be operated the business shall be subject to an action for injunctive relief as well as prosecution for criminal violations.

(Prior Code, Ch. 9, Art. VIII, § 9-720) (Ord. 351-04, passed 9-7-2004)

§ 116.49 REVOCATION OF LICENSE.

The business license of any person licensed under this chapter may be revoked by the Council for any violation of this chapter.

(Prior Code, Ch. 9, Art. VIII, § 9-721) (Ord. 351-04, passed 9-7-2004)

§ 116.99 PENALTY.

Any person found to be in violation of this chapter shall be punishable as provided in § 10.99 of the Town Code for a Class 3 misdemeanor. The conduct of any business in violation of this chapter shall constitute a separate violation for each and every day that the business is conducted.

(Prior Code, Ch. 9, Art. VIII, § 9-722) (Ord. 351-04, passed 9-7-2004)

CHAPTER 117: TELECOMMUNICATIONS SERVICE

Section

§ 117.01 APPLICABILITY.

The provisions of this chapter dealing with telecommunications service do not affect and to not apply to providers of cable television services, which services are governed separately pursuant to the Town Cable Communications Ordinance.

(Prior Code, Ch. 9, Art. IX, § 9-800)

§ 117.02 DEFINITIONS.

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

CABLE SERVICES. The offering of cable system services for a fee directly to the public, or to the users as to be effectively available directly to the public, regardless of the facilities used.

CABLE SYSTEM. Any facility that, in whole or in part, receives directly or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes the signals together with other signals as authorized by the Federal Communications Commission and the licensing authority, by wire or cable to subscribing members of the public who pay for the service, but the term shall not include the following:

(1) Any facility that serves fewer than 50 subscribers; and

(2) Any facility that serves only the residents of one or more apartment dwellings under common ownership and commercial establishments located on the premises of the apartment dwellings.

COMMERCIAL MOBILE RADIO SERVICE. Two-way voice commercial mobile radio service as defined by the Federal Communications Commission in 47 U.S.C. § 153.

FACILITIES. The plant, equipment and property, including but not limited to poles, wires, pipe, conduits, pedestals, antennae and other appurtenances placed in, on or under highways, and not owned by the town and used in the provision of telecommunications services.

PUBLIC HIGHWAY or ***HIGHWAY.*** All roads, streets and alleys and all other dedicated public rights-of-way and public utility easements of the town.

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 this state.

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public or to the users as to be effectively available directly to the public, regardless of the facilities used.

(Prior Code, Ch. 9, Art. IX, § 9-801) (Ord. 351-04, passed 9-7-2004)

§ 117.03 LICENSE REQUIRED.

(A) No telecommunications corporation shall install, maintain, construct or operate telecommunications facilities in any public highway in the town or provide telecommunications service by means of the facilities unless a license to provide telecommunications services has first been granted by the Town Council of the town under this chapter.

(B) Notwithstanding division (A) above, any telecommunications corporation that was providing telecommunications service within the state 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 town to provide telecommunications services; provided, however, that the entity must in all other respects comply with the requirements applicable to the telecommunications corporations, as provided in A.R.S. Title 9, Chapter 5, Art. 7.

(C) Nothing in this chapter shall be deemed to affect the terms or conditions of any franchise, license or permit issued by the town prior to October 31, 1997, or to release any party from its obligations there under. Those franchises, licenses or permits shall remain fully enforceable in accordance with their terms. The Town Manager, with the consent of the Town Council, may enter into agreements with franchise holders, licensees or permitees to modify or terminate an existing franchise, license or agreement.

(D) A license to any telecommunications corporation to use the highway to install, maintain, construct or operate telecommunications facilities or to provide telecommunications services under 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 any other service; nor shall the fact that an entity holds 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 town or permit the entity to provide telecommunications services by means of the facilities without obtaining a license hereunder.

(E) Any license granted shall not be exclusive.

(Prior Code, Ch. 9, Art. IX, § 9-802) (Ord. 351-04, passed 9-7-2004) Penalty, see § 10.99

§ 117.04 LICENSE PROPOSAL.

(A) A telecommunications corporation desiring a license to occupy the streets and other highways of the town to provide telecommunications service shall file a proposal with the Town Manager in the form prescribed by the town, and shall pay a fee determined by the resolution of the Mayor and Town Council. The amount of the fee shall be reasonably related to the cost directly incurred by the town relating to the granting or administration of the license.

(B) Each application shall, at a minimum, do the following:

(1) Show where the facilities the applicant will use, will be located or contain other information as the town may deem necessary in order to ensure that the applicant will comply with requirements for use of the highways;

(2) Identify the applicant, his or her name, address and telephone number;

(3) Contain a description of the services to be provided; and

(4) Set out a description of any agreement with any other entity that would permit the entity to use the facilities.

(C) Upon receiving an application for a license that satisfies the conditions of division (B) above, the town shall promptly proffer a telecommunications license to the applicant for its review and may inquire into matters relevant to the issuance of the license. If the applicant agrees to the terms and conditions of the license, the request shall be approved. Notwithstanding the foregoing, the town need not issue or renew a license if the applicant has previously had a license or permit revoked, or for any other reason permitted under Arizona law.

(D) As a condition of issuing or renewing a license to use the public highways to provide telecommunications services, the town may require that:

(1) The applicant shows that he or she has received a certificate of public convenience and necessity from the State Corporation Commission;

(2) The applicant agrees to comply with the highway use requirements that the town may establish from time to time;

(3) The applicant agrees to provide and maintain accurate maps showing the location of all the facilities it will use in the highways within the town and to comply with any other mapping requirements as the town may establish from time to time; and

(4) The applicant obtains the insurance and provide proof of insurance as required by the town, posts the performance bonds and security fund required by the town, agrees to fully indemnify the town, its officers, agents, boards and commissions in a form

satisfactory to the town and agrees that it shall have no recourse against the town for monetary damages as a result of any damage that may result from the town's exercise of its rights under the license or applicable provisions of law. The applicant agrees to comply with and be bound by the administrative and enforcement provisions as may be prescribed from time to time by the town which may include the following:

(a) Provisions covering assignment;

(b) The right to inspect records to determine compliance by the licensee;

(c) Provisions for renewal;

(d) Fees and charges contemplated by A.R.S. § 9-582(C);

(e) Any license granted by the town pursuant to this chapter shall commence upon adoption of the license and acceptance of the license by the provider. The license shall be for a term of five years and subject to the conditions and restrictions provided in the instrument and this chapter;

(f) Every licensee shall be subject to the town's exercise of any police, regulatory and other powers as the town now has or may later obtain, and a license may not waive the application of the same and must be exercised in strict conformity therewith. Every license shall be subject to revocation if the licensee fails to comply with the terms and conditions of the license or applicable law. Provided, however, that 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 town finds that the defect in performance is due to intentional misconduct, is a violation of criminal law or is part of a patterns of violations which the licensee has already had notice and opportunity to cure. A hearing shall be held before a license is revoked or not renewed if the licensee requests a hearing;

(g) The issuance of a license by the town is not a representation or warranty that the license is a legally sufficient substitute for a franchise and is not a representation or warranty that a franchise is not required; and

(h) Any person or entity found guilty of violating any provision in this chapter shall be punished as provided in § 10.99 of the Town Code.

(Prior Code, Ch. 9, Art. IX, § 9-803) (Ord. 351-04, passed 9-7-2004)

CHAPTER 118: CABLE COMMUNICATIONS

Section

GENERAL PROVISIONS

§ 118.01 TITLE.

This chapter is known and may be cited as the "Cable Communications Ordinance."

(Prior Code, Ch. 18, Art. V, § 18-300) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.02 INTENT AND PURPOSES.

It is the intent of this chapter to provide for the regulation and control of cable television systems operating within the town by the Council, and, in the public interest: to promote the public health, safety and general welfare by providing for the grant of one or more licenses for the construction and operation of a cable system; to provide for the regulation of each cable system by the town; to provide for the payment of fees and other valuable consideration by a licensee to the town for the privilege of using the public rights-of-way, and other public places for constructing and operating a cable system; to promote the widespread availability of high-quality cable communications services to town residents and businesses, including to those who reside in multi-family or multi-use buildings and in rural areas; to encourage the development of cable as a means of communication between and among the members of the public and public institutions; to encourage the provision of diverse information to the community over cable, and to minimize disruptions of the public domain for installation and maintenance.

(Prior Code, Ch. 18, Art. V, § 18-301) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning. Words not defined are given their meaning in Section 602 of the Cable Act, 47 U.S.C. Subsection 522, and, if none, their common and ordinary meaning.

ACCESS CHANNEL. One or more channels dedicated in whole or in part for local noncommercial programming which is set aside for educational and governmental use, without a charge by the licensee for channel usage and which is originated by the cable company, provided that such access programming shall not include:

(1) The retransmission of local television broadcast signals; or

(2) Programming produced by persons unaffiliated with the cable company under the provisions of Section 612 of the Cable Act.

APPLICANT. Any person or organization that applies for a license.

APPLICATION. A proposal to construct and operate a cable system within the town, transfer a license, renew a license, or modify a license. An ***APPLICATION*** includes the initial proposal plus all subsequent amendments or supplements to the proposal and relevant correspondence.

BASIC CABLE SERVICE or ***BASIC SERVICE.*** Any service tier which includes the retransmission of local television broadcast signals.

CABLE ACT. The Cable Act of 1934, the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.*, as amended, the 1992 Cable Act, and the Telecommunications Act of 1996 ("1996 Act") as amended.

CABLE SERVICE. The one-way transmission of video or other programming service to subscribers and any subscriber interaction required for the selection or use of such video programming or other service.

CABLE SYSTEM. Unless otherwise defined in the license agreement, a facility, consisting of a set of open and closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide a cable communications service which includes, but is not limited to, video programming, information services, and communications which is provided to business and residential subscribers within the town. This term does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, Subsection 201, *et seq.*, except that the facility will be considered a cable system to the extent that it is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(3) Any facilities of any electric utility used solely for operating its electric utility systems. If any provider operates or maintains connection to such an unlicensed system, this system is not exempt from the provisions of the agreement and must either be licensed or the connection shall cease.

COMPLAINT. A subscriber or citizen issue presented in verbal or written form, to the licensee or the town relating to any aspect of the licensee's performance under this chapter.

CONTROL OF A LICENSEE OR APPLICANT. The legal or practical ability to direct the affairs of the licensee or applicant either directly or indirectly, whether by contractual agreement or majority ownership of an economic interest. In the case of a limited partnership, a change in limited partner interests shall not constitute a change in control where the limited partners have no power to participate in the management of the partnership, and the general partner retains full power.

COUNCIL. The present governing body of the town or any future Council constituting the legislative body of the town.

DENSITY. The number of potential subscriber households or businesses per mile of cable system.

DWELLING UNITS AND BUSINESSES. Shall be counted when they are within 250 feet of any portion of the cable distribution system including trunk and feeder cable lines.

DWELLING OR OCCUPIED UNIT. Any separate and distinct structure or part thereof which exists in finished form, occupied or capable of year-round occupation, and serves as a residence to one or more persons, or place or business. Included in this definition, but not limited to this definition are: all single-family homes, each apartment or multi-family unit, each condominium unit, patio homes, guest quarters and similar type structures, and occupied commercial and industrial businesses.

EDUCATIONAL INSTITUTION. Any public educational institution, which is accredited by a nationally recognized organization, including local primary and secondary schools, colleges and universities.

EG ACCESS CHANNEL or ***EG CHANNEL.*** Any channel set aside for use by an educational institution or government agency use without a charge by the licensee for channel usage.

FAIR MARKET VALUE. The price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time but with no value allocated to the license itself.

FCC. The Federal Communications Commission.

GOVERNMENT AGENCY. Any state, local, regional or special government agency with a physical presence within the town.

GROSS REVENUES.

(1) Unless defined in the license agreement, shall mean all cash, credits, property of any kind or nature, or other consideration, less related bad debts up to a maximum of 1.5% annually of such cash, credits and property, received directly or indirectly by a licensee, its affiliates, subsidiaries, parent and any person, firm or corporation in which a licensee has a financial interest or which has a financial interest in a licensee, arising from or attributable to the licensee's operation of its cable television system within the town, including, but not limited to:

(a) Revenue from all charges for services provided to subscribers;

(b) Revenue for all charges for the insertion of commercial advertising upon the cable system;

(c) Revenue from all charges for the leased use of studios;

(d) Revenue from all charges for the installation, removal, connection and reinstatement of equipment necessary for a subscriber to receive cable service;

(e) Revenue from the sale, exchange, use or cablecast of any programming developed for community use or institutional users.

(f) Revenue from all charges for the use of or lease of leased access channels or band width.

(g) Revenue from the production or transmission over the cable system of video programming by licensee including programming produced by its mobile facilities.

(h) Any other income derived from the cable system as permitted by law.

(2) Shall not include taxes collected by licensee on behalf of any governmental authority; any surcharges for underground conversion of cable plant costs; any increase in the value of any stock, security or asset; the value of complimentary services provided to licensee's employees and is required by this chapter or any license; and dividends or other distributions made in respect of any stock or securities, or value received by a licensee or any of its affiliates, subsidiaries or parent relating to licensee services or through cooperative advertising.

(3) (a) Shall not include cash, credit, property of any kind or nature or other consideration received by a licensee's affiliates, subsidiaries, parent or any person, firm or corporation ("affiliate") in which a licensee has a financial interest or which has financial interest in a licensee for any sales of advertising on the cable system, services to provide programming on the cable system, production services and/or telecommunication services which are cable services when such services are provided by an affiliate, which has all the following characteristics: the affiliate is a separate legal entity, with separate employees, with separate financial records (which may be part of consolidated financial reporting records) and a separate mission; it makes payments to licensee which meet market standards for the services and industries involved, even if it does not offer and provide its services to persons other than licensee in the same industry as licensee; and it was established for valid business purposes and not with the intent and purpose of circumventing payment of license fees on gross revenues. Nothing contained in this exclusion from gross revenues shall be interpreted to exclude from gross revenues such cash, credit, property of any kind or nature or other consideration which would be considered the licensee's gross revenues derived from the operation of the cable system under the Cable Act. Except for gross revenue from such sales of advertising on the cable system, services to provide programming on the cable system, production services or telecommunication services which are cable services received by such affiliate, this subsection shall not exclude from gross revenues any source of gross revenues which an existing licensee itself is receiving at the time it is granted a license under this chapter.

(b) When a licensee (or an affiliate) holds one or more other cable television licenses in the county and receives and allocates gross revenues from subsections (1)(b), (f) and (g), then ***GROSS REVENUES*** derived from subsections (1)(b), (f) and (g) shall be allocated pro rata to the town based on the ratio of the number of subscribers of licensee (or an affiliate), in the town to the number of subscribers of licensee (or an affiliate) in all the jurisdictions in the county, in which licensee (or an affiliate) holds a cable license. If a licensee does not allocate its gross revenues derived from subsections (1)(b), (f) and (g) from such other jurisdictions then the number of subscribers in such jurisdictions shall not be included in the total number of subscribers in all other jurisdictions.

INSTITUTIONAL SERVICES. Video, audio, data and other transmission services provided by a licensee to institutional users on an individual application, private channel basis, including, two-way video, audio or digital signals among institutions, or from institutions

to residential subscribers.

INSTITUTIONAL USER. Includes any private, governmental, or academic organization or facility including but not limited to schools, business, industry, correctional facilities or other organized body promoting or organized for some purpose.

LEASED ACCESS CHANNEL. A channel designated in accordance with Section 612 of the Cable Act, for commercial use by persons unaffiliated with the licensee.

LICENSE. The right granted by the town, as described in this chapter, to a licensee to construct, maintain and operate a cable system over, on, or under streets, roads and all other public ways, easements, public places and rights-of-way within all or specified areas of the town. The term does not include any license or permit that may be required by this chapter or other laws, ordinances, or regulations of the town for the privilege of transacting and carrying on a business within the town or for disturbing the surface of any street or public thoroughfare.

LICENSE AGREEMENT. A contract entered into in accordance with the provisions of this chapter between the town and a licensee that sets forth the terms and conditions under which the license will be exercised.

LICENSE FEE. The fee based on the gross revenue derived from operating and use of public rights-of-way and for operating a cable communications system within the limits of the town. The licensee shall pay the town a fee no less than the percent of the licensee's gross revenues from all sources attributable to operations of the licensee within its license area during the period of its license. The percentage is described in later in this chapter.

LICENSEE. Any person or company granted a license under this chapter, and includes any transferee, successor or assignee of the person or company.

MALFUNCTION. An equipment or facility failure that results in the loss of satisfactory service on one or more channels.

(1) ***MINOR MALFUNCTION.*** An equipment or facility failure that results in the loss of a viewable signal on up to four channels.

(2) ***MAJOR MALFUNCTION.*** Has occurred when five or more channels are affected.

OUTAGE. An equipment or facility failure that results in a total loss of signal on all cable channels affecting three or more subscribers within one linear mile during any 120-minute period.

OVERBUILD. A cable system constructed to serve any subscribers served by an existing cable system.

SERVICE CALL. Results when service problems occur relating to:

(1) A total loss of or degraded signal or picture on one or more channels or services; or

(2) Property damage by licensee employees or authorized contractors.

STANDARD DROP. Cable connection which requires no more than a 125-foot drop measured from the nearest point of subscriber's home or place of business to the nearest active tap on the cable system, involving only one outlet and standard materials and does not involve a wallfish. In addition, a ***STANDARD DROP*** shall exclude custom installation work including specific subscriber requested work that requires nonstandard inventory or cable routing that requires construction methods exceeding reasonable underground or aerial work.

SUBSCRIBER. Any person, business or entity who legally receives any cable service provided by a cable system but does not include persons who receive not more than two channels of noncommercial closed circuit video service which is not made available to the general public.

TOWN. The Town of Florence, a municipal corporation of the State of Arizona, in its current and future boundaries as increased or decreased by law. Unless otherwise clear from the context, where the term ***TOWN*** is used in this chapter, it means the Town Manager. However, where legislative approval of an activity is specifically required under this chapter, ***TOWN*** means the Town Manager subject to the approval of the Town Council.

TOWN MANAGER. The Chief Executive Officer of the town or designee.

TWO-WAY CAPABILITY. The incorporation in a cable system of all appropriate design and engineering characteristics so that two-way transmission, including addressability, over the system can be implemented with a minimum of expense.

USER. A person utilizing a cable system's facilities for purposes of transmission of material or information to subscribers or others.

(Prior Code, Ch. 18, Art. V, § 18-302) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

LICENSES

§ 118.20 AUTHORITY AND ADMINISTRATION.

(A) Pursuant to A.R.S. § 9-505, as amended, and the Cable Act as defined herein, as amended, the Town Council may grant one or more licenses in accordance with this chapter. A person must not construct or operate a cable system, whether for public or private use, in the town without a license granted by the Town Council.

(B) The Town Council authorizes the Town Manager to enter into license agreement negotiations with an applicant, however, nothing herein entitles an applicant to such negotiations, nor does such authorization entitle an applicant to a license or license agreement. The Town Council authorized its designee to terminate negotiations with en applicant at any time.

(C) The Town Manager, or Town Manager's designee, has responsibility for the administration and enforcement of this chapter and any license agreement, including:

(1) Establishing procedures for the conduct of public hearings and other proceedings required by this chapter or a license agreement;

(2) Conducting public hearings, including designating hearing officers;

(3) Coordinating management and operation of town government access channels;

(4) Providing technical, programming, and operational support to public agency users of a cable system;

(5) Planning and evaluating cable use and the development of cable services;

(6) Approving a transfer of an interest in a licensee;

(7) Approving modifications of a license agreement that do not substantially alter material provisions of the license; and

(8) Issuing requests for proposals for licenses.

(D) Actions by the Town Manager in the following matters are subject to approval by the Council:

(1) Granting or renewing a license;

(2) Approving transfer of a license;

(3) Revoking a license;

(4) Modifying a license agreement in a manner that substantially alters material provisions of the license.

(Prior Code, Ch. 18, Art. V, § 18-303) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.21 LICENSE CHARACTERISTICS.

(A) A license authorizes use of the public rights-of-way for installing cables, fiber, wires, lines, and other facilities to operate a cable system, but does not expressly or implicitly authorize the licensee to provide service to, or install cables, wires, lines, or any other equipment or facilities on private property without owner consent (except for use of:

(1) Compatible easements; or

(2) Rights-of-way under the cable act or other applicable law);

or to use publicly or privately owned utility poles or conduits without a separate agreement with the owners. It also authorizes the licensee so to use, operate and provide similar facilities on or to properties rented, licensed or leased from other persons, firms or corporations, including but not limited to any public utility or other licensee licensed or permitted to do business in the town; provided,

however, that neither the licensee nor the third party shall be relieved of any regulation or obligations as to its use of such facilities in the streets, as required by local building or other code or ordinance.

(B) A license is subject to the paramount right of use by the town and the public for public purposes. The town reserves the right to authorize use of public rights-of-way to other persons as it determines appropriate.

(C) A license is nonexclusive and does not expressly or implicitly preclude the issuance of other licenses to operate cable systems within the town.

(D) A license does not convey a property right to the licensee or a right to renewal other than as may be required by state or federal law.

(E) A license agreement constitutes a contract between the licensee and the town once it has been accepted and approved by the Council and executed by both parties. A licensee contractually commits itself to comply with the terms, conditions and provisions of the license agreement and with all applicable laws, ordinances, codes, rules, regulations, and orders.

(Prior Code, Ch. 18, Art. V, § 18-304) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.22 LICENSEE SUBJECT TO OTHER LAWS, POLICE POWER.

(A) A licensee is subject to and must comply with all applicable local, municipal, town, state and federal laws, ordinances, codes, rules, regulations, and orders including those pertaining to nondiscrimination.

(B) A licensee is expressly subject to the town's police power to adopt and enforce general ordinances necessary for the health, safety, and welfare of the public, and it agrees to comply with all applicable state laws and ordinances enacted by the town pursuant to such power.

(C) A licensee or other person is not excused from complying with any of the terms and conditions of this chapter or a license agreement by any failure of the town, one or more occasions, to require compliance or performance.

(D) Any of the provisions of this chapter may be amended by the Council at any time. This chapter and such amended provisions shall be applicable to all existing license agreements; provided, however, that this chapter and such amended provisions shall not be applicable to an existing agreement where it would contravene a contractual right of the licensee under the license agreement, or pose additional contractual burdens on the licensee.

(Prior Code, Ch. 18, Art. V, § 18-305) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.23 INTERPRETATION OF LICENSE TERMS.

(A) This chapter applies to a license agreement as if fully set forth in the license agreement.

(B) The provisions of a license agreement must be strictly construed in order to effectuate its objectives consistent with this chapter and the public interest.

(C) A license agreement is governed by, and construed in accordance with, the laws, rules and regulations of the state, the Communications Act, as amended, and the FCC rules.

(Prior Code, Ch. 18, Art. V, § 18-306) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.24 APPLICATIONS FOR GRANT, RENEWAL, MODIFICATION OR TRANSFER OF LICENSES.

(A) Any person, agency, organization or entity desiring to construct, install, maintain or operate a cable communication system within the town shall submit an application to the Council. An application must be filed with the Town Clerk for grant of a new license, renewal of a license or transfer of a license under either the formal or informal procedures in accordance with Section 626 of the Cable Act, as amended, modification of a license agreement, transfer of a license, or, where approval is required, for a transfer of an interest in a licensee. An applicant has the burden to demonstrate compliance with all application requirements of this chapter.

(B) All applications filed with the Town Clerk remain the property of the town. Applications submitted may be returned as incomplete if they do not comply with all requirements of the town.

(C) To be acceptable for filing, an application must:

(1) Be submitted in the number of copies required by the town;

(2) Be accompanied by the non-refundable application filing fee;

(3) Conform to any applicable request for proposals, and contain all required information.

(D) Application forms may be obtained from the Town Clerk. If no formal application is available, a submittal shall include items listed in this section. All applications must include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.

(E) All applications accepted for filing must be made available by the town for public inspection.

(F) An application for the grant of a new license may be filed pursuant to a request for proposals issued by the town or on an unsolicited basis. The town may, at its option, issue a request for proposals upon receipt of an unsolicited application. If the town elects to issue a request for proposals upon receipt of an unsolicited application, the applicant may submit an amended application in response to the request for proposals, or may inform the town that its unsolicited application should be considered as its response to the request for proposals, or may withdraw its unsolicited application. An application which is unresponsive to the requirements of a request for proposals may be dismissed by the town without further consideration.

(G) An application for the grant of a new license, license renewal or license transfer must contain information requested in the town's license application form and include information not limited to the following information:

(1) Identification of the ownership and control of the applicant, including:

(a) The names and addresses of the ten largest holders of an ownership interest in the applicant, and all persons with 5% or more ownership interest, including the percentage interest held by all such persons;

(b) The persons, if any, who control the applicant; all officers and directors of the applicant; and

(c) Any other business affiliation and cable system ownership interest of each named person.

(2) (a) A statement addressing whether the applicant, or any person controlling the applicant, or any officer or major stockholder of the applicant:

1. Has been adjudged bankrupt;

2. Has had a cable license revoked; or

3. Has been found guilty by any court or administrative agency of a violation of a security or antitrust law, a felony, or any crime involving moral turpitude.

(b) Any statement under this subsection must identify the person or persons involved and provide a full explanation of the circumstances.

(3) A demonstration of the applicant's technical, legal and financial ability, including financing sources and commitments, to construct and operate the proposed cable facility, including identification of key personnel.

(4) The geographic area to be served by the cable system.

(5) A detailed description of the physical facility proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities and equipment.

(6) A description of the construction of the proposed system, including an estimate of above-ground and below-ground mileage and its location, the proposed construction schedule, a description, where appropriate, of how services will be converted from existing facilities to new facilities, and information on the availability of space on poles and conduits including, where appropriate, an estimate of the cost of rearrangement of facilities to accommodate such use.

(7) A description of the services to be provided initially, including all broadcast and non-broadcast signals to be carried and all non-television services, and if services will be offered by tiers, identification of the signals or services, or both, to be included on each tier.

(8) The proposed rate structure including charges for each service tier, installation, converters, and other equipment or services.

(9) A demonstration of how the proposal will reasonably meet the future cable-related needs and interests of the community, including a description of how the proposal will meet the needs described in any recent community needs assessment conducted for the town.

(10) An affidavit of the applicant or authorized officer that:

(a) Certifies the truth and accuracy of the information in the application;

(b) Acknowledges the enforceability of application commitments; and

(c) Certifies that the proposal meets all applicable federal and state requirements.

(11) If an applicant proposes to construct a cable system which would constitute an overbuild, the identification of the area where the overbuild would occur, the potential subscriber density in the area to be served by competing cable systems, and other information as necessary for the town to make its determination under § 118.25(E).

(12) Any other information necessary to demonstrate compliance with the requirements of this chapter and information that the town may reasonably request of the applicant.

(H) An application for modification of a license agreement must include, at a minimum, the following information:

(1) The specific modification requested;

(2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the impact on the applicant if the modification is not approved;

(3) A statement whether the modification is sought pursuant to Section 625 of the Cable Act, and, if so, a demonstration that the requested modification meets the legal standards of the Cable Act; and

(4) Any other information necessary for the town to make a determination on the requested license modification.

(I) An application for approval of a transfer of a license or a transfer of an interest in a licensee must comply with the requirements of § 118.39.

(Prior Code, Ch. 18, Art. V, § 18-307) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.25 GRANT OF LICENSE.

(A) The town may grant a license for a period not to exceed 15 years to serve all or any specified geographic areas of the town. If a license is granted, a provider must be able to provide service to a density of at least 25 dwelling or occupied units per lineal mile.

(B) The town may make the grant of a license conditioned on the completion of construction within a specified time or the performance of other specific obligations and specify that the failure of the licensee to comply with the condition will void the license without further action by the town.

(C) A public hearing must be held on each application for a new license that meets all requirements of this chapter. At least 15 calendar days' public notice must be given before the public hearing. At the public hearing, the Town Manager may accept written and oral testimony and any other material relevant to the application. If more than one application has been submitted, the applications may be considered in the same proceeding.

(D) In evaluating an application for a new license, the town must consider:

(1) The applicant's character;

(2) The applicant's technical, financial, and legal qualifications to construct and operate the proposed system;

(3) The nature of the proposed facilities, equipment, and services;

(4) The applicant's record of cable performance in other communities, if any; and

(5) Whether the proposal will serve the public interest.

(E) Where an applicant proposes to overbuild an existing cable system, the town must also consider:

(1) The beneficial effects of competition, including any reduced rates to consumers, higher technical standards, and more varied programming offerings; and

(2) Any interference or disruption of or interconnectability to the existing licensee's operations or service.

(F) Based upon the application, the written and oral testimony and other material presented at the hearing, and any other information relevant to the application, the Town Manager must notify the applicant of the proposed grant or the denial of the application.

(G) The Town Manager and the applicant must tentatively agree on the terms of a license agreement prior to the required public hearings and prior to consideration by the Town Council. The Town Manager may chose to seek input from the Town Council if a dispute on terms of the agreement is unresolved.

(H) The town must make the text of a proposed license agreement available to the public, as proposed cable TV licenses are approved by ordinance and in accordance to state and local public notice requirements.

(I) After complying with the requirements of this section, the Town Manager may submit recommendations to grant one or more licenses and proposed license agreements to the Council. The Council must approve or disapprove the grant of a license.

(J) Every license grant is subject to a license processing fee in an amount not to exceed the town's reasonable costs in considering the application, less the amount of the application filing fee. Within 30 days of the date the grant of the license is approved by the Council, the town must notify the approved applicant of the amount of the license acceptance fee and its method of calculation. If the license acceptance fee is not paid within 30 days of the date the town notifies the approved applicant of the amount, the grant is void. Before the license is effective, the approved applicant must demonstrate compliance with the bond, insurance, and similar provisions of the license agreement.

(Prior Code, Ch. 18, Art. V, § 18-308) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.26 INSURANCE; BOND; INDEMNIFICATION.

(A) A licensee must have the following insurance coverage in force at all times during the license period:

(1) Workmen's compensation insurance to meet all state requirements.

(2) General comprehensive liability insurance not less than $1,000,000 per occurrence, $1,000,000 per aggregate limit, and $1,000,000 for property damage; and

(3) Automobile liability insurance covering all vehicles as specified in the license but not less than $1,000,000 per occurrence, $1,000,000 per aggregate limit, and $1,000,000 for property damage; and

(4) Any additional types of insurance and coverage amounts as the town may require. All insurance policies must be with sureties qualified to do business in the state and in a form approved by the Town Attorney. The town may accept a self-insurance plan that assures comparable protection in lieu of these insurance policies.

(B) To ensure the licensee's performance of license obligations, a licensee must have in force at all times during the license period, a bond in a form approved by the Town Attorney, consisting of cash, an irrevocable letter of credit, or a performance bond. A performance bond must be provided by a surety qualified to do business in the state. The bond must be to the benefit of the town or to other parties as necessary to ensure the faithful performance and discharge of obligations imposed by law and the license agreement. Except for an incumbent licensee, the minimum bond amount must not be less than $250,000.

(C) A licensee must, at its sole cost and expense, indemnify, hold harmless, and defend the town, its officials, boards, commissions, agents, and employees, against any claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its cable system regardless of whether the act or omission complained of is authorized, allowed or prohibited by the license. This requirement includes claims arising out of copyright infringement or a failure by the licensee to secure consent from the owner, authorized distributor, or licensee of a program to be delivered by the cable system.

(D) In an overbuild situation, the town may require written agreements from a new provider or overbuilder to indemnify the incumbent for any damages or outages the incumbent experiences arising from the construction and maintenance if the overbuilder's or new licensee's respective systems. The town may also require mutual indemnification from all providers for any damage to facilities and services caused by construction or maintenance of their respective cable systems.

(E) To the fullest extent permitted by law, licensee shall defend, indemnify and hold harmless the town, its agents, officers, officials and employees from and against all tort claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted either wholly or in part from the acts, errors, mistakes, omissions, work or services of the licensee, its agents, employees, contractors or subcontractors in the performance of this agreement, and regardless of whether or not such claim, damages, loss or expenses are caused in part by the town. By law, the town and its employees may not be indemnified and held harmless in cases where the town or its employees cause willful damage or loss to a system, and may also be responsible for such claims, damages and losses, should they occur.

(F) Licensee's duty to defend, hold harmless and indemnify the town, its agents, officers, officials and employees shall arise in connection with any tort claims, damages, losses or expenses that are attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused either wholly or in part by licensee's acts, errors, mistakes, omissions, work or services in the performance of this agreement including any employee of the licensee or any other person for whose acts, errors, mistakes, omissions, work or services the licensee may be legally liable, and regardless of whether or not such claim, damages, losses or expenses are caused in part by the town.

(G) The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this division.

(Prior Code, Ch. 18, Art. V, § 18-309) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.27 MINIMUM FACILITIES AND SERVICES.

(A) The following minimum requirements for facilities and services apply to all licenses:

(1) A cable system must have a minimum capacity of 90 video channels available for immediate or potential use.

(2) "EG" channels or educational and government channels: A cable system must dedicate or set aside capacity, equipment and operation of access channels for programming, content and use by government and educational institutions as required by federal law. The licensee must provide information on all access channels in its annual report under § 118.29(A).

(a) A cable system must provide up to two access channels, which will be individually designated by the town for educational or governmental access. The town may require the licensee to make a reasonable contribution to capital costs for access studios and related equipment and facilities if the standard channels and equipment are already in place or need to be upgraded. All licensees are to provide, at no charge to the town, modulators, processors, and all necessary transmission equipment for these channels and agree to design the system to accommodate the desired connections from the town hall to all headends throughout the town systems to all customers.

(b) Licensees shall also provide, at no charge, prompt and regular maintenance and replacement of any cables, amplifiers and other distribution equipment used for the educational and governmental channels, except for if the town or educational institution desires relocation of the primary points of origin, the town or educational institution shall bear the cost of such relocation. Licensees shall also provide programming and studio/production training or consulting support at no cost to either entity once the channels become operational.

(c) Capital grant provisions: Licensees shall provide funding to the town and educational institution to:

1. Purchase or otherwise furnish all necessary equipment not otherwise furnished in the above section in an amount not to exceed $7,500 lump sum per entity; and

2. Provide a capital investment fee of $.50 per customer, per month for the maintenance, support, upgrade and equipment lease payments necessary of the educational and government channels; and

3. Provide the ability to lease (at cost) or purchase from licensee any other equipment the town or educational institution deems necessary to establish and operate such access throughout the community.

(d) Service to all public buildings owned and operated by the town and the Florence Unified School District. Licensee will provide all service drops without charge to the town and details (including locations of such facilities) are to be set forth in the license agreement.

(3) Emergency notification system: A licensee must design its system to allow the town to interrupt cable service in an emergency to deliver necessary information to subscribers in accordance with FCC rules. The system shall be installed and operated with an emergency alert system in compliance with the rules of the Federal Communications Commission and the state "Emergency

Alert System Operation Plan" ("state plan"), as amended from time to time, provided, however, that, notwithstanding any such FCC or state rules, the system shall be configured such that, in the event of a local emergency as reasonably determined by the town, the town shall be able to interrupt, to the extent not prohibited by FCC regulations or the state plan, audio and video signals distributed over the system for the delivery of appropriate signals necessitated by such emergency. The emergency override system will be operated in accordance with the license agreement, and rules and regulations issued by the town as permitted by applicable law and as amended from time to time.

(4) Interconnection: A cable system must be able to permit competitor interconnect and sharing in the capacity and/or transmission of "EG" channels and the emergency notification system requiring minimal system compatibility and limited interoperability. Unless otherwise expressly set forth otherwise in a license agreement, a licensee shall cooperate with other grantees in making available their signal distribution capabilities if one operator should so request. The expense of labor and material to effectuate such a juncture shall be the responsibility of the licensee requiring such services, who shall also indemnify and hold harmless the furnishing licensee from all damages and liabilities whatsoever stemming from the requesting grantee's use thereof. Further, unless otherwise expressly exempted in a license agreement, a licensee shall interconnect its system with any or all other systems located in the town upon the request of the town, provided that the town shall not require a licensee to interconnect with other systems if the town and the licensee reasonably determine that such interconnect is technically and economically infeasible. Upon receiving the request of the town to interconnect, a licensee shall immediately initiate negotiations with the other affected system or systems in order that technical details are resolved and that costs may be shared on an equitable basis.

(5) Co-location and joint trenching: see construction standards in § 118.33.

(B) The town may require that a license exceed the minimum requirements set forth in division (A) if so designated in the license.

(C) The town may waive minimum requirements set forth in division (A) where the applicant demonstrates that a waiver is in the public interest or is unduly burdensome to the operation of their system.

(Prior Code, Ch. 18, Art. V, § 18-310) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.28 LICENSE APPLICATION AND PROCESSING FEES.

(A) Application fee: Each application for a license to be granted under the authority of this chapter shall be accompanied by a non-refundable filing fee in the amount specified below, by a certified or cashier's check made payable to the town. Nonrefundable filing fees for initial license, transfer or change of ownership, license and modification (see the Town of Florence Schedule of Fees).

(B) A licensee, fee: The licensee shall pay the town no less than 5% of the licensee's gross revenues from all sources attributable to operations of the licensee within its license area during the period of its license. A licensee must pay the license fee due to the town for the preceding quarter within 30 days of the end of that quarter.

(C) Processing fee: As stated in § 118.25(J), to recover the town's expense in reviewing license applications, every license application is subject to a license processing fee in an amount not to exceed the town's reasonable costs, less the amount of the application filing fee. The processing fee is the cost associated with reviewing and processing the application and license request. Within 30 days of the date the grant of the license is approved by the Council, the town must notify the approved applicant of the amount of the license acceptance fee and its methods of calculation.

(D) Any payment of license fees to adjust for a shortfall in the quarterly payments for the preceding year must be made no later than the filing date for the annual financial statements as specified in division (D) of this section. An adjustment for any overpayment will be credited in one or more subsequent quarterly payments as determined appropriate by the Finance Director.

(E) Unless a license agreement provides otherwise, a licensee must file with the town within 30 days of the end of each calendar quarter, a comprehensive report including a current financial statement showing the gross revenues received by the licensee during the preceding quarter and the number of subscribers.

(F) A licensee must file within 45 days of the end of its fiscal year, the licensee's or the licensee parent's annual financial statements for the preceding year audited by a certified public accountant. The licensee will bear the cost of the preparation of all financial statements.

(G) The town may inspect and audit any books and records relevant to the calculation of gross revenues, and recompute any amounts determined to be payable under the license. The reasonable cost of the audit, up to the amount determined to be due to the town, will be borne by the licensee if the annual payment to the town for the preceding year is increased by more than 5% as a result of the audit.

(H) In the event that a license payment is not received by the town on or before the due date, the payment shall be deemed delinquent, and subject to a late fee. The licensee will pay a late charge of 5% of the amount of the payment, and interest will be charged from the due date at the annual interest rate then charged for unpaid federal income taxes. Interest and late charges will not be imposed for any payment necessary as a result of the yearly adjustment provided for in division (B) of this section, if the payment to correct for a shortfall does not exceed 10% of the total payments made during the year. In the event such payment exceeds 10% of the total payments made during the year, the licensee will be liable for interest and late charges for the entire amount due. Licensee shall be responsible for payment or reimbursement of audit expenses.

(I) When a license terminates for any reason, the licensee must file with the town within 90 days of the date the license operations stop an audited financial statement showing the gross revenues received by the licensee since the end of the previous fiscal year. Adjustments must be made at that time for license fees due to the date that the licensee's operations ceased.

(Prior Code, Ch. 18, Art. V, § 18-311) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.29 QUARTERLY AND FINANCIAL RECORDS.

(A) All notices and communications from a licensee to the Town Council pursuant to this chapter or a license agreement shall be sent to the Town Manager unless the licensee is otherwise directed. All legal filings shall be sent to the Town Clerk, or as required by law.

(B) Within 45 days of the close of its fiscal year, a licensee must file with the town an annual report that includes the information required in the license agreement.

(C) A licensee must maintain a complete set of books and records, relevant to its obligations under the license, available for inspection by the town during normal business hours.

(D) The Town Manager, as the authorized signator, or designee, may request information of a proprietary nature from the licensee as permitted in Section 631 of the Cable Act (47 U.S.C. § 551) and such information must be submitted to the town under this chapter. Public access to such information or inspection or the town's ability to withhold such information is subject to Arizona Revised Statutes.

(E) Quarterly reports: Unless this requirement is waived, in writing, in whole or in part, by the town, no later than ten business days of the close of each calendar quarter, the licensee shall submit a written report to the town, in the form directed by the town which shall include:

(1) A summary of the previous quarter's activities in the development of the cable system, including, but not limited to the descriptions of services begun or dropped, the number of subscribers gained or lost for each category of service, the number of pay units sold, the number of subscribers using converters, the amount collected monthly includable in gross revenues, and the character and extent of the services rendered to users, including leased access channel users, new channels and changes to service;

(2) A summary of complaints, identifying both the number and nature of the complaints received and an explanation of their dispositions, as such records are kept by the licensee. Where complaints involve recurrent problems, the nature of each problem and the corrective actions taken shall be identified;

(3) A summary illustrating the number of service calls received by type during the prior quarter, and the percentage of service calls compared to the subscriber base by type of complainant;

(4) A summary illustrating the number of outages and service 'malfunctions' (major and minor) for the prior month, and identifying separately, each planned outage, the time it occurred, its duration and the estimated service area and number of subscribers affected; each unplanned outage, the time it occurred, its duration and the estimated service area and number of subscribers affected; and the total hours of outages and service degradations as a percentage of total hours of the cable system operation;

(5) A current list of officers and members of the board of directors or similar controlling body of the licensee and any affiliates;

(6) An organizational chart illustrating all corporations, partnerships and or other persons with more than a 5% ownership interest in the licensee, stating the nature of the ownership interests;

(7) Copies of detailed current maps in the format requested from the town, depicting the location of all cable plant, nodes, trunk lines, transmission lines and all changes from the most recent prior update;

(8) A current emergency contact and notification list within 30 effective days of the report; and

(9) An update concerning emerging issues affecting or involving services and service delivery including; and

(10) Other information that the town may require.

(Prior Code, Ch. 18, Art. V, § 18-312) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.30 CUSTOMER SERVICE REQUIREMENTS.

(A) A licensee must maintain a conveniently located business office open during normal business hours with a listed local telephone number and a sufficient number of telephone lines to allow reasonable access by subscribers and members of the public. When the business office is closed, the licensee must have an answering machine or service to take complaints and inquiries.

(B) A licensee must have personnel and equipment available at all times to locate and correct major system malfunctions. Major system malfunctions must be corrected without delay. Corrective action for all other malfunctions must be initiated as provided in the license agreement but not later than the next business day after the subscriber service call is received. Corrective action must be completed as promptly as possible.

(C) A license agreement must include procedures to investigate and resolve all complaints, including those regarding the quality of service and equipment malfunction.

(D) A licensee must provide each subscriber, at the time cable service is installed, written instructions for placing a service call, filing a complaint, or requesting an adjustment. These instructions must include the licensee's name, address, and telephone number and the name, address, and telephone number of the designated recipient of complaints at town hall. Each subscriber must also be provided with a schedule of the subscriber's rates and charges, a copy of the service contract, delinquent subscriber disconnect and reconnect procedures, and a description of any other relevant licensee subscriber policies. The town shall receive all forms describing customer service policies and procedures when they are distributed to subscribers. All forms must be conspicuously posted in the licensee's local business office.

(E) A licensee may interrupt service on the cable system only for good cause and, except in emergency situations, only after prior notice to subscribers and the town of any significant anticipated service interruption. Any interruption must be for the shortest time possible.

(F) A licensee must maintain a complete record of service complaints received and action taken. These records must be open to the town for inspection during normal business hours, subject to applicable law, including privacy laws. A quarterly summary of such records must be submitted to the town, and more frequently at the town's request by all licensees. A licensee must maintain a complaint records for three years from the date of the complaint.

(1) A licensee must promptly remove all its facilities and equipment from the subscriber's premises if service is terminated and the subscriber requests removal.

(2) Notwithstanding subsection (1), a licensee may disconnect and abandon facilities and equipment where removal is impractical, such as with buried cable or internal wiring.

(Prior Code, Ch. 18, Art. V, § 18-313) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.31 SERVICE DISCRIMINATION AND EXCLUSIVE PROGRAMMING AGREEMENTS PROHIBITED.

(A) Unless approved by the town and to the extent consistent with federal law, a licensee must not, in its rates or charges, or in the availability of the services or facilities of its system, or in any other respect, grant undue preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, nor subject any of these persons to any undue prejudice or any disadvantage.

(B) A licensee must have a uniform rate structure for its services throughout the license area as required by the Cable Act and FCC rules. If the town is certified to regulate local cable TV rates with the FCC (see Form 328 entitled "Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competition"), any adjustments or proposed adjustments to cable TV rates as part of a package or bundled service offering, including discounted cable TV rates, shall be approved by the Town Council.

(C) A licensee must not deny, delay, or otherwise burden service or discriminate against subscribers or users on the basis of age, race, religion, color, sex, sexual orientation, handicap, national origin, martial status, or geographic location, except for discounts for the

elderly and handicapped.

(D) A licensee shall not deny cable service to any potential subscriber because of the income of the residents of the area in which the subscriber resides.

(Prior Code, Ch. 18, Art. V, § 18-314) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.32 SUBSCRIBER PRIVACY AND UNAUTHORIZED RECEPTION.

(A) A licensee must protect the privacy of all subscribers under Section 631 of the Cable Act. A licensee must not condition subscriber service on the subscriber's grant of permission to disclose information, which, cannot be disclosed without the subscriber's explicit consent under federal law.

(B) A person must not make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, or attach any unauthorized device to any cable, wire, microwave or other component of a licensed cable television system, to intercept, receive or use any video, voice or data signal transmissions over a cable television system, unless such connection, interception, reception or use is authorized by the licensee or other person having the lawful right to authorize the connection, interception, reception or use. A violation of this division is a class 2 misdemeanor offense and is also punishable pursuant to A.R.S. § 13-3709(A).

(Prior Code, Ch. 18, Art. V, § 18-315) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.33 CONSTRUCTION AND USE OF RIGHTS-OF-WAY.

(A) It is the policy of the town to require construction of cable systems designed to serve subscribers in an area licensed by the town as rapidly and expeditiously as possible. The licensee shall diligently pursue and obtain all necessary permits from the appropriate governmental agencies, utility companies, and others as necessary to comply with the provisions of this chapter and other federal, state and town laws, codes, ordinances and resolutions.

(B) A cable system shall be constructed pursuant to a construction timetable specified in the license agreement.

(C) The town may require licensee to report on construction progress and provide information showing how the construction schedule is being met.

(D) Prior to commencement of construction of the system, the licensee shall provide the technical specifications, in adequate detail, to be utilized in the construction of the proposed cable system. At such time that the licensee applies for a permit to construct a portion of the system, the licensee shall submit to the Public Works Department, a detailed site plan or map showing the proposed location of that portion of the system and the relationship of that portion of the system to all existing roadway systems, with sufficient information for the Public Works Department to issue the right-of-way permit, and to inspect the work being performed in the public easements and public rights-of-way. Upon completion, the applicant shall file "as-built" plans with the town in both hard copy and, if requested by the town, electronic mapping format compatible with the town's current electronic mapping format, to the extent that the provider has such capability, showing the detailed location of all underground cable plant and active electronics, including but not limited to, all transmitting and receiving pickup locations, the fiber and coaxial plant, and coaxial amplifiers and pedestal locations.

(E) A licensee must use, with the owner's permission, existing poles, conduits or other facilities whenever possible. Copies of agreements for use of poles, conduits or other facilities must be filed with the town as required by the license agreement.

(F) All transmission lines, equipment and structures, including poles, shall be installed and located to cause minimum interference with the rights and reasonable convenience of property owners.

(G) Suitable safety devices and practices as required by local, town, state and federal laws, regulations, and permits must be used during construction, maintenance, and repair of a cable system.

(H) A licensee must remove, replace, or modify at its own expense, any of its facilities in a public right-of-way when the town requires it to do so, to allow the town to change, maintain, repair or improve a public thoroughfare as long as such requirement also applies to all other utilities including telephone electric and gas.

(I) The licensee must put the cable underground at its expense on streets and roads where both electrical and telephone utility wiring are underground, and must move the cable underground after initial installation when electrical and telephone utility wiring are moved underground. The licensee must put the cable underground between a street or road and a subscriber's residence if both

electrical and telephone utility wiring are underground. A licensee may install aerial cables if either electric or telephone utility underground installation is unavailable and licensee agrees to pay any additional costs for licensees permits for such aerial installation.

(J) A licensee must obtain any required permits before starting construction work on public and private property and must restore the public and private property to their former condition after construction is completed. The town, or private property owner may, after prior written notice to the licensee, repair any damage done by the licensee at the licensee's expense if restoration is not satisfactorily performed within a reasonable time.

(K) Subject to the supervision and direction of the town, a licensee may trim trees within public rights-of-way at its own expense as necessary to protect its wires and facilities. A licensee may trim trees on private property with the consent of the property owner.

(L) At the request of any person holding a valid building moving permit and upon sufficient notice, the licensee must temporarily raise, lower or cut its wires as necessary to facilitate a move. The direct expense of these temporary changes, including standby time, must be paid by the permit holder. The licensee may require payment in advance.

(M) Co-location and joint trenching:

(1) Licensee shall cooperate with other communications providers in making available its signal distribution capabilities if another operator or the town should so request. The expense of labor and material to effectuate such juncture shall be the responsibility of the party requiring such services, who shall indemnify and hold harmless the furnishing licensee from all damages and liabilities whatsoever stemming from the requesting licensee's use thereof.

(2) Licensee shall cooperate with the town and all other persons with authority from the town to occupy and use the public rights-of-way in the coordination and construction activities and joint-trenching projects, and shall provide the town with a proposed construction schedule in, around or that may affect the public rights-of-way. The Town Engineer shall coordinate all construction locations, activities, and schedules to minimize public inconvenience, disruption, or damage to the public rights-of-way of the town.

(3) A licensee shall utilize, after obtaining the owner's permission, existing poles, conduits or such other facilities whenever feasible and shall make its own facilities available for other licensees or other users of the streets on reasonable terms. Nothing in this section, however, shall be interpreted as to grant the right to use any existing easement or to utilize any poles, conduits, easements, or other facilities without the owner's permission. Underground streets, sidewalk and driveway crossings not using existing conduits shall be bored unless specific town approval is received. A copy of written authorization for any licensee to use facilities other than their own shall be made available for review with the town within five business days after the request. The licensee may install its own poles only when approved by the town and then subject to whatever reasonable terms and conditions the town requires.

(Prior Code, Ch. 18, Art. V, § 18-316) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.34 TECHNICAL STANDARDS.

(A) *Guidelines for system facilities, equipment, and services.* The following performance guidelines shall serve as the initial minimum guidelines for the design, installation, maintenance and operation of the system:

(1) *Compliance with FCC rules.*

(a) The system shall meet FCC requirements as set forth in (but not limited to) 47 C.F.R. Part 76 or as amended. If federal law is subsequently amended or minimum technical specifications are no longer mandated by the FCC, the technical specifications in effect at the time of adoption of the license agreement shall govern.

(b) Should the FCC promulgate amended technical requirements which exceed the performance guidelines set forth within this license agreement, licensee shall operate its system in compliance with such FCC requirements.

(c) All maintenance performed on the cable system by the licensee shall be in accordance with FCC regulations governing technical performance and operating standards, currently in effect or hereinafter amended.

(2) *Continuous 24-hour operation.* The system shall operate continuously for 24 hours daily without severe material degradation or malfunction of signal except immediately following extraordinary storms which adversely affect utility services or which damage major system components to the extent technically feasible under the circumstances.

(3) *Scheduled testing.* For any scheduled testing of the system which causes any substantial interruption to subscriber's service, the licensee must make reasonable efforts to notify subscribers within 30 days prior to such testing and possible interruption. This notification includes but is not limited to notification by character generator on the cable system, or neighborhood flyers in the areas to

be tested. Insofar as feasible, licensee shall voluntarily interrupt the provision of cable service only with good cause and for the shortest time possible during periods of minimum cable system use.

(4) *Testing for compliance with FCC standards.* Following construction of the system, tests shall be conducted on this system which shall meet FCC Cable Television System Technical Performance Standards of 47 C.F.R. § 76.601 through and including § 76.630. On request of the licensing authority, the licensee shall provide copies of test results and documentation of any required repairs determined to be needed by the required tests.

(5) *Maintenance of the system in good working order.* Until the termination of this agreement and the satisfaction in full by the licensee of its obligations under this agreement and this chapter, in consideration of the license, the licensee agrees that it will maintain all of the material properties, assets and equipment of the system, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this agreement.

(6) *Compliance with zoning and construction codes.* Licensee shall comply with the terms of all applicable and lawful zoning, building and other ordinances, regulations, codes, guidelines and laws controlling the location or construction of towers, poles, cables, amplifiers, conduits and other facilities owned, leased and otherwise used by licensee for the cable system. This includes requirements to obtain applicable permits and to pay applicable and lawful plan review, permit and inspection fees. No construction will take place in public easements or public rights-of-way prior to any required permitting by and approval of the County Public Works Department, which shall not be unreasonably withheld or delayed.

(7) *Emergency override.* The system shall be installed and operated with an emergency alert system in compliance with the rules of the Federal Communications Commission and the state "Emergency Alert System Operation Plan ("state plan")," as amended from time to time, provided, however, that, notwithstanding any such FCC or state rules, the system shall be configured such that, in the event of a local emergency as reasonably determined by the town, the town shall be able to interrupt, to the extent not prohibited by FCC regulations or the state plan, audio and video signals distributed over the system for the delivery of appropriate signals necessitated by such emergency. The emergency override system will be operated in accordance with the license agreement, and rules and regulations issued by the town as permitted by applicable law and as amended from time to time.

(B) *Specifications of the system.*

(1) *General requirements.* Within 90 days after the effective date of the agreement, licensee shall provide to the licensing authority a plan for construction of the system indicating, at least, a general overview of the construction schedule.

(2) *General description.* Local cable communications systems shall operate as a 750 MHZ system, or shall meet the interoperability requirements of this chapter. It shall be two-way active and shall have a return capacity of five to 40 MHZ. Whenever two or more systems (or proposed systems) operate on separate frequencies, such systems shall be made compatible and interoperable insofar that the operations of the EG channels and emergency notification capabilities are not negatively or adversely impacted, and the conditions and requirements of this chapter are achieved.

(Prior Code, Ch. 18, Art. V, § 18-317) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.35 SECURITY DEPOSIT.

(A) The license must post with the town a security deposit, performance bond, or irrevocable letter of credit in the amount specified in the license agreement before the license is effective. The town must hold the security deposit as security for:

(1) Faithful performance of all applicable provisions of law and the license agreement;

(2) Compliance with all orders, permits, and directions of the town; and

(3) Payment by the licensee of any claims, liens, or taxes due to the town because of the construction, operation or maintenance of the system.

(B) The town shall place any such security deposit in an interest bearing account such as those in which the town general funds are located. The interest will accrue to the benefit of the licensee but may not be withdrawn. All interest is added to and becomes part of the original security deposit during the term of the license.

(C) The town may immediately withdraw an appropriate amount, including interest and penalties, from the security deposit if:

(1) After ten days notice the licensee fails to pay to the town any fees or taxes due and unpaid, damages, or costs or expenses that the town is compelled to pay by reason of any act or default of the licensee in connection with this license, unless licensee

contests the matter within the ten-day notice period; or

(2) After 30 days notice to the licensee, the licensee fails to comply with any provision of the license that the town reasonably determines can be remedied by an expenditure of the security deposit. The town must promptly notify the licensee of the amount and date of any withdrawal.

(D) No automatic replenishment. If the amount is contested then there needs to be a resolution of that issue first. The parties shall agree to negotiate in good faith about any replenishment should the initial security fund be depleted.

(E) The town must return the security deposit to the licensee after the license is terminated if there is no outstanding default or unpaid amounts owed to the town by the licensee.

(F) The rights reserved to the town with respect to the security deposit are in addition to all other rights of the town under this chapter or other law. An action, proceeding, or exercise of a right with respect to the security deposit does not affect any other right the town may have.

(Prior Code, Ch. 18, Art. V, § 18-318) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.36 ENFORCEMENT REMEDIES.

(A) *Notice of violation.* The town shall provide licensee with a detailed written notice of any license violation upon which it proposes to take action, and a ten business day period within which licensee may:

(1) Demonstrate that a violation does not exist or to cure an alleged violation; or

(2) If the nature of the violation prevents correction of the violation within ten business days, to initiate a reasonable plan of action to correct such violation (including a projected date by which it will be completed) and notify the town of such plan of action.

(B) *Default.* If licensee fails to disprove or correct the violation within ten business days following the date of notice of violation or, in the case of a violation which cannot be corrected in ten business days and licensee has failed to notify the town of the licensee's reasonable plan of corrective action and to correct the violation within the specified time frame, then the town may declare the licensee in default, which declaration must be in writing. In the event that the town declares licensee in default, the town shall have the right to institute legal proceedings to collect damages from the date of declaration of default, or to exercise any other rights and remedies afforded to the town in law or equity, provided, however, that the town may institute revocation proceedings against licensee only after declaration of default, pursuant to division (F) and only on the grounds set forth therein.

(C) *Hearing available to licensee.* Within 15 days after receipt of a written declaration of default from the town, licensee may request, in writing, a hearing before the town or its agent, in a full public proceeding affording due process. The hearing shall be held within 30 days of the receipt of the request therefore and a decision rendered within ten days after the conclusion of the hearing. Any decision shall be in writing and shall be based upon written findings of fact.

(D) *Appeal of default.* Licensee may appeal a declaration of default to arbitration.

(E) *Procedures applicable to arbitration.* Any arbitration held pursuant to this chapter or the license shall be conducted as follows:

(1) Licensee and the town each shall, within 15 days of the decision to proceed to arbitration, appoint one arbitrator experienced in the cable television business, which arbitrators shall mutually select a third arbitrator of similar qualifications.

(2) Within 30 days after appointment of all arbitrators and upon 15 days written notice to the parties to the arbitration, the arbitrators shall commence a hearing on the dispute.

(3) The hearing shall be recorded and may be transcribed at the request of either the town or licensee.

(4) At the close of the hearings and within 30 days, the arbitrators shall prepare written findings and serve such decision upon the town and licensee.

(5) The decision of a majority of the arbitrators shall be binding upon the parties to the arbitration.

(6) Either party may seek judicial relief to the arbitrators' decision under the following circumstances:

(a) Either party fails to select an arbitrator;

(b) The arbitrators fail to select a third arbitrator;

(c) One or more arbitrator is unqualified;

(d) Designated time limits have been exceeded;

(e) The arbitrators have not proceeded expeditiously; or

(f) Based upon the record, the arbitrators' decision is arbitrary, capricious, unsupported by substantial evidence, an abuse of discretion, or based upon a mistake of law.

(g) All costs of arbitration shall be borne equally by the parties to the arbitration unless otherwise ordered by the arbitrators.

(F) *Revocation.* The town may revoke the license only after declaration of default and only for defaults by licensee arising from the following circumstances:

(1) Material misrepresentation by licensee to the town in information required to be provided under the license.

(2) Licensee willfully or persistently violates any material orders or rulings of any regulatory body having jurisdiction over the license.

(3) Licensee willfully fails to acquire the insurance required by this chapter.

(G) *Procedures governing revocation.*

(1) The town shall give written notice to the licensee of its intent to revoke the license and the lawful grounds therefore. Licensee shall have 30 days from such notice to object, in writing, and to state its reasons for such objection. In the event the town has not received a response satisfactory to it, it may then proceed to place its request for termination of the license at a Council meeting. The town shall cause to be served upon the licensee, at least ten days prior to the time and place of such meeting, a written notice of this intent to request such termination, and the time and place of the meeting, notice of which shall be published by the town at least once, ten days before such meeting in a newspaper of general circulation within the town.

(2) In addition to the licensee's right to appeal any declaration of default to arbitration under this section, if the town orders the termination of the license, the licensee shall have the right to appeal the determination of the town within 30 days to any agency or court of competent jurisdiction for de novo review. The town's determination to terminate the license shall not be effective pending final resolution of all appeals under this section.

(3) The Council may, at its sole discretion, take any other lawful action which it deems appropriate to enforce the town's rights under the license in lieu of revocation of the license.

(H) *Jurisdiction and venue.* Any legal action, whether in law or equity, and including any arbitration or other alternative dispute resolution, commenced by either party to the license, shall be commenced in the Superior Court of the state in the State of Arizona, Pinal County.

(Prior Code, Ch. 18, Art. V, § 18-319) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.37 PERFORMANCE EVALUATIONS.

(A) The town may hold a minimum of three performance evaluations in public hearing settings during the term of each license. The Town Manager may determine the times for the hearings and the issues that the licensee must address in the hearings.

(B) Nothing in this section shall prohibit the Town Manager from conducting other performance evaluations and audits in non-public hearing settings as deemed necessary.

(Prior Code, Ch. 18, Art. V, § 18-320) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.38 RENEWAL OF LICENSE.

(A) If a licensee initiates a formal license renewal process under Section 626(a)-(g) of the Cable Act, the licensee must notify the town, at least 30 months and no more than 36 months before the license expiration date. When the town receives a notice from the licensee, or at any time at the town's own initiative, the town shall take the following actions:

(1) The town shall review and evaluate the future cable-related community needs and interests and the licensee's past performance. The review and evaluation shall include opportunity for public comment.

(2) On completion of the review and evaluation, the town shall notify the licensee that it may file a renewal application. The notice shall specify the information to be included in the renewal application and the deadline for filing the application. The filing deadline shall not be earlier than 30 days after the date of the notice. If the licensee does not submit a renewal application by the specified date, the license may not be renewed under this subsection.

(3) The town shall hold one or more public hearings on the renewal application when the application is received or provide some other procedure for public comment on the application.

(4) After the public hearing or comment period, the Town Manager shall recommend to the council that it either:

(a) Renew the license, subject to the negotiation of a license agreement satisfactory to the town and the licensee; or

(b) Issue a preliminary decision that the license should not be renewed.

(5) The Council's action under division (A)(4) must be taken within four months of the date of the renewal application notice to the licensee under division (A)(2).

(B) In considering a renewal application, the town must consider whether:

(1) The cable operator has substantially complied with the material terms of the existing license and with applicable law;

(2) The quality of the cable operator's service, including signal quality, response to consumer complaints, and billing practices has been reasonable in light of community needs (but without regard to the mix or quality, of cable services or other services provided over the system);

(3) The cable operator has the financial, legal, and technical ability to provide the services, facilities, and equipment in its proposal; and

(4) The cable operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting the needs and interests.

(C) If a preliminary decision is made that a license should not be renewed, at the request of the licensee or on its own initiative, the town must commence an administrative proceeding under Section 626(c) of the Cable Act parties to the hearing and the public must have 30 days after the recommended decision is issued to comment. The Town Manager must recommend that the Council grant of deny an application within 30 calendar days after the deadline for receipt of comments.

(D) The Council must hold a public hearing on a renewal application. After the public hearing, the Council must consider all of the evidence, either grant or deny the renewal application by resolution, and give the reasons for its determination in the resolution.

(E) The Council must hold a public hearing on any negotiated license agreement prior to final Council action on the license. This may be done in conjunction with the public hearing held under division (D).

(F) Notwithstanding divisions (A) through (C) in this section, a licensee may submit a proposal for renewal of a license under Section 626(h) of the Cable Act. The town must hold one or more public hearings or provide some other procedure for public comment on the proposal. After the public hearing or comment period, the Town Manager must recommend that the Council grant or deny the license renewal and the terms and conditions of any recommended renewal. A denial under this division shall not affect licensee's renewal rights under Sections 626(a)-(g) of the Cable Act.

(G) The renewal of a license is not effective until the licensee has followed the renewal process and paid the renewal fee. The town shall notify the licensee of the amount of the renewal fee and procedures for renewal.

(H) If the town denies the renewal of a license, the town may, on the recommendation of the Town Manager and with the approval of the Council, acquire ownership of the cable system or transfer ownership of the system to another person. Any acquisition or transfer under this division must be at fair market value, determined on the basis of the cable system valued as a going concern.

(I) If the town does not renew a license, the town has the option of:

(1) Purchasing the cable system;

(2) Requiring the license or surety to remove the facilities and equipment at the licensee or surety's expense; or

(3) Beginning condemnation proceedings and permit the facilities to remain until ownership has been determined or bond/ surety

collected.

(J) If the components of the cable system in, on or above the town's rights-of-way are not removed within one year, the cable system will be considered abandoned and becomes the property of the town.

(Prior Code, Ch. 18, Art. V, § 18-321) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.39 TRANSFERS.

(A) The rights granted under the license may not be transferred, assigned, sublet or subdivided in any way or through any mechanism, including a sale or lease of the cable system or a sale or change in the control of the licensee without the express prior permission of the town, except as otherwise provided under federal law.

(B) The word "transfer" as used herein means a transaction in which control of the licensee is transferred from one person or group of persons acting in concert with another person or another group of persons acting in concert. "Control" for purposes of this section shall mean majority voting control of the licensee; provided that, any financing arrangement, including but not limited to a mortgage or pledge, shall not be deemed a "transfer".

(C) An entity which seeks approval of a proposed transfer shall file an application for approval of that transfer no later than 120 days prior to the proposed effective date of the transfer. In making a determination to approve or disprove the application, the town shall consider the legal, financial, technical or other qualifications of the proposed transferee to operate the cable system in the same manner required by the town for a renewal or new license.

(D) The town shall have 120 days following the submission of the application for transfer to render a decision. At the discretion of the Town Manager, the town shall conduct a public hearing (if necessary) and if the town does not render a decision within 120 days, the transfer shall be deemed approved.

(E) Approval by the town of a transfer of a license does not constitute a waiver or release of any of the rights of the town under this chapter or the license agreement.

(Prior Code, Ch. 18, Art. V, § 18-322) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.40 REVOCATION OR TERMINATION OF LICENSE.

(A) A license may be revoked by the town on the recommendation of the Town Manager and with the approval of the Council, for failure to construct, operate, or maintain the cable system as required by this chapter or the license agreement, or for some other material breach of this chapter or the license agreement. If the town has issued a license specifically conditioned upon the completion of construction or other specific obligations by a specified date under § 118.35(C), failure of the licensee to complete construction or comply with other specific obligations as required will result in the automatic forfeiture of the license without further action by the town. However, the town, at its discretion and for good cause shown by the licensee, may grant an extension of time. The town must give a licensee written notice that it is in material breach of this chapter or the license agreement. If the licensee does not correct the breach within 30 days of the notice, or corrective action is not being actively and expeditiously pursued, the town may give written notice to the licensee of its intent to revoke the license. The town must give the licensee written notice of the basis for a revocation, stating its reasons.

(B) The Council must hold a public hearing, and then determine by written resolution whether or not to revoke the license based the recommendations of the Town Manager, information presented at the public hearing, and other evidence in the record. The resolution must include reasons for the Council's decision.

(C) The town may revoke any license 120 days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the licensee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. The town must hold a public hearing before revoking a license under this division. The town may not revoke a license under this division if, during the 120-day period:

(1) The assignment, receivership, or trusteeship is vacated; or

(2) The assignee, receiver, or trustee has fully complied with the terms and conditions of this chapter and the license agreement and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms, and conditions of the license.

(D) The town may revoke the license if there is a foreclosure or other judicial sale of any of the facilities, equipment or property of a licensee, by serving notice on the licensee and the successful bidder at the sale. The license and all rights and privileges of the license will be revoked 30 days after the town serves notice under this division unless:

(1) The town has approved a transfer of the license; and by the terms and conditions of the license.

(2) The successful bidder has agreed with the town to assume and be bound by the terms and conditions of the license.

(E) If the town revokes a license, or if for any other reason a licensee abandons, terminates, or fails to operate or maintain service to its subscribers, the town may:

(1) Require the former licensee to remove its facilities and equipment at the licensee's or surety's expense, or at the expense of both, after determining that the cable system cannot be economically maintained and operated;

(2) Acquire ownership of the cable system at an equitable market price on the recommendation of the Town Manager and with the approval of the Council;

(3) After a public hearing, sell, assign, or transfer all or part of the assets of a cable system abandoned by a licensee for the best price offer obtainable. However, the legal, character, financial, technical, and other qualifications of the purchaser must meet town approval. The town must pay any consideration received in excess of the town's costs, and after other creditors and subscriber claims have been satisfied, to the original licensee.

(Prior Code, Ch. 18, Art. V, § 18-323) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.41 CONTINUITY OF SERVICE MANDATORY.

(A) It is the right of all subscribers to receive all available services from the licensee if their financial and other obligations to the licensee are satisfied.

(B) If the license is terminated, the licensee must do everything in its power to ensure that all subscribers receive continuous, uninterrupted service. The licensee must cooperate with the town to operate the system for a transition period following termination as necessary to maintain continuity of service to all subscribers. The transition period must not exceed 12 months without the licensee's written consent. During the transition period, the cable system must be operated under terms and conditions to which the town and the licensee agree, or on such other terms and conditions that will continue, to the extent possible, the same level of service to subscribers and that will provide reasonable compensation to the cable operator.

(C) If the licensee discontinues service to its subscribers without town approval, the license may be terminated immediately, and the town may take possession of all facilities and property, real and personal, related to the cable system for the purpose of operating the system. The town may undertake such operation itself or authorize operation by a contractor.

(Prior Code, Ch. 18, Art. V, § 18-324) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.42 UNLAWFUL SOLICITATION OR ACCEPTANCE OF GIFTS.

It is unlawful for any person to solicit, accept, or offer any gift, favor, loan, service, promise, employment, or anything of value to a town official or employee, or for a town official or employee to solicit or accept anything of value, for the purpose of influencing the grant, modification, renewal, transfer, or any other matter affecting a license or the administration or enforcement of this chapter.

(Prior Code, Ch. 18, Art. V, § 18-325) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

§ 118.43 LIQUIDATED DAMAGES.

(A) It is within the authority of the town to impose liquidated damages for a failure by licensee to comply with this chapter. A licensee who fails to comply with this chapter or its license agreement shall result in injuries to the town and the residents, businesses and institutions of the town, the compensation for which will be difficult to ascertain and to prove, and that the liquidated damages amounts the town may impose pursuant to this chapter or a license agreement are not a penalty or forfeiture.

(B) In accordance with this chapter, the town may impose such liquidated damages as follows: Agreement shall result in injuries to

the town and the residents, businesses and institutions of the town, the compensation for which will be difficult to ascertain and to prove, and that the liquidated damages amounts the town may impose pursuant to this article or a license agreement are not a penalty or forfeiture.

(C) In accordance with this chapter, the town may impose such liquidated damages as follows: Failure to comply with all sections within this chapter shall be no more than $300 per day, for each day that such failure continues, unless otherwise specified herein or within a license agreement.

(Prior Code, Ch. 18, Art. V, § 18-326) (Ord. 343-04, passed 6-21-2004; Ord. 366-05, passed 3-7-2005)

CHAPTER 119: LICENSING OF MEDICAL MARIJUANA-RELATED FACILITIES

Section

§ 119.01 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate medical marijuana-related facilities in order to promote the health, safety, morals, and general welfare of the citizens of the Town of Florence and to establish reasonable and uniform regulations to reduce or eliminate the adverse secondary effects from such medical marijuana-related facilities. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access to medical marijuana-related facilities or to deny access by the distributors of medical marijuana to their intended market.

(Ord. 556-11, passed 3-21-2011)

§ 119.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined may be located in the Arizona Revised Statues relating to medical marijuana-related facilities.

EMPLOYEE. A person who performs any service on the premises of a medical marijuana-related facility on a full-time, part-time, volunteer or contract basis, whether or not the person is denominated as employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of the business. ***EMPLOYEE*** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of non medical marijuana-related goods to the premises.

LICENSEE. A person in whose name a license to operate a medical marijuana-related facility has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a medical marijuana-related facility.

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 patient's 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 or a medical marijuana manufacturing facility.

MEDICAL MARIJUANA DISPENSARY. A non-profit entity as defined in Arizona Revised Statutes, that sells, distributes, transmits, gives, dispenses, or otherwise provide medical marijuana to qualifying patients.

MEDICAL MARIJUANA-RELATED FACILITY. Includes any building, structure or premises used for the cultivation, storage, or dispersal of medical marijuana. A ***MEDICAL MARIJUANA-RELATED FACILITY*** shall include a medical marijuana cultivation facility, a medical marijuana dispensary and a medical marijuana manufacturing facility.

MEDICAL MARIJUANA MANUFACTURING FACILITY. A facility that produces medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable goods.

MEDICAL MARIJUANA QUALIFYING PATIENT. A person who has been diagnosed by a qualifying medical practitioner as having a debilitating medical condition as defined in A.R.S. § 36-28.1.

PERSON. An individual, proprietorship, corporation, association or other legal entity.

SPECIFIED CRIMINAL ACTIVITY. Any of the offenses listed in A.R.S. § 36-28.1 as an "excluded felony offense."

TRANSFER OF OWNERSHIP OR CONTROL. Of a medical marijuana-related facility, means and includes any of the following: the sale, lease, or sublease of the business; the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or the establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 556-11, passed 3-21-2011)

§ 119.03 LICENSE REQUIREMENTS.

(A) It is unlawful:

(1) For any person to operate a medical marijuana-related facility without a valid medical marijuana-related facility business license issued by the town pursuant to this chapter;

(2) For any person who operates a medical marijuana-related facility to employ a person to work for the medical marijuana-related facility who is not licensed as a medical marijuana-related facility's employee by the town pursuant to this chapter; and

(3) For any person to obtain employment with a medical marijuana-related facility without having secured a medical marijuana-related facility employee license pursuant to this chapter.

(B) An application for a license must be made on a form provided by the town.

(C) All applicants must be qualified according to the provisions of this chapter prior to issuance of a medical marijuana-related facility business license. The application may request and the applicant shall provide such information as to enable the town to determine whether the applicant meets the qualifications established in this chapter.

(D) If a person who wishes to operate a medical marijuana-related facility is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a medical marijuana-related facility is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a medical marijuana-related facility license shall contain the following information and shall be

accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 21 years of age;

(b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process; or

(d) A limited liability company shall state the company name and the names of all members who own a 20% or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a manager or managers, the company shall also state the name of each person who is a manager of the limited liability company;

(2) If the applicant intends to operate the medical marijuana-related facility under a name other than that of the applicant, he or she must state the medical marijuana-related facility's name and submit the required registration documents;

(3) Whether the applicant has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each;

(4) Whether the applicant has had a previous license under this chapter or other similar medical marijuana-related facility ordinances from another city or county denied, suspended or revoked, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation;

(5) Whether the applicant holds any other licenses under this chapter or other similar medical marijuana-related facility ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

(6) The location of the proposed medical marijuana-related facility, including a legal description of the property, street address, and telephone number(s), if any;

(7) The applicant's mailing address and residential address;

(8) The applicant's driver's license number, social security number, and/or his or her state or federally issued tax identification number;

(9) A copy of all documentation provided to the state as a requirement for state licensing;

(10) Evidence that all conditions of approval as required by a conditional use permit issued by the town have been met and are in compliance; and

(11) A copy of the Arizona Transaction Privilege Tax (TPT) identification number.

(Ord. 556-11, passed 3-21-2011) Penalty, see § 10.99

§ 119.04 EMPLOYEE LICENSE.

(A) Before any applicant may be issued a medical marijuana-related facility employee license, the applicant shall submit on a form to be provided by the town the following information:

(1) The applicant's name or any other name or aliases used by the individual;

(2) Age, date and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state and number of driver's permit or other identification card information;

(7) Social security number; and

(8) Proof that the individual is at least 21 years of age.

(B) Attached to the application form for a medical marijuana-related facility employee license as provided above, shall be the following:

(1) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, town, state or country or has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application; and

(2) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(C) Upon the filing of an application for a medical marijuana-related facility employee license, the application shall be referred to the appropriate town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 60 working days from the date the completed application is filed. After the investigation, the town shall issue a license, unless it is determined that one or more of the following findings is true:

(1) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of 21 years;

(3) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;

(4) The applicant has an open warrant for their arrest;

(5) The medical marijuana-related facility employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter;

(6) The applicant has been denied a license by the town to operate or work in a medical marijuana-related facility within the preceding 12 months or has had a medical marijuana-related facility operating license revoked by the town; or

(7) The applicant has had a medical marijuana-related facility employee license revoked by the town within two years of the date of the current application. Denial, suspension or revocation of a license issued pursuant to this section shall be subject to appeal as set forth herein.

(Ord. 556-11, passed 3-21-2011)

§ 119.05 ISSUANCE AND RENEWAL OF LICENSE.

(A) Within 60 working days after receipt of a completed medical marijuana-related facility business application, the town shall approve or deny the issuance of a license to an applicant. The town shall approve the issuance of a license to an applicant unless it is determined that one or more of the following findings is true:

(1) An applicant is under 21 years of age;

(2) An applicant is overdue in payment to the town of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business;

(3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(4) An applicant has been denied a license by the town to operate a medical marijuana-related facility within the preceding 12 months or whose license to operate a medical marijuana-related facility has been revoked within the preceding 12 months;

(5) An applicant has been convicted of a specified criminal activity defined in this chapter;

(6) The license fee required by this chapter has not been paid;

(7) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter; or

(8) The applicant has an open warrant for their arrest.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the medical marijuana-related facility. All licenses shall be posted in a conspicuous place at or near the entrance to the medical marijuana-related facility so that they may be easily read at any time.

(C) A license granted pursuant to this chapter shall be subject to annual renewal upon the written application of the applicant. Failure to meet any criteria required by federal, state or local requirements shall be grounds to deny the initial license application or any license renewals. The renewal of the license shall be subject to the payment of the fee as set forth herein.

(Ord. 556-11, passed 3-21-2011)

§ 119.06 FEES.

(A) Every application for a medical marijuana-related facility (whether for a new license or for renewal of an existing license) shall be accompanied by an annual application and investigation fee per the Town of Florence Fee Schedule.

(B) In addition to the application and investigation fee required above, every medical marijuana-related facility that is granted a license (new or renewal) shall pay to the town an annual non-refundable business license fee per the Town of Florence Fee Schedule within 30 days of license issuance or renewal.

(C) Every application for a medical marijuana-related facility employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation and license fee per the Town of Florence Fee Schedule.

(Ord. 556-11, passed 3-21-2011)

§ 119.07 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other town departments or agencies to inspect the premises of a medical marijuana-related facility for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(B) A person who operates a medical marijuana-related facility or his agent or employee commits a criminal offense punishable as provided in § 10.99 of the town code, if he or she refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ord. 556-11, passed 3-21-2011)

§ 119.08 EXPIRATION OF LICENSE.

(A) Each license shall expire at the end of each calendar year and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date.

(B) If the town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

(Ord. 556-11, passed 3-21-2011)

§ 119.09 SUSPENSION.

The town shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has committed any of the following:

(A) Violated or is not in compliance with any provision of this chapter; or

(B) Refused to allow an inspection of the medical marijuana-related facility as authorized by this chapter.

(Ord. 556-11, passed 3-21-2011)

§ 119.10 REVOCATION.

(A) The town shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.

(B) The town shall revoke a license if it determines any of the following:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use or sale of an illicit controlled substance on the premises;

(3) A licensee knowingly operated the medical marijuana-related facility during a period of time when the licensee's license was suspended; or

(4) A licensee is delinquent in payment to the town for any privilege taxes or license fees past due.

(C) If the town revokes a license, the revocation shall continue for one year and the licensee shall not be issued a medical marijuana-related facility license for one year from the date the revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(D) After denial of an application, denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

(Ord. 556-11, passed 3-21-2011)

§ 119.11 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a medical marijuana-related facility under the authority of a license at any place other than the address designated in the application.

(Ord. 556-11, passed 3-21-2011)

§ 119.12 INJUNCTION.

A person who operates or causes to be operated a medical marijuana-related facility without a valid license or in violation of any part of this chapter is subject to suit for injunction as well as prosecution for a criminal offense punishable as provided in § 10.99 of the town code. Each day a medical marijuana-related facility operates in violation of any part of this chapter is a separate offense or violation.

(Ord. 556-11, passed 3-21-2011)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: GENERAL PROVISIONS

Section

§ 130.01 SEARCHLIGHTS.

It is hereby declared to be unlawful for any person to operate within the municipality, 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. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

(Prior Code, Ch. 11, Art. I, § 11-2) Penalty, see § 10.99

CHAPTER 131: OFFENSES INVOLVING PUBLIC SAFETY

Section

GENERAL PROVISIONS

§ 131.01 DANGEROUS CONSTRUCTIONS.

It shall be 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, Ch. 11, Art. II, § 11-26) Penalty, see § 131.99

§ 131.02 MAINTENANCE OF WELLS, EXCAVATIONS AND THE LIKE; RESTRICTED.

Any person who shall 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, shall be guilty of a misdemeanor.

(Prior Code, Ch. 11, Art. II, § 11-27)

WEAPONS

§ 131.15 POSSESSION, FIRING OR DISCHARGE OF WEAPONS PROHIBITED.

(A) It shall be unlawful to possess a weapon within any government building or public recreation facility within the limits of the town. It shall also be unlawful to fire or discharge any weapon, explosive or incendiary device, air rifle or pistol, fire works, dart gun or sling shot within the entire limits of the town except:

(1) As allowed pursuant to the provisions of A.R.S. Title 13, Chapter 4, §§ 13-401 *et seq.*;

(2) On a properly supervised range operated by a club affiliated with the National Rifle Association, the Amateur Trapshooting Association, the National Skeet Association or any other nationally recognized shooting organization, any agency of the federal government, state, county or town, or any public or private school, and in the case of air or carbon dioxide gas operated guns, the guns may be fired on ranges set up on private property and with adult supervision;

(3) In an area recommended as a hunting area by the State Game and Fish Department, approved, posted and used as required by the Chief of Police, but any such area may be closed when deemed unsafe by the Chief of Police or the Director of the Game and Fish Department;

(4) For the control of nuisance wildlife by permit from the State Game and Fish Department or the United States Fish and Wildlife Service;

(5) By special permit of the Chief of Police of the municipality;

(6) As required by an animal control officer in the performance of duties as specified in A.R.S. § 9-499.04; and

(7) A certified federal, state, county or municipal law enforcement officer at all times or a federal, state or private corrections or security officer while on or in performance of his or her duty as prescribed by federal or state law.

(B) ***WEAPON*** means any device or substance designed for use to cause or capable of causing death or serious physical injury, including all ***FIREARMS*** as defined in A.R.S. § 13-3101(1) and (4), knives with a blade in excess of three inches, ***EXPLOSIVES***, as defined in A.R.S. § 13-3101(3) or anything designed or intended to be used to create an explosion including ***PROHIBITED WEAPONS*** as defined in A.R.S. § 13-3101(7).

(C) ***GOVERNMENT BUILDINGS*** shall include any structure owned or leased by the town, the town unified school district, the county, the state or the federal government.

(D) ***PUBLIC RECREATIONAL FACILITIES*** shall include all parks, play grounds and community swimming pools, golf courses and club houses, whether owned by a governmental or private entity.

(Prior Code, Ch. 11, Art. II, § 11-36) (Ord. 289-00, passed 2-15-2000) Penalty, see § 131.99

Statutory reference:

Discharge of firearm, see A.R.S. § 13-3107

§ 131.16 RECKLESS HANDLING.

It is a misdemeanor for any person to recklessly or carelessly handle a weapon.

(Prior Code, Ch. 11, Art. II, § 11-37)

§ 131.17 CARRYING OF WEAPON AT PUBLIC EVENT.

Any person other than a peace officer on duty carrying a weapon, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event, to remove his or her weapon and place it in the custody of the operator of the establishment or the sponsor of the event.

(Prior Code, Ch. 11, Art. II, § 11-38)

§ 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) Every person convicted of a violation of § 131.15 shall forfeit the weapon or other device or substance to the town and in addition shall be guilty of a Class 1 misdemeanor, which carries a maximum sentence of a fine of $2,500 and six months in jail.

(Prior Code, Ch. 11, Art. II, § 11-36) (Ord. 289-00, passed 2-15-2000)

CHAPTER 132: OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Section

Cross-reference:

Nuisances, see Chapter 93

§ 132.01 CURFEW FOR MINORS.

(A) *Curfew established.* It shall be unlawful for any juvenile(s) under the age of 18 years to idle or loiter upon the streets or public places of the town between the following hours unless the child is accompanied by a parent(s), guardian(s) or some person(s) of lawful age having custody of the child:

(1) Between 10:00 p.m. and 5:00 a.m. on Sunday through Thursday; and

(2) Between 11:00 p.m. and 5:00 a.m. on Friday, Saturday, holidays and school intercession breaks.

(B) *Parent(s)' and guardian(s)' responsibility.* It is unlawful for the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) to permit the juvenile(s) to be, remain or loiter in, about or upon any place in the town away from the dwelling house or usual place of abode of the juvenile(s). The provisions of this section do not apply in the following situations:

(1) When the juvenile(s) is an emancipated minor;

(2) When the juvenile(s) is accompanied by the parent(s), guardian(s) or other adult person(s) having the care, custody or

supervision of a juvenile(s);

(3) When the juvenile(s) is on reasonable legitimate and specific family business or while participating in an organized and bona fide school or community activity directed or permitted by the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s); and

(4) When the juvenile(s) is involved in an emergency.

(C) *Ignorance not a defense.* It shall not constitute a defense that the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) did not have actual knowledge of the presence of the juvenile(s) in, about or upon any place in the town away from the dwelling house or usual place of abode of the juvenile(s), if the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s), in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the juvenile(s).

(D) *Parent(s)' or guardian(s)' duties upon demand for custody.* In addition to any other powers he or she may have, any law enforcement officer who arrests a juvenile(s) for violating any of the provisions of this section is also empowered to demand of the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s), that the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) take the juvenile(s) into their custody. If the parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) fails to respond and take custody or is unavailable, the officer shall then be empowered to take the juvenile home; provided, however, it shall be unlawful for any parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) to willfully fail or refuse to take the juvenile(s) into custody after the demand is made upon the person(s).

(E) *Violation, penalty.*

(1) Any juvenile who shall violate the provisions of this section shall be guilty of a Class 3 misdemeanor, shall be subject to the fine provided in § 10.99 and the proceedings shall be taken in accordance with and pursuant to the juvenile code as contained in the A.R.S. §§ 8-201 *et seq*.

(2) Any parent(s), guardian(s) or other adult person(s) having the care, custody or supervision of a juvenile(s) who shall violate the provisions of this section shall be deemed guilty of a Class 3 misdemeanor and shall be subject to the penalties provided in § 10.99.

(Prior Code, Ch. 11, Art. III, § 11-61) (Ord. 196-95, passed 7-6-1995; Ord. 231-97, passed 2-8-1997) Penalty, see § 132.99

Statutory reference:

Penalty for violation of curfew ordinances by juveniles, see A.R.S. § 8-323(F)

§ 132.02 NOISE.

(A) *Purpose.* It is hereby declared to be the policy of the town to prohibit excessive, unnecessary and annoying noises from all sources subject to its police power. At and above certain levels, noises are detrimental to the health and welfare of the citizens of the town and it is in the best interest that the noises be systematically eliminated.

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

EMERGENCY VEHICLE. Vehicles of the fire, police and legally authorized ambulances and emergency vehicles of state departments or any political subdivisions thereof, and vehicles of public service corporations.

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

MOTOR VEHICLE. Any self-propelled vehicle operated within the town, including but not limited to licensed or unlicensed vehicles, automobiles, mini-bikes, go-carts and motorcycles.

(C) *Excessive, unnecessary or offensive noise prohibited.* It shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any excessive, unnecessary or offensive noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

(D) *Exemptions from noise level regulations.* The following uses and activities shall be exempt from the provisions contained in

this section:

(1) Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition provided that no unit may create an excessive, unnecessary or offensive noise causing annoyance or discomfort to a reasonable person of normal sensitivity within any sleeping or living area inside any dwelling unit;

(2) Landscape maintenance equipment when it is functioning in accordance with the manufacturer's specifications and with all mufflers and noise reducing equipment in use and in proper operating condition;

(3) Non-amplified crowd noises resulting from activities such as those planned by school, governmental or community groups, or organized sports;

(4) Noises of safety signals, warning devices and emergency pressure relief valves;

(5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;

(6) Noises resulting from emergency work as defined in division (B) above;

(7) Noises from the normal operation of railroad trains;

(8) Noises from church chimes;

(9) Power plant equipment during normal operation;

(10) Noise created by a town vehicle, equipment or facility while being operated for official use;

(11) Operation of agricultural equipment in connection with farming operations; and

(12) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations or air traffic control instructions issued pursuant to or within duly adopted federal air regulation, together with any noise created by aircraft operated under, or pursuant to, declaration of an emergency under federal air regulations.

(E) *Loud radios, sound sets and the like.*

(1) It shall be unlawful for any person to operate a radio receiving set, phonograph or sound producing or sound reproducing mechanism within the town, at any time in such a manner as to create an excessive, unnecessary or offensive noise such that a reasonable person of normal sensitivity in the area is caused discomfort or annoyance.

(2) It shall be unlawful for any person to operate or permit to be operated any radio receiving set, phonograph or sound producing or sound reproducing mechanism within the town in such a manner that the sound from the radio set, phonograph, sound producing or sound reproducing mechanism may be heard off of the premises upon which it is operated in such a manner as to create an excessive, unnecessary or offensive noise such that a reasonable person of normal sensitivity residing in the area is caused discomfort or annoyance.

(F) *Vehicular noise.*

(1) It shall be unlawful for any person within any residential area of the town to repair, rebuild or test any motor vehicle in such a manner as to create an excessive, unnecessary or offensive noise such that a reasonable person of normal sensitivity residing in the area is caused discomfort or annoyance.

(2) No person shall operate or cause to operate any motor vehicle unless the exhaust system of the vehicle:

(a) Is free from defects which may cause sound level magnification;

(b) Is equipped with a muffler; and

(c) Has not been modified in such a manner which will amplify or increase the sound level emitted by the motor of any vehicle above that emitted by a muffler originally installed on the vehicle as manufactured for initial sale.

(3) It shall be unlawful for any person to operate any motor vehicle on any street or highway within the Town of Florence using or operating with the assistance of exhaust brakes, jake brakes or similar devices. It is rebuttal presumption that the use of engine braking, jake brakes or similar devices in a residential area is a public nuisance in violation of § 132.99.

(G) *Construction of buildings and other projects.*

(1) *Noise limitations.* Subject to the provisions of division (C) above, it shall be unlawful for any person to operate equipment or perform any outside construction or repair work on buildings, structures or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist or any other construction type device except within the time periods specified below, unless an appropriate permit has been obtained beforehand from the town.

(2) *Construction start and stop times.*

(a) *Concrete work.* From April 15 to October 15, inclusive, concrete may be poured each day between the hours of 5:00 a.m. and 7:00 p.m. or at the other times as authorized by permit. From October 16 to April 14, inclusive, concrete may be poured each day between the hours of 6:00 a.m. to 7:00 p.m. or at the times as authorized by permit.

(b) *Other type construction (residential zones).* From April 15 to October 15, inclusive, all other construction or repair work shall not begin prior to 6:00 a.m. and must stop by 7:00 p.m. in, or within 500 feet of a residential zone or at the other times as authorized by permit. From October 16 to April 14, inclusive, all other construction or repair work shall not begin prior to 7:00 a.m. and must be stopped by 7:00 p.m. each day in, or within 500 feet of a residential zone or at the other times as authorized by permit.

(c) *Other type of construction (commercial and industrial zones).* Construction and repair work in commercial and industrial zones, not within 500 feet of a residential zone, shall not begin prior to 5:00 a.m. and must stop by 7:00 p.m. or at the other times as authorized by permit.

(d) *Weekends and holidays excluded.* Notwithstanding anything to the contrary herein, construction or repair work shall not begin prior to 7:00 a.m. and must stop by 7:00 p.m. and concrete pouring should not begin prior to 6:00 a.m. and must stop by 7:00 p.m. on any Saturday, Sunday or state or federal holiday, unless the other times as are authorized by permit.

(3) *Permits.* Construction and repair work may be conducted at different times and at higher noise levels than otherwise permitted, if upon written application, a permit is obtained beforehand from the Town Manager or designee. The permit shall be kept on the work site and shown to town officials on request. In granting the permit, the Town Manager or designee shall consider if construction noise in the vicinity of the proposed work site could be less objectionable at night than during the daytime because of different population levels or different neighboring activities, if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime, if the kind of work to be performed emits noise at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is of such a character wherein sleep could be disturbed, if great economic hardship would occur if the work was spread over a longer time, if the work will abate or prevent hazards to life or property, if proposed early morning or night work is in the general public interest and, he or she shall prescribe the conditions, working times, types of construction equipment to be used and permissible noise emissions as he or she deems to be required in the public interest. No permit shall be required to perform emergency work as defined in division (B) above.

(4) *Revocation of permits.* The Town Manager, or his or her designee, may revoke any permit granted hereunder upon complaint based upon substantial evidence that the construction activity caused significant disturbance in the vicinity of the work site.

(Prior Code, Ch. 11, Art. III, § 11-62) (Ord. 199-95, passed 8-8-1995; Ord. 440-06, passed 8-21-2006) Penalty, see § 132.99

§ 132.03 OFFENSIVE BUSINESS.

It shall be 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 municipality.

(Prior Code, Ch. 11, Art. III, § 11-63) Penalty, see § 132.99

§ 132.04 OFFENSIVE PREMISES.

It shall be 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, Ch. 11, Art. III, § 11-64) Penalty, see § 132.99

§ 132.05 ALCOHOL AND DRUG INCAPACITATION.

(A) No person shall be in a public place under the influence of alcohol, toxic vapors, poisons, narcotics or other drugs not therapeutically administered, when it reasonably appears that he or she may endanger himself or herself, or other persons or property.

(B) A person who violates this section is guilty of a Class1 misdemeanor.

(Ord. 578-12, passed 5-21-2012) Penalty, see § 132.99

§ 132.06 PUBLIC URINATION AND DEFECATION PROHIBITED.

(A) It shall be unlawful for any person to urinate or defecate in any public place, roadway, right-of-way, alley, sidewalk, public park or any place exposed to public view, except by proper use of a toilet or other suitable facility provided for this purpose.

(B) A person who violates this section is guilty of a Class 1 misdemeanor.

(Ord. 577-12, passed 5-21-2012) Penalty, see § 132.99

§ 132.99 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 for any provision of § 132.02 shall be deemed and is declared to be a public nuisance and any person who violates any of the provisions of § 132.02 shall be guilty of a Class 3 misdemeanor, and shall be subject to up to 30 days in jail and/or a fine of up to $500. Each day a violation continues or exists shall be a separate offense subject to punishment as a separate misdemeanor.

(Prior Code, Ch. 11, Art. III, § 11-62) (Ord. 199-95, passed 8-8-1995; Ord. 440-06, passed 8-21-2006)

CHAPTER 133: SALE OF PSEUDOEPHEDRINE PRODUCTS

Section

§ 133.01 DEFINITIONS.

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

PSEUDOEPHEDRINE PRODUCT. Any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine, phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Products packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product and any such product packaging shall be admissible in evidence at trial or other hearing pertaining to a violation of this chapter without further foundation.

RETAIL ESTABLISHMENT. Any place of business that offers any pseudoephedrine product for sale at retail.

RETAILER. The owner, operator or employee of a retail establishment, and includes a licensed pharmacist or licensed pharmacy technician working as an independent contractor to the retail establishment.

(Prior Code, Ch. 11, Art. IV, § 11-65) (Ord. 418-06, passed 3-6-2006)

§ 133.02 SECURITY OF PSEUDOEPHEDRINE PRODUCTS.

A retailer shall keep all pseudoephedrine products within the retail establishment behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the retailer. The pseudoephedrine products shall be monitored by the retailer to prevent theft, unauthorized access or unauthorized purchases.

(Prior Code, Ch. 11, Art. IV, § 11-66) (Ord. 418-06, passed 3-6-2006)

§ 133.03 QUANTITY THAT MAY BE SOLD.

It shall be unlawful for a retailer to sell more than nine grams of pseudoephedrine products to a person within a ten day period. Provided, however, that this limit shall not apply to any quantity of pseudoephedrine products sold to a person pursuant to a valid prescription issued to the person.

(Prior Code, Ch. 11, Art. IV, § 11-67) (Ord. 418-06, passed 3-6-2006) Penalty, see § 133.99

§ 133.04 PURCHASER IDENTIFICATION REQUIREMENTS.

A retailer shall require any person requesting to purchase pseudoephedrine products to present a government issued photo-bearing identification prior to the purchase. The retailer shall record the purchaser's name, birth date, transaction date and quantity of pseudoephedrine products purchased. The information obtained pursuant to this section may be destroyed after 120 days. The information shall be disclosed by the retailer to a representative of any state or local law enforcement agency upon presentation of valid agency identification at the time of the request. A retailer shall not be held civilly liable for the disclosure of information to a law enforcement agency in accordance with this section.

(Prior Code, Ch. 11, Art. IV, § 11-68) (Ord. 418-06, passed 3-6-2006)

§ 133.99 PENALTY.

Notwithstanding the provisions of § 10.99, any violation of this chapter is punishable as a Class 1 misdemeanor, including a fine in the amount of $2,500 or 180 days in jail, or both.

(Prior Code, Ch. 11, Art. IV, § 11-69) (Ord. 418-06, passed 3-6-2006)

CHAPTER 134: GRAFFITI ENFORCEMENT AND REMOVAL

Section

§ 134.01 PURPOSE AND INTENT.

(A) The purpose of this chapter is to provide a program for enforcement and abatement of graffiti from public and private property, to reduce blight and deterioration within the town, protect public safety and to expedite removal of graffiti from structures on both public and private property.

(B) The Town Council finds and determines as follows:

(1) The increase of graffiti, on both public and private property is creating a condition within the town which results in blight and deterioration of property values and of the enjoyment of life and property for adjacent and surrounding residents and owners, and contributes to the overall detriment of the town.

(2) Graffiti constitutes a public nuisance and a threat to public safety which must be abated to alleviate the detrimental impact of graffiti on the town, 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.

(4) Perpetrators of graffiti are criminals and should be punished in accordance with the law.

(Ord. 483-08, passed 6-2-2008)

§ 134.02 SCOPE.

This chapter shall apply to all property, real or personal, with surface(s) viewable by the public, within the town without regard to use, date of construction or alteration, or zoning status.

(Ord. 483-08, passed 6-2-2008)

§ 134.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or required a different meaning.

AEROSOL PAINT CONTAINER. Any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

BROAD-TIPPED MARKER. Any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

ETCHING EQUIPMENT. Any tool, device or substance that can be used to make permanent marks on any natural or manmade surface.

GRAFFITI. Any unauthorized inscription, work, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property or, despite advance authorization, is otherwise deemed a public nuisance by the Town Council.

GRAFFITI IMPLEMENT. An aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush, paintball gun or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

OWNER. A person or legal entity listed as the current owner of record in the official records of the County Recorder's office.

PAINT STICK or ***GRAFFITI STICK.*** Any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width.

PROPERTY MANAGEMENT FIRM. Any corporation, partnership or limited liability company licensed pursuant to A.R.S. § 32-2125(a), or a designated broker that by written agreement manages rental property or properties for compensation.

(A.R.S. § 32-2171(1))

PROPERTY. Any building, wall, bridge, street sign, fence, streetlight, sidewalk, street, curbing, sewer or water drains, or any other

structure whether public or privately owned.

RESPONSIBLE PARTY. An owner, managing agent, lessee, co-tenant or occupant of all real property including buildings, grounds, lots or premises, but shall not include any federal, state or local government or agency or political subdivision thereof.

VANDALISM. Any unnecessary act of damaging or defacing property by any means, including, without limitation, by act of affixing, fastening, etching, inscribing, painting, writing or applying any material or other substance to the surface of property without permission from the owner or responsible party.

(Ord. 483-08, passed 6-2-2008)

§ 134.04 GRAFFITI; UNLAWFUL CONDUCT.

(A) *Unlawful.* The following are unlawful:

(1) For any person to apply graffiti to any natural or manmade surface on any public property or on private property without the permission of the owner or responsible party.

(2) For any person under the age of 18 years to possess any graffiti implement while on any school property, grounds, facilities, buildings or structures, or in areas immediately adjacent to those specific locations upon public property or upon private property without the prior written consent of the owner or responsible party of such private property. The provisions of this section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled, if the minor is participating in a class at the school that formally requires the possession of broad-tipped marker(s). The burden of proof in any prosecution for violation of this section shall be upon the minor student to establish the need to possess a broad-tipped marker.

(3) For any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility or other public building or structure owned or operated by the town or other political subdivision.

(B) *Furnishing graffiti implements to minors prohibited.* It shall be unlawful for any person to sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any aerosol paint container, broad-tipped marker or paint stick to any person under the age of 18 years without the written consent of the parents or guardian of the minor. Age shall be verified before the transaction is completed by confirming the person's age with any form of government issued identification with photo.

(C) *Retail display and storage of graffiti implements.*

(1) Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol paint containers, paint sticks or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.

(2) In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks or broad tipped markers in an area as provided above the establishment shall store the containers, sticks and markers in an area not accessible to the public in the regular course of business without employee assistance.

(D) *Signage required.*

(1) Every person who operates a retail commercial establishment selling graffiti implements shall:

(a) Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other graffiti implement is guilty of a misdemeanor crime punishable by jail of up to 30 days and/or a fine of up to $500 plus surcharges."

(b) Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paintball guns, paint sticks or broad tipped markers to persons under 18 years of age is against the law and punishable by a fine of $500 plus surcharges and/or up to 30 days of jail time."

(2) The town shall provide the signage to merchants at no cost; for posting.

(Ord. 483-08, passed 6-2-2008) Penalty, see § 134.99

§ 134.05 VANDALISM/DEFACEMENT PROHIBITED.

It is unlawful for any person to commit an act of vandalism or attempt to commit an act of vandalism or defacement of property that damages or defaces public or private property.

(Ord. 483-08, passed 6-2-2008) Penalty, see § 134.99

§ 134.06 GRAFFITI AS A NUISANCE.

(A) The existence of graffiti on public or private property in violation of this chapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions in this chapter.

(B) It is the duty of both the owner of the property to which the graffiti has been applied and/or the responsible parties to at all times keep the property clear of graffiti.

(Ord. 483-08, passed 6-2-2008)

§ 134.07 REMOVAL OF GRAFFITI BY PROPERTY OWNER, RESPONSIBLE PARTY OR TOWN.

(A) *Property owner responsibility.* It is unlawful for any person who is the owner or who has primary responsibility for the control of property or for repair or maintenance of property in the town, to permit property that is defaced with graffiti to remain defaced for a period of ten days after service by first class mail (return receipt requested) of notice of the defacement or five days after personal service is effected. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property.

(2) A statement that the property is a graffiti nuisance property with a concise description of the conditions leading to the finding.

(3) A statement that the graffiti must be removed within ten days after receipt of the notice or within five days if personal service is effected, and that if the graffiti is not abated within that time, the town will declare the property to be a public nuisance.

(4) If personal service or service by mail cannot be effected on the owner or responsible party, the notice shall then be posted on the property by the entrance or in a conspicuous location for ten days before the town will enter the property to effect removal/remediation.

(5) Violations of Ch. 134 of the town code are a Class 3 misdemeanor offense and punishable by a fine of up to $500 plus 80% surcharges and by up to 30 days in jail.

(B) *Exceptions of property owner responsibility.* The removal requirements of division (A) shall not apply if the property owner or responsible party can demonstrate that:

(1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

(2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit the property to remain defaced with graffiti for a period of ten days after service by first class mail of notice of the defacement or five days if personal service was effected.

(C) *Right of town to remove.*

(1) *Use of public funds.* Whenever the town becomes aware or is notified and determines that graffiti is located on publicly- or privately-owned property viewable from a public or quasi-public place, the town shall be authorized to use public funds for the removal of the graffiti, or for painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than where the graffiti is located, unless the Town Manager, or the designee of the Town Manager, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or remediating the more extensive area. Any work that would be valued at more than $250 in materials and labor shall be performed by a handyman, licensed contractor or by the owner.

(2) *Right of entry on private property.* Prior to entering upon private property, or property owned by a public entity other than the town for the purpose of graffiti removal, the town shall attempt to secure the consent of the property owner or responsible party and a release of the town from liability for property damage or personal injury. If the property owner or responsible party fails to

remove the offending graffiti within the time specified by this chapter, or if the town has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the town and consistent with the terms of this section, the town shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified in the town code.

(D) *Due process/order to show cause hearings.*

(1) The Town Attorney may file a petition in the Municipal Court to compel the removal of graffiti by the property owner and/or responsible party. Upon filing the petition, the court shall set a hearing within seven days to determine if the defacement is graffiti, determine if it is a nuisance and order its removal by the property owner and/or responsible party within 72 hours. The property owner and/or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served by mailing a copy of the petition and a summons to the property owner at the address where the graffiti is located or at the address to which the most recent tax bill has been mailed, if different. If the property owner of record or the responsible party cannot be found after a diligent search, the notice shall be posted on the property by an entrance or conspicuous place for ten days. The Town Magistrate, upon determining graffiti exists and is a nuisance, shall issue an order for the remediation of the graffiti and, within ten days of the order, the town will enter the property and abate the graffiti.

(2) The judgment entered after the hearing may be appealed to the Superior Court in the same manner as established for the appeal of other Municipal Court judgments.

(Ord. 483-08, passed 6-2-2008) Penalty, see § 134.99

§ 134.08 DISCRIMINATORY/OBSCENE GRAFFITI; FAST TRACK REMOVAL.

(A) Graffiti that is offensive to community standards under an objective, of the standard of a reasonable person, that consists of verbiage or symbols that demean or denigrate racial groups, ethnic groups, cultural groups or depict obscene images, shall be removed/abated within 72 hours of notice to the property owner or responsible party. Town personnel may assist with materials and supplies to remove or repair the defacement as part of a graffiti abatement program funded by the town. Failure to remove graffiti by the property owner and/or responsible party is a criminal violation pursuant to § 134.07.

(B) The Town Attorney may file a "fast track" petition for the removal of obscene or discriminatory graffiti in the Municipal Court. The Court shall set the petition for hearing within 72 hours after the date of filing indicated on the petition. The Town Attorney may request that enforcement personnel be directed by the Court to personally serve the property owner or responsible party with the summons giving notice of the date and time of the hearing. The Magistrate shall conduct a hearing to determine if the graffiti is obscene or discriminatory and, if so, shall order its removal by the property owner or responsible party within 72 hours. The order shall state that if the owner or responsible party fails to remove the graffiti as ordered by the Court, the town will abate the graffiti after 72 hours.

(Ord. 483-08, passed 6-2-2008)

§ 134.09 ENFORCEMENT.

The Police Chief or his or her designee is authorized to enforce this chapter.

(Ord. 483-08, passed 6-2-2008)

§ 134.99 PENALTY.

Penalties for violation of any of the provisions of this chapter are as follows:

(A) Any violation(s) of this chapter are a Class 3 misdemeanor punishable by a fine of up to $500 plus 80% surcharges and by up to 30 days in jail.

(B) The Town Magistrate, as part of an offender's judgment and sentencing, may order the offender to perform community service to clean up the community or perform graffiti abatement services for up to 40 hours for a first offense conviction and by up to 200 hours for each subsequent conviction.

(C) Adults shall be sentenced to a minimum of one day in jail for a first offense conviction and shall pay jail costs as part of their

sentence in addition to any fines or other penalties allowed under law.

(D) No property owner or responsible party that is a victim of graffiti on their property will be criminally charged for failing to remediate/remove the graffiti in a timely manner but may be ordered to appear for a due process hearing and order to show cause proceeding to effect remediation by abatement.

(E) Juveniles that are convicted of violations of this chapter shall be sentenced by the Town Magistrate in accordance with A.R.S. § 8-323, including a fine of up to $500 plus surcharges; up to 30 hours of community service to clean up the community and eliminate graffiti; a recognized counseling or educational program approved by the Presiding Judge of the Juvenile Court or Supreme Court, and may order the juvenile's driver's license suspended for up to 180 days.

(F) Parent(s) or guardian(s) of juveniles convicted of any violation of the anti-graffiti provisions of this chapter are liable for the costs of the damage, restoration and repair expenses to the property owner and/or town up to $10,000 as per A.R.S. § 12-661 et. seq.

(Ord. 483-08, passed 6-2-2008)

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: DEVELOPMENT CODE

Section

Definitions

Zoning Districts

Regulations

Part 1. General Provisions

Part 2. Outdoor Lighting Control

Part 3. Sign Regulations

Part 4. Landscape Standards

ADMINISTRATION AND PROCEDURES

§ 150.001 TITLE.

These regulations shall be known and cited as "The Development Code of the Town of Florence" (hereinafter known as the "Development Code").

(Prior Code, Ch. 4, Art. I, § 4-1) (Ord. 432-06, passed 6-19-2006)

§ 150.002 PURPOSE.

This Development Code of the Town of Florence, Arizona, (hereinafter "town") is hereby adopted for the following purposes:

(A) (1) To promote and protect the health, safety and welfare of the residents of the town and to establish land use classifications, dividing the town into districts, imposing regulations, prohibitions and restrictions for the promotion of health, safety, convenience, aesthetics and welfare, governing the use of land for residential and nonresidential purposes, regulating and limiting the height and bulk of buildings and other structures, limiting lot occupancy and the size of yards and other open spaces, establishing standards of performance and design, adopting a map of the districts, prescribing penalties for violations of the Code and repealing all codes in conflict therewith.

(2) Furthermore, these regulations are deemed necessary to ensure orderly growth and harmonious development of the

municipality to ensure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions and public facilities, achieve individual property lots of reasonable utility and livability, secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements, ensure consideration for adequate sites for schools, recreation areas and other public facilities, promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose. In its interpretation and application, the provisions of this Development Code are intended to provide a common ground of understanding and equitable working relationship between public and private interests to the end that both independent and mutual objectives can be achieved in the subdivision of land.

(B) This Development Code shall be considered the minimum requirements necessary for the promotion of the general plan as amended from time to time, for the protection of the citizens of the town.

(Prior Code, Ch. 4, Art. I, § 4-2) (Ord. 432-06, passed 6-19-2006)

§ 150.003 EFFECTIVE DATE, REPEAL AND SEVERABILITY.

This chapter shall be in full force and effect from and after July 19, 2006.

(Prior Code, Ch. 4, Art. I, § 4-3) (Ord. 432-06, passed 6-19-2006)

§ 150.004 ENFORCEMENT, INTERPRETATION AND CONFLICT.

(A) *Enforcement.* The Office of Planning Director shall have the responsibility for enforcement of this Development Code.

(B) *Interpretation*. When the provisions of this Development Code are interpreted or applied, they shall be held to be the minimum requirements for the promotion of the pubic safety, health and general welfare.

(C) *Conflict.* The provisions of this Development Code are not intended to interfere with, abrogate or annul any code, rule, regulation or permit previously adopted or issued, and not in conflict with any provision of this Development Code, or which shall be adopted or issued pursuant to law relating to the use of building or Code not in conflict with this Development Code; nor is it intended by this Development Code to interfere with, abrogate or annul any easement, covenant or other agreement between parties, except when this Development Code imposes a greater restriction, this Development Code shall control.

(Prior Code, Ch. 4, Art. I, § 4-4) (Ord. 432-06, passed 6-19-2006)

§ 150.005 COMPLIANCE.

No building or land shall be devoted to any use other than a use permitted in the zoning district in which the building or land shall be located, with the exception of the following:

(A) Uses lawfully established as of the effective date of this comprehensive amendment;

(B) Analogous uses;

(C) Accessory uses customarily incidental to the permitted uses; and

(D) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but the temporary buildings shall be removed upon completion or abandonment of the construction work.

(Prior Code, Ch. 4, Art. I, § 4-5(b)) (Ord. 432-06, passed 6-19-2006)

§ 150.006 INJUNCTION.

(A) *Injunction*. If any building or maintained structure is constructed, reconstructed, altered, repaired, converted or any building, structure or land is used in violation of this Development Code, the town, any owner or tenant of real property affected by the building or structure in question, in addition to other remedies, may institute any appropriate action or proceedings:

(1) To prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance or use;

(2) To prevent the illegal act, conduct, business or use in or about the premises;

(3) To prevent occupancy of the building, structure or land whether improved or otherwise; and

(4) To restrain, correct or abate the violation.

(B) When any action is instituted by an owner or tenant, notice of the action shall be served upon the municipality at the time suit is begun by serving a copy of the complaint on the Manager or designee thereof.

(C) In any action or proceeding, the court with jurisdiction thereof has the power and in its discretion may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon the terms and under the conditions as will do justice and enforce the purpose of this Development Code.

(Prior Code, Ch. 4, Art. I, § 4-6) (Ord. 432-06, passed 6-19-2006)

§ 150.007 PLANNING AND ZONING COMMISSION.

See §§ 32.105 and 32.106.

(Prior Code, Ch. 4, Art. I, § 4-7) (Ord. 432-06, passed 6-19-2006)

§ 150.008 BOARD OF ADJUSTMENT; APPEALS.

(A) *Creation.* There is hereby created a Board of Adjustment, the membership of which shall consist of the Mayor and Town Council of the town and, the word ***BOARD*** when used in this Development Code, shall mean the Mayor and Council when sitting as the Board of Adjustment.

(B) *Meetings, oaths and witnesses.* All meetings of the Board shall be held at the call of the Chairperson and at the other times as the Board may determine. All meetings of the Board shall be open to the public. The Chairperson, or in the Chairperson's absence, the acting Chairperson may administer oaths and compel the attendance of witnesses in accordance with the laws of the state.

(C) *Procedure.* The Board shall make and publish rules and regulations to govern its proceedings. The presence of four members shall constitute a quorum. The concurring vote of a majority of the Board shall be necessary to reverse an order or decision of an administrative official, or to effect any variations from the terms and conditions of this Development Code. The minutes and records of all Board proceedings shall be kept and filed as public record in the office of the Town Clerk. The Board may call on the administrative staff of the municipality for assistance in the performance of its duties, and it shall be the duty of the departments to render the assistance to the Board as may be reasonably required.

(D) *Powers and duties.* The Board of Adjustment shall have the power and jurisdiction to hear those matters set forth in this Development Code.

(E) *Appeals of administrative decisions.*

(1) Appeals may be taken to the Board of Adjustment by persons aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of an administrative official within 30 days by filing with the officer from whom the appeal is taken and with the Town Clerk, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(2) An appeal shall stay all proceedings in the matter appealed from, unless the officer from whom the appeal is taken certified to the Board that, by reason of the fact stated in the certificate, the stay would in the officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board or by a court of record on application and notice to the officer from whom the appeal is taken. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties in interest and the public.

(Prior Code, Ch. 4, Art. I, § 4-8) (Ord. 432-06, passed 6-19-2006)

Cross-reference:

For other town boards and commissions, see Ch. 32

§ 150.009 VARIANCES.

(A) *Application*. Application for a variance to property development standards shall be made to the Board of Adjustment in the form of a written application. The application shall be filed with the Town Clerk upon a form provided by the Town Clerk, and shall be accompanied by:

(1) *Plans*. Plans and description sufficient to indicate the nature of the project involved and the proposed use with ground plans and elevation of all proposed buildings, together with an estimate of cost.

(2) *Period of approval*. 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 the variance.

(B) *Fee*. A filing fee pursuant to the town fee schedule shall accompany each application. If the Board of Adjustment finds that it has no jurisdiction to hear the matter, the filing fee shall not be refunded to the applicant. From the time of filing the application until the time of the hearing, the application and all maps, plans and other accompanying data shall be available for public inspection during office hours at the office of the Town Clerk.

(C) *Hearing and notice*. Upon receipt in proper form of any application, the Board of Adjustment shall proceed to hold a public hearing upon the application within 45 days after the filing at which time all persons shall be given an opportunity to be heard. The Board of Adjustment shall cause one notice of the hearing to be published in a newspaper of general circulation in the area of the municipality and shall cause to be posted three notices of hearing, one of which shall be on the subject property and the other two within 300 feet thereof, giving at least ten-days' notice of the hearing, and the time and place where the hearing will be held. The notice, both as published and posted, shall also show the nature of the variance or exception requested and state that anyone wanting to be heard may appear in person or by writing.

(D) *Findings*. A variance from the provisions of this Development Code shall not be authorized unless the Board shall find upon sufficient evidence:

(1) There are special circumstances or conditions applying to the land, building or use referred to in the application which do not apply to other properties in the district;

(2) The special circumstances were not created by the owner or applicant;

(3) The condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation for the conditions or situations (if, in the Board's opinion, the formulation of a general regulation is more appropriate than a variance, the Board shall table its consideration of the application and communicate to the Council its recommendation for a general regulation; should the Council not act upon the recommendation within 30 days, the Board shall reconsider the application);

(4) The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights; and

(5) The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, the neighborhood or the public welfare in general.

(E) *Action*. The Board shall prescribe in connection with any variance the conditions, as the Board may deem necessary in order to fully carry out the provisions and intent of this Development Code. The conditions may include, among other things, a limitation of the time for which the variance shall be valid. Violation of any condition shall be a violation of this Development Code, and the violation shall render the variance null and void.

(F) *Review*. Any person aggrieved by a decision of the Board may, within 30 days after the decision of the Board, and not thereafter, petition the Superior Court to review the Board's decision pursuant to A.R.S. § 9-462.06, as amended, and the Superior Court Rules for Special Actions.

(Prior Code, Ch. 4, Art. I, § 4-9) (Ord. 432-06, passed 6-19-2006)

§ 150.010 ADMINISTRATIVE STAFF.

(A) *Creation*. There is hereby created the position of Planning Director who shall be hired by the town. The Planning Director shall be responsible with enforcement of this Development Code. As used in this Development Code, ***PLANNING DIRECTOR*** shall include staff authorized by the Planning Director.

(B) *Powers and duties.* The Planning Director shall perform the following functions:

(1) Enforce this Development Code by ensuring that all activities, construction and development within the town are in conformance with the town zoning regulations;

(2) Accomplish all administrative tasks required by this Development Code including informing and processing applications for all persons requesting a re-zoning, use permit, plan review, variance, appeal or other action of the Planning and Zoning Commission, Board of Adjustment or Town Council; and

(3) Subject to the policies of the Planning and Zoning Commission and Town Council, interpret this Development Code to members of the public, town departments and other branches of government. Serve as planning staff to the Town Council and Planning and Zoning Commission, and, as necessary, attend meetings of these and other organizations and agencies.

(Prior Code, Ch. 4, Art. I, § 4-10) (Ord. 432-06, passed 6-19-2006)

§ 150.011 TECHNICAL ADVISORY COMMITTEE.

(A) *Creation and composition.* The Technical Advisory Committee (hereinafter "Committee") is created which shall consist of a maximum of nine members, which may include the Town Manager, Planning Director, Building Official, Town Engineer, Senior Planner, Economic Development Director, Fire Chief, Police Chief and the Public Works Director or designees.

(B) *Conflict.* When any Committee member has direct pecuniary or proprietary interest in any matter before the Committee, the member shall be excused and refrain from participating in voting on any matters over which the conflict occurs while being considered by the Committee.

(C) *Meetings.* Meetings shall be at the call of the Planning Director, or designee, or on an as-needed basis. Minutes showing the actions of the Committee shall be compiled, distributed to Committee members and a copy shall be kept in the Planning and Zoning Department. The Planning Director, or designee, shall serve as Chairperson to the Committee and a person designated by the Planning Director shall serve as Secretary.

(D) *Intent.* The Committee review of development plans and proposals is intended to provide guidance and direction to a prospective developer or builder in order to achieve site development that conforms with the town's general plan, Town Code and regulations and its goals for quality development in the community. Technical review is intended to promote safe, attractive, harmonious and compatible development within the town and is, therefore, considered to be in the interest of the public health, safety and general welfare. Complete submittal requirements for technical review are outlined in § 150.015(B).

(E) *Powers, duties and jurisdiction.* The Committee shall have power to recommend, conditionally recommend or deny any application, not in compliance with this Development Code. The applicant shall be responsible for proving that the intent and purpose of this Development Code and other applicable provisions of the Town Code will be satisfied.

(1) The Committee, upon hearing an application, may impose reasonable conditions to carry out the intent of this Development Code. Violation of any of these conditions shall be considered a violation of this Development Code, and shall render any permit null and void.

(2) Prior to development, construction, remodel, change or alteration of any project subject to technical review, the property owner or designated agent shall secure written approval from the Planning Director or designee. Technical review is required for multi-family projects, manufactured home subdivisions, recreational vehicle parks, commercial and industrial developments, public facilities, public and private utilities and other uses identified in zoning districts as required by this Development Code.

(F) *Review.* The Committee shall review and comment on all residential, commercial or industrial developments which contain four or more dwelling units, businesses or buildings but which do not constitute a subdivision.

(G) *Planning Commission review.* Subsequent to the review by the Committee, and prior to submission to the Town Council, all projects requiring technical review shall appear before and present their case to the Planning Commission. The Planning Commission shall forward the case (with its recommendation for approval or denial) and any suggested stipulations and/or changes to the submission to the Town Council for its review.

(H) *Town Council review.* Where required by the provisions of this Development Code, or as stipulated to by a Council action on a zoning amendment or otherwise, applications for technical review shall also be submitted to the Town Council for consideration following the required review by the Committee. When Council review and approval is required of the applications, the action of the Committee on the project shall constitute only a recommendation. If the Council finds that a site plan does not meet the intent of this

Development Code or the review criteria, the Council may disapprove the site plan.

(I) *Period of approval.* An approved plan shall be valid for a period of 180 days from the date of approval and shall become invalid if a building permit has not been issued in that time. Up to an additional 180 days may be granted by the Planning Director or designee, upon written request of the applicant or Council, when Council review and approval is required.

(J) *Appeal procedure.* An applicant may appeal the decision of the Committee to the Town Council if that appeal is made in writing and filed with the Town Clerk within 60 days of the Committee's written decision. The appeal shall give the reasons for that appeal and the relief requested. The Town Council may affirm, modify or reverse the decision of the Committee. Appeals from a Town Council decision shall be heard by a state court of competent jurisdiction.

(Prior Code, Ch. 4, Art. I, § 4-11) (Ord. 432-06, passed 6-19-2006)

§ 150.012 SITE PLAN: APPLICATION, CONTENT AND REVIEW.

(A) *Application.* The Town Planning Department shall prescribe the form and content of applications and necessary accompanying data. Application shall be filed with the Planning Director or designee. Applications shall be made by the owner of the property or an agent authorized by a letter from all owners of the property.

(B) *Content.* A site plan shall include the following information:

(1) *Technical review.* An accurate site plan on a minimum 18-inch by 24-inch sheet (or other as determined by the Planning Director) drawn at an appropriate scale showing the boundaries and dimensions of the site, acreage of the site, a north arrow, existing zoning of the site and contiguous property, dimensions and center-lines of all streets, dimensions of all alleys and easements bounding or touching the site, dimensions from all street center lines to existing curb, gutter, sidewalk, water lines, sewer lines and irrigation lines, location, dimensions, direction and bearing of any major physical features such as railroads or drainage ways and existing topographic contours at intervals of not more than two feet.

(2) *Development information.* Proposed grading of the site, proposed public dedications, if any, within the site, proposed location, proposed grade, dimensions and use of all buildings, structures and signs to be located on the site.

(3) *Provisions of services.* Location, quantity and typical stall dimensions of off-street parking and loading facilities, points of ingress to and egress from the site, including width of curb cuts, water, sewer, electric, gas and other public and private utility line sizes and locations, internal circulation, refuse collection areas, fire lanes and fire hydrants, off-site improvements and street lighting.

(4) *Provision of amenities.* Proposed location of open space and recreational facilities on the site, location and type of landscaping, location and height of screen walls and, location and specifications for any other proposed features of development contributing to the use of the site and to the compatibility of the proposed development with the surrounding area.

(5) *Calculations.* As applicable to the proposed development, calculations shall be tabulated on the map for storm water retention, parking spaces, number of dwelling units, compute density of dwelling units as provided in the town general plan, area of open space, building floor area by category of use and percentage and area of coverage of the site.

(Prior Code, Ch. 4, Art. I, § 4-12) (Ord. 432-06, passed 6-19-2006)

§ 150.013 DESIGN REVIEW.

(A) The purpose of design review is to:

(1) Promote development consistent with the town's codes, policies, guidelines, zoning regulations and overall goals and vision per the town's general plan;

(2) Ensure that development is compatible and in character with the surrounding area;

(3) Provide an opportunity to address site plan, architectural, engineering and other development issues at a preliminary level to facilitate the subsequent preparation of construction plans, and to assist in expediting permitting and development activities; and

(4) Allow an opportunity to review the aesthetic and functional aspects of a proposed development or project.

(B) Projects within planned unit developments, including single-family homes; multiple-family developments, including

condominiums and townhomes; office; commercial; mixed-use; institutional; and industrial projects, are subject to the design review process if any one of the following requirements is met:

(1) Project or development includes new or modified vertical (above grade) development or construction components, including permanent signs, that require a building permit, except as noted in divisions (C) and (D) below; and/or

(2) Project includes new or modified horizontal project components, such as parking areas, driveways, circulation areas, landscape areas, outdoor storage areas, retention basins, parks and/or similar site elements, except as noted in divisions (C) and (D) below.

(C) Grading plans, civil improvement plans, underground utility installations and similar projects, as may be determined by the Planning Director, are exempt from the design review process.

(D) Interior remodels or tenant improvements that do not alter the exterior dimensions or physical appearance of a structure and/or the historical integrity of a structure within the town's historic district, are exempt from the design review process.

(E) Applications for design review shall be submitted to the Planning Department and shall contain, where applicable:

(1) Completed design review application forms and fee;

(2) Site plan showing all existing and proposed improvements; rights-of-way; and easements;

(3) Parcel data, including parcel number and/or legal description; lot dimensions; setbacks; floor area ratio; building heights; lot coverage; and other relevant data;

(4) Building elevations;

(5) Conceptual landscape plan;

(6) Preliminary grading and drainage plan for site and development context;

(7) Materials and colors exhibits;

(8) Signage plan;

(9) Applicable utility information; and

(10) Other ancillary documentation required to complete the review as supported by applicable town code and guidelines.

(F) Town staff shall review the design review application for the following:

(1) The proposed development complies with all provisions of this Development Code and all other ordinances, master plans, general plans, guidelines, goals, objectives and standards of the town;

(2) Building heights, building locations, access points and parking areas of the proposed development will not negatively impact adjacent properties or the surrounding neighborhood;

(3) The proposed development promotes a functional relationship of structures to one another, to open spaces and to topography, both on the site and in the surrounding neighborhood;

(4) The height, location, materials, color, texture, area, setbacks and mass, as well as parts of any structure (buildings, walls, signs and lighting) and landscaping is appropriate to the development, the neighborhood and the community;

(5) Ingress, egress, internal and external traffic circulation, off-street parking facilities, loading and service areas, and pedestrian ways are designed as to promote safety and convenience;

(6) The architectural character of the proposed structure is in harmony with, and compatible to, structures in the neighboring environment and the architectural character desired for the town; avoiding excessive variety or monotonous repetition; and

(7) All mechanical equipment, appurtenances and utility lines are concealed from view and integral to the building and site design.

(G) Town staff will review the design review application materials and will determine whether the design review application shall be reviewed by town staff or forwarded to the Planning and Zoning Commission.

(H) Design review applications reviewed by town staff shall include applications for:

(1) Attached signs, except where required by the planned unit development or comprehensive sign plan or within the historic district;

(2) Landscaping, parks and recreational fields, except for commercial recreational facilities; and/or

(3) Projects on less than one acre and/or involving less than 10,000 square feet of floor/building area, except for projects within the historic district.

(I) Design review applications can be approved, approved with conditions, or denied. Design review decisions rendered by town staff can be appealed within 15 days to the Planning and Zoning Commission.

(J) Design review applications that are ineligible for staff review or staff reviewed design review decisions subject to appeal shall be forwarded for consideration and recommendation to the Planning and Zoning Commission. The Planning and Zoning Commission shall hear the application at a scheduled meeting, shall review the findings of staff, and shall either:

(1) Approve the application;

(2) Deny the application; or

(3) Approve the application with conditions.

(K) If the application is found to be lacking, or in noncompliance with any of the items of this Development Code, and adequate resolution cannot be ensured by the applicant, the application shall be denied, and the applicant shall be provided a written response by the Planning Department, stating the reasons for denial. The applicant may appeal the Planning Commission's decision to the Council within 15 days of the decision. The appeal letter shall describe the unresolved issues and describe what design solutions are proposed by the applicant. The applicant shall be notified of the date of the Town Council meeting to consider the appeal a minimum of 15 days prior to the public meeting. The decision of the Town Council shall be final.

(Prior Code, Ch. 4, Art. V, § 4-461) (Ord. 432-06, passed 6-19-2006; Ord. 605-13, passed 2-3-2014)

§ 150.014 ZONE CHANGES; AMENDMENTS.

(A) *Intent.* Regulations set forth in this Development Code and boundaries of zoning districts established by the town may be amended, supplemented, changed, modified or repealed when deemed necessary to best serve the public interest, health, comfort, convenience, safety and general welfare of the citizens of the town.

(B) *Review.* Upon receipt of an application for an amendment, including requests for use permits and special use permits, the Planning Director or designee, shall review the application for completeness and applicability to this Development Code and the general plan, comment on the proposal and shall adhere to the posting and publication requirements required by state law, including compliance with the citizen review process provided in § 150.019, prior to the public hearing before the Planning Commission. Requests for amendments shall be considered by the Planning Commission for the purpose of making a written recommendation, which shall, after holding a public hearing at which parties of interest and citizens have been heard, include the reasons for the recommendations to the Mayor and Council.

(1) The Town Council may adopt the recommendation of the Commission without holding a second public hearing if there is no objection, request for public hearing or other protest.

(2) The Town Council shall hold a public hearing if requested in writing by the applicant, or by any person appearing in opposition at the Commission hearing, or by any person who has filed a written protest, in accordance with state law.

(3) If an application for amendment is denied by Council, or the application is withdrawn after Commission hearing, the Commission shall not consider an application for the same amendment within one year from the date of the original hearing.

(C) *Adoption.* Adoption of an amendment may be subject to the conditions as the Council deems applicable to enforce this Development Code. If one condition is a schedule for development of specific uses for which zoning is requested, and at expiration of that period the property has not been developed according to the schedule, it may be reverted to its former zoning classification by the Town Council.

(D) *Application.* An application for an amendment shall be filed and signed by:

(1) The owner of the property;

(2) One or more of several joint owners of property whose ownership constitutes a majority interest in the property;

(3) Seventy-five percent or more of the owners of property in the area to be affected, when the application affects more than one property; or

(4) An agent of any property owner(s) authorized to sign as above, when the authority of the agent is in writing and filed with the application.

(E) *Protests*. If the owners of 20% or more of either the area of the lots included in a proposed ordinance or zoning map change, or those immediately adjacent in the rear or any side extending 150 feet therefrom, or those directly opposite extending 150 feet from the street frontage of opposite lots, file a protest in writing against a proposed ordinance amendment, the amendment shall not become effective except by favorable vote of three-fourths of the Council. If any member of the Council is unable to vote because of a conflict of interest, then the required number of votes shall be three-fourths of the remaining Council members (provided that required number of votes shall not be less than a majority of the full Council).

(F) *Annexation*. Areas, when annexed to the town, shall, until officially zoned by the Council, be considered to be zoned to densities and uses no greater than those permitted by the county immediately prior to the annexation.

(Prior Code, Ch. 4, Art. I, § 4-13) (Ord. 432-06, passed 6-19-2006)

§ 150.015 CONDITIONAL USE PERMITS.

(A) *Purpose*. Because there are some uses, which may be beneficial to have within certain zones, and because these uses may not be completely compatible with adjoining or nearby permitted uses if not specifically controlled, this division permits these uses after certain conditions have been met. The process outlined here will allow the Planning and Zoning Commission and Council to review and approve or disapprove applications for these uses. It will also allow for the modification of an application, if desired, to make it more harmonious and compatible with adjoining and/or nearby uses.

(B) *Permitted uses*. Only those uses listed in the conditional use section of each zone shall be permitted under the process provided for by this division.

(C) *Application*. Application for a conditional use permit shall be made by a property owner or authorized agent upon forms provided by the municipality. All information requested on the application form must be completed before the application will be processed.

(D) *Public hearing*. After receipt of a completed application form under this division, including filing fee and list of property owners within 300 feet of the property, items shall be placed on the Planning and Zoning Commission's agenda for public hearing within 60 days after receipt of the application.

(E) *Notice*. Notice of the public hearing before the Planning and Zoning Commission shall be given in the manner established in § 150.014. In proceedings that are not initiated by the property owner, notice of the public hearing shall also be mailed to the owners of property within 300 feet of the subject property. This mailing shall occur at least 15 days prior to the public hearing.

(F) *Action by Commission*. Within 35 days of the public hearing under this division, the Planning and Zoning Commission shall recommend approval, approval with conditions or disapproval of the application. Notice of the recommendation shall be sent to the Council and the applicant.

(G) *Review*. In reviewing an application for a conditional use permit, the Planning and Zoning Commission shall consider:

(1) The site of the proposed use and the surrounding land uses;

(2) Access to the site; and

(3) The impact on adjoining and surrounding property if the application is approved.

(H) *Conditions*. In making its recommendation, the Planning and Zoning Commission may include conditions which are deemed necessary to protect the public health, safety and general welfare. These conditions may include, but are not limited to:

(1) Regulation of use;

(2) Special yard requirements;

(3) Special buffers, fences or walls;

(4) Special parking areas;

(5) Street dedications and/or improvements or appropriate bonds;

(6) Regulation of access points;

(7) Sign restrictions;

(8) Required maintenance of yard;

(9) Regulations of odors, noise, light or other special environmental factors;

(10) Restrictions of hours of activity;

(11) Duration of use;

(12) Completion of development; and

(13) Other conditions which will make the proposed use more compatible and harmonious with the surrounding land uses. In no case, however, shall these conditions be less restrictive than those found in the existing zoning classification.

(I) *General requirements.* In addition to any of the above special conditions, the Planning and Zoning Commission and Council shall impose the following general requirements on every conditional use permit which is granted:

(1) No conditional use approval shall be final until all conditions imposed have been met;

(2) All of the special conditions shall constitute restrictions which run with the land and which shall be binding upon the owner of the land, successors or assigns;

(3) The special conditions imposed by the Planning and Zoning Commission and/or Council shall be consented to in writing by the applicant prior to issuance of a conditional use permit; and

(4) The resolution of the Council granting the application together with all consent forms shall be recorded by the Recorder of the county.

(J) *Action by Council.* Upon receipt of a recommendation under this division from the Planning and Zoning Commission, the Council shall approve, approve with conditions or deny the application. Before acting on the application, the Council may hold a public hearing on the application. If it does, notice of the hearing will be in compliance with § 150.014. If it does or does not hold a public hearing, the Council will approve, approve with conditions or disapprove the application within 30 days of receiving a recommendation from the Planning and Zoning Commission.

(K) *Protests.* If written protests are received to an application filed under this Development Code, the regulations of § 150.014(E) shall apply.

(L) *Revocation.* The Council, acting on the recommendation of the Planning and Zoning Commission or on its own, may revoke any conditional use permit for noncompliance with any of the conditions set forth in the resolution granting the permit. This revocation shall occur by resolution of the Council after a public hearing, notice for which shall be in accordance with § 150.014. Written notice of the possibility of revocation shall be mailed to the applicant or successor not less than 30 days prior to the Council meeting at which the issue will be discussed. The revocation of a conditional use permit shall have the effect of denying all rights and privileges granted by the approval of the conditional use permit.

(M) *Time limit.* If an established time limit for development expires or if a time limit for the duration of the carrying on of the conditional use has been established as a of the condition of approval, the permission for the use shall be considered to be revoked upon the date of expiration without any notification to the applicant or successor.

(N) *Alteration of structures.* Any proposed changes, either additions, enlargements or modifications of the structures approved in any conditional use permit or any proposed extension of the uses into areas approved in any permit shall follow the same process as outlined in this division. No building permit for any change shall be issued unless the Council has approved the change.

(Prior Code, Ch. 4, Art. I, § 4-14) (Ord. 432-06, passed 6-19-2006)

§ 150.016 EXCEPTIONS AND MODIFICATIONS.

Regulations specified in this Development Code shall be subject to the following exceptions, modifications and interpretations:

(A) *Extension of time.* Under special conditions, the Council may grant extensions of time unless otherwise set forth in this Development Code.

(B) *Use of existing lots of record.* In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record that existed on the effective date of this Development Code, which does not meet area and/or width requirements of this Development Code.

(C) *Structures permitted above the height limit.* Building height limitations of this Development Code may be modified as follows: public, semi-public or public service buildings, sanitariums, schools, churches and temples, when permitted in a district, may have the applicable height limit waived by the Town Council, provided that each setback is increased one foot for each foot of additional building height above the height limit otherwise provided in that district.

(D) *Area requirements.* In any residential district where neither the public water supply nor public sanitary sewer is accessible, lot area and frontage requirements shall be consistent with county or state health requirements and meet the minimum requirements of the zone district in which it is located.

(E) *Other exceptions to yard requirements.* Every part of a required yard shall be open to the sky, unobstructed by any structure, except for permitted accessory buildings, and except for ordinary projections of sills, bay windows, cornices and other features permitted elsewhere in this Development Code.

(F) *Mixed-use yard requirements.* When buildings are erected containing two or more uses housed vertically, required side yards for the first floor use shall control.

(Prior Code, Ch. 4, Art. I, § 4-15) (Ord. 432-06, passed 6-19-2006)

§ 150.017 APPLICATIONS AND FEES.

(A) *Applications.* Applications for use permits, appeals, variances, amendments and design review shall be made in the Office of the Planning Director on forms provided. Applications shall contain the following information supplied by the applicant:

(1) *Vicinity ownership map.* Drawn to scale, at least eight and one-half inches by 11 inches, showing all parcels adjacent to and surrounding the property within a radius of 150 feet from exterior boundaries.

(2) *Ownership lists.* Typed in the form of mailing labels, containing complete names and mailing addresses of owners and parcel designations within a radius of 300 feet of the boundaries of the property.

(3) *Plot plan.* Drawn to scale, at least eight and one-half inches by 11 inches by 17 inches, or as otherwise required by this Development Code, showing dimensions of the property, name and width of the internal and abutting streets, roads or alleys and existing buildings, fences and easements (with distances to property lines).

(4) *Legal description of property.* Either lot or tract of a recorded subdivision, or metes and bounds description prepared by a registered Engineer and licensed land surveyor and map of the same.

(5) *Letter of explanation.* Explaining the nature and intent of the proposed development, reasons justifying the request and expected effects upon surrounding neighborhoods and the town at- large.

(6) *Additional materials.* Development plans, elevations, maps and other materials may be required (in accordance with other stipulations of this Development Code).

(B) *Fees.* Fees for all matters pertinent to the administration of this Development Code will be set from time to time by resolution of the Town Council, including but not limited to the following:

(1) General plan amendment;

(2) Request for re-zoning or special use;

(3) Code text amendment;

(4) Design review;

(5) Appeal of site plan decision to Town Council;

(6) Amendment to an approved site plan;

(7) Use permit;

(8) Variance;

(9) Code interpretation;

(10) Extension of re-zoning, special use, use permit or variance;

(11) Continuance of application hearing at applicant's request;

(12) Landscape plans review;

(13) Landscape inspection fee;

(14) Right-of-way and easement abandonment fee; and

(15) Annexation initiated by land owner.

(C) *Refunds*. Application fees shall not be refundable.

(Prior Code, Ch. 4, Art. I, § 4-16) (Ord. 432-06, passed 6-19-2006)

§ 150.018 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.

Neither building permits nor certificates of occupancy may be issued until the use of building(s) and land conforms with this Development Code and all other applicable codes and ordinances.

(Prior Code, Ch. 4, Art. I, § 4-17) (Ord. 432-06, passed 6-19-2006)

§ 150.019 CITIZEN REVIEW PROCESS.

(A) *Neighborhood meeting*. Prior to any public hearing, as required under § 150.014, on any application for any zoning ordinance that changes any property from one zoning district to another, a use or special use permit application that imposes any regulation not previously imposed, or that removes or modifies any regulation previously imposed, the Planning Director or designee, shall require the applicant to conduct a neighborhood meeting or an acceptable alternative prior to a public hearing to consider the proposal. A written notice of the application shall be mailed to all adjacent landowners of the property that is subject to a re-zoning, use or special use permit application and to the other persons as the Planning Director or designee reasonably determines to be other potentially affected citizens. In determining the number of potentially affected citizens, the Planning Director or designee, shall review the density and intensity of residential development in the general vicinity, the existing street system and other factors that may be related to the zoning or use permit's impact on the character of the neighborhood.

(B) *Written notice*. The written notice shall also include a general explanation of the substance of the proposed re-zoning, use permit or special use permit application and shall state the date, time and place scheduled for a neighborhood meeting, at which any adjacent landowner(s) or those other potentially affected citizens, will be provided a reasonable opportunity to express any issues or concerns that the landowner or citizen may have with the proposed zoning or use permit application.

(C) *Publication*. At the discretion of the Planning Director, written notice shall be given at least 15 days before the neighborhood meeting in at least one of the following methods:

(1) The notice shall be published once in a newspaper of general circulation published or circulated in the town.

(2) The notice shall be posted upon the sign required in § 150.014 unless waived by the Planning Director or designee.

(3) The notice shall be mailed in accordance with the same procedures, and delivered in accordance with the provisions of § 150.014.

(D) *Time, date and location.* The Planning Director, upon consultation with the applicant, shall establish a time, date and place for the neighborhood meeting that provides a reasonable opportunity for the applicant, adjacent landowners and those other potentially affected citizens to discuss and express their respective views concerning the application and any issues or concerns that they may have with the zoning or re-zoning ordinance and use permit proposed by the application. The Planning Director or designee shall attend the meeting, but is not required to conduct the meeting. The Planning Director or designee shall report the results of the neighborhood meeting to the Planning and Zoning Commission and Mayor and Town Council at the time as they take action on the application.

(Prior Code, Ch. 4, Art. I, § 4-18) (Ord. 432-06, passed 6-19-2006)

DEFINITIONS

§ 150.030 TERMS AND WORDS.

(A) For this Development Code, certain terms and words are herein defined.

(B) Present tense shall include future tense, singular number shall include plural, and plural shall include singular; ***SHALL*** is mandatory and ***MAY*** is permissive; ***PERSONS*** include individuals, partnerships, corporations, clubs or associations; reference to one gender shall include the other.

(C) The following terms may be used interchangeably: ***LOT***, ***PARCEL***, ***PLOT*** or ***PREMISES***; ***USED***, ***ARRANGED***, ***OCCUPIED*** or ***MAINTAINED***; ***BUILDING*** or ***STRUCTURE***; ***SOLD*** or ***DISPENSED***; ***ZONE*** or ***DISTRICT***.

(D) ***TOWN*** shall mean the Town of Florence; ***BOARD*** shall mean the Board of Adjustment; ***COMMISSION*** shall mean the Planning and Zoning Commission; ***COUNCIL*** shall mean the Town Council and ***COMMITTEE*** shall mean the Committee.

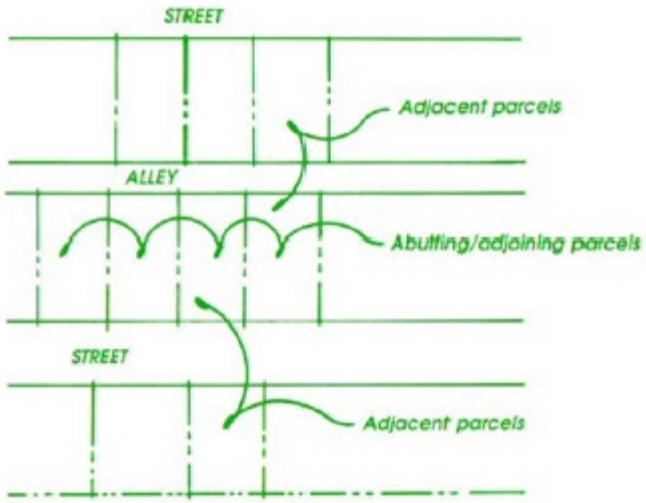
(Prior Code, Ch. 4, Art. II, § 4-36) (Ord. 432-06, passed 6-19-2006)

§ 150.031 DEFINED WORDS.

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

ABUT and/or ***ABUTTING.*** Two adjoining properties sharing a common property line; also where two or more adjoin only at a corner, but not including cases where adjoining lots are separated by a street or alley.

Abutting and/or Adjacent and/or Adjoining



ACCESS or ***ACCESS WAY.*** The place, means or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Development Code.

ACCESS STREET. A street or road which is parallel to and adjacent to an arterial street and provides a means of direct ingress and egress to abutting property.

ACCESSORY BUILDING. A subordinate building, the use of which is customarily incidental to that of the dominant use of the main building or premises including bona fide servant quarters.

ACCESSORY USE. A use customarily incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or building or adversely affect other properties in the district.

ACRE. An area of land containing 43,560 square feet.

ADJACENT. The condition of being near to (e.g., properties separated by a street or alley) or abutting.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture, animal husbandry and uses customarily incidental thereto, but not including commercial slaughterhouses, stockyards, meat packing plants, fertilizer yards, bone yards or plants for the reduction of animal matter.

AIRPORT. Property used or intended primarily for taking off and landing of aircraft, and appurtenant areas used or intended for airport buildings or facilities (e.g., open spaces, taxiways and tie-down areas, hangers and accessory buildings).

ALLEY. A public thoroughfare which affords only a secondary means of vehicular access to abutting property and is not intended for general traffic circulation.

AMENDMENT. A change in the wording, context or substance of this Development Code, an addition or deletion, or a change in the district boundaries or classifications upon the district map, which imposes any regulation not heretofore imposed or removes or modifies any regulation heretofore imposed.

AMUSEMENT PARK. An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for show and entertainment.

ANALOGOUS USE. Any use which is comparable to the permitted uses, is similar in one or more important ways to the permitted uses or resembles the permitted uses in one or more aspects. ***ANALOGOUS USE*** shall not be anymore deleterious, obnoxious or harmful than the uses permitted.

ANGSTROM and/or ***ANGSTROM UNIT.*** One/10,000,000,000 of a meter (.000000000328 feet).

ANIMAL CLINIC or ***ANIMAL HOSPITAL.*** A place where animals or pets are given medical or surgical treatment in emergency cases and are cared for during the time of the treatment. Use as kennel shall be limited to short time boarding and shall be only incidental to the hospital use and shall be enclosed in a soundproof structure.

APARTMENT. See ***DWELLING, MULTIPLE***.

AUTOMOBILE (AUTO) REPAIR. Refers to all aspects of repair of motor vehicles including, but not limited to, lubrication, tune-up and preventive maintenance.

AUTOMOBILE SALES, NEW. A franchised agency selling new motor vehicles and providing services commonly associated with motor vehicle sales. New automobile dealership may include sale of used motor vehicles.

AUTOMOBILE SALES, USED. An agency selling used motor vehicles not in conjunction with or on same site as new motor vehicle franchise and providing services commonly associated with motor vehicle sales.

BAR or ***COCKTAIL LOUNGE.*** A business establishment devoted primarily to alcoholic beverage service to which food service is only incidental.

BASEMENT. That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (See ***STORY***.)

BLOCK. A piece or parcel of land or a group of lots entirely surrounded by public streets, streams, railroads or parks or a combination thereof.

BOARDINGHOUSE. A building where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

BUILDING. Any structure for the shelter, housing or enclosure of persons, animals, chattels or property of any kind. Each portion of a building separated by a dividing wall or walls without openings may be deemed a separate building for the purpose of issuing building permits. This does not include doghouses, play-houses and the like.

BUILDING, ACCESSORY. A building or structure which is subordinate to, and the use of which is customarily incidental to that of the main building, structure or use on the same lot or parcel. (See ***ACCESSORY BUILDING***.)

BUILDING AREA. The total area, taken on a horizontal plane at the mean grade level, of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces and steps.

BUILDING HEIGHT. The vertical distance from the grade to the highest point of the coping of a flat roof, or to the highest point of a mansard roof, or to the highest gable of a pitch or hip roof.

BUILDING LINE. A line between which it and the street right-of-way line no building or structure, or portion thereof, shall be erected, constructed or otherwise established, except as permitted herein.

BUILDING PERMIT. A permit required for the erection, construction, modification, addition to or moving of any building, structure or use in the incorporated area of the town.

BUILDING, PRIMARY. A building or buildings in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the primary building of the lot on which the same is situated.

BUILDING SETBACK. The minimum distance as prescribed by this Development Code between any property line and the closest point of the foundation or any supporting post or pillar of any building or structure related thereto. (See ***YARD, REQUIRED FRONT, REQUIRED SIDE*** and ***REQUIRED REAR***)

BUILDING SITE. The ground area of a building or buildings together with all open spaces adjacent thereto as required by this Development Code.

CAMPGROUND. Any lot, parcel or tract of land used, designed, maintained and intended for rent of plots or sites to accommodate temporary camping by the traveling public whether or not a charge is made for the use of the park and its facilities.

CARPORT. An accessory building or portion of a main building with two or more open sides designated or used for the parking of motor vehicles. Enclosed storage facilities may be provided as part of a ***CARPORT***.

CELLAR. That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. (See ***STORY***)

CEMETERY. Land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbaria, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundaries of the premises.

CHURCH. A building or group of buildings used primarily as a place of communion or worship. Includes convents, religious educational buildings and parish houses, but not parochial schools.

CLUB or ***LODGE.*** A regularly constituted association of persons who are bona fide members paying regular dues, primarily organized for some common social purpose and which derives not more than one-half of its revenue or income from the sale of goods and services to its members or others.

COMMISSION. The Planning and Zoning Commission of the town.

COMMITTEE. A committee established to review the subdivision and site planning process.

COMMON PUBLIC AREA. Any property to be dedicated to the public for recreational, leisure or aesthetic uses. ***COMMON PUBLIC AREA*** also includes any private property which is to be used by the general population of a subdivision or planned unit development (PUD) and which is to be maintained by a homeowner's association or similar organization.

CONDITIONAL APPROVAL. Affirmative action by the Commission or the Council indicating that approval will be forthcoming upon satisfaction of certain specified stipulations.

CONDITIONAL USE PERMIT. A permit which may be granted under the provisions of this title and which, when granted, authorizes a particular use to be made of a particular premises, subject to compliance with all the terms and conditions contained in the permit.

CONVENT. A housing facility where the residents are limited to members of a specific religious order.

CORRECTIONAL FACILITY. A facility for the detention, confinement, treatment and/or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. The facilities include an adult detention center, juvenile delinquency center, pre-release center, correctional community treatment center, jail and prison, but exclude a municipal or county jail facility that is an accessory use to a police station, sheriff's office or other associated governmental facility.

DAYCARE CENTER AND/OR NURSERY. Any facility operated for the purpose of providing care, protection and guidance to ten or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, daycare centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

DEPARTMENT. The Engineering and/or Planning Department of the municipality.

DEVELOPMENT MASTER PLAN (DMP). A preliminary master plan for the development of a large or complicated land area, the platting of which is expected in progressive stages. A development master plan may be designed by the subdivider or by the Department and shall be subject to Commission approval.

DWELLING, MULTIPLE-FAMILY. A building, or portion thereof, designed for occupancy by three or more families.

DWELLING, TWO-FAMILY. A building designed for occupancy by two families.

DWELLING UNIT. One or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own cooking and sanitary facilities.

EASEMENT. A grant by the owner of the use of a strip of land by the public, a corporation or persons for specific uses and purposes and so designated.

EFFICIENCY APARTMENT. A dwelling unit which has only one living and sleeping room; the dwelling unit, however, may also have a separate room containing only kitchen facilities and also a separate room containing only sanitary facilities.

ENGINEERING PLANS. Plans, profiles, cross sections and other required details for the construction of public improvements, prepared by a civil engineer registered in the state in accordance with the approved preliminary plat and in compliance with Uniform Standard Details and Specifications for Public Works Construction as published and amended by the Maricopa Association of Governments and approved by the Council.

EXCEPTION. Any parcel of land which is within the boundaries of the subdivision which is not owned by the subdivider or which is not to be a part of the subdivision if owned by the subdivider.

FACTORY BUILT BUILDING (MODULAR). A structure fabricated in a factory and delivered to the building site in one or more sections except that it does not include a ***MOBILE HOME*** or ***MANUFACTURED HOME*** as defined in this Development Code. The structure shall be designed only for installation on a site-built permanent foundation and not intended to be moved once installed on the foundation. The unit shall include all the plumbing, heating, cooling, gas and electrical systems of the building and shall bear the state insignia of approval pursuant to A.R.S. § 41-2195. A modular home shall be considered the same as a building and/or a dwelling unit and, building permits for these structures may be issued only in those residential zones which allow conventional construction of homes as a permitted use.

FAMILY. One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a ***BOARDINGHOUSE***, ***LODGING HOUSE*** or ***HOTEL*** as herein defined.

FARM. An area of four or more contiguous acres that is used for the production of farm crops such as vegetables, fruit trees, cotton, grain and other crops and their storage on the area, as well as raising thereon of farm animals, such as poultry, horses, cattle or swine. ***FARMS*** may not include commercial feedlots, slaughterhouses, packing plants, dairies or swine operations.

FINAL APPROVAL. Unconditional approval of the final plat by the Council as evidenced by certification on the plat by the Mayor of the municipality and which constitutes authorization for the Town Clerk to record the plat.

FRONTAGE. All property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is a dead end, then all of the property abutting on one side between an intersecting street and the dead end of the street including property fronting on a cul-de-sac.

GARAGE, PRIVATE. An accessory building or portion of the main building, designed or used for the shelter or storage of self-

propelled vehicles owned or operated by the occupants of the main building, provided that no private garage may be used or rented for the storage of commercial trucks having a capacity in excess of one ton.

GARAGE, PUBLIC. Premises, except those herein defined as a private garage, used for the storage or care of self-propelled vehicles, or where the vehicles are equipped for operations or repaired, or kept for hire or sale.

GENERAL PLAN. A comprehensive plan, or parts thereof, meeting the requirements of A.R.S. § 9-461.05 and providing generally for the future growth and improvement of the municipality, and for the general location and coordination of streets and highways, schools and recreation areas, public building sites and other physical developments.

GOLF COURSE.

(1) ***MINIATURE GOLF COURSE.*** Any course where there is an average of not more than 100 feet between the tee and hole.

(2) ***PAR-3 GOLF COURSE.*** Any course which does not fall within the definitions of ***REGULATION*** orminiature golf course as defined herein.

(3) ***REGULATION GOLF COURSE.*** Any course where there is an average of 300 yards or more between the tee and green of each hole and there are not less than nine holes.

GRADE. Elevations for purposes of height limitations shall be measured from the natural grade. ***NATURAL GRADE*** shall be the natural and original ground level. It shall be determined from an original topography or, in case grading or filling has been performed, from the level of adjoining streets or sidewalks. Wherever a building or wall is constructed adjoining a street, the grade shall be measured from the back of the sidewalk or, in case there is no sidewalk, then either from the center of the paving or the street.

GROSS LAND AREA AND/OR GROSS SITE AREA. The total area of a parcel and one-half of all the abutting dedicated streets, alleys, road easements, and/or alley easements. In cases of partial dedications or easements, the gross land area shall extend to what would be the dedication or easement centerline if a full dedication or easement existed.

GUESTHOUSE. An attached or detached accessory building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

GUEST ROOM. A room which is designed to be occupied by one or more guests for sleeping purposes, and having no kitchen facilities and not including dormitories for sleeping.

HALFWAY HOUSE. A facility for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.

HILLSIDE SUBDIVISION. Any subdivision or that portion of a subdivision located in terrain having a cross-slope exceeding 10%.

HOME OCCUPATION. Any occupation or profession carried on by a member of a family, residing on the premises, and which use is clearly incidental to the use of the structure for dwelling purposes and which does not change the exterior character of the premises in any way. There shall be no commodity sold upon the premises, nor shall the use generate pedestrian or vehicular traffic beyond that normal to the district in which it is located, and further there shall be no signs, buildings or structures other than those permitted in the district. A carport or garage may not be used for home occupations. There shall be no use of material or mechanical equipment not recognized as being part of normal household or hobby use. ***HOME OCCUPATION*** shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyperson or other professional persons for consultation or emergency treatment, but not for the general practice of the professions.

HOSPITAL. A place for treatment or other care of human ailments, and shall include ***SANITARIUM***, ***CLINIC*** and ***MATERNITY HOME***, unless otherwise specified.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, improvements, the improvements of the increment may be required to connect to those of the existing subdivision or increment.

INCREMENT.

(1) A portion of a platted subdivision which is intended to be built as a unit and for which all services will be provided prior to the occupancy of any dwelling unit.

(2) If a subdivision increment is to be built adjacent to an existing subdivision or increment with existing improvements, the

improvements may be required to connect to those of the existing subdivision or increment.

INSTITUTION. A building or buildings occupied by a nonprofit corporation or a nonprofit establishment for public use.

IRRIGATION FACILITIES. Canals, laterals, ditches, conduits, gates, pumps and allied equipment necessary for the supply, delivery and drainage of irrigation water and the construction, operation and maintenance of such.

KENNEL. Any premises where four or more animals are bred, boarded and/or trained for commercial purposes.

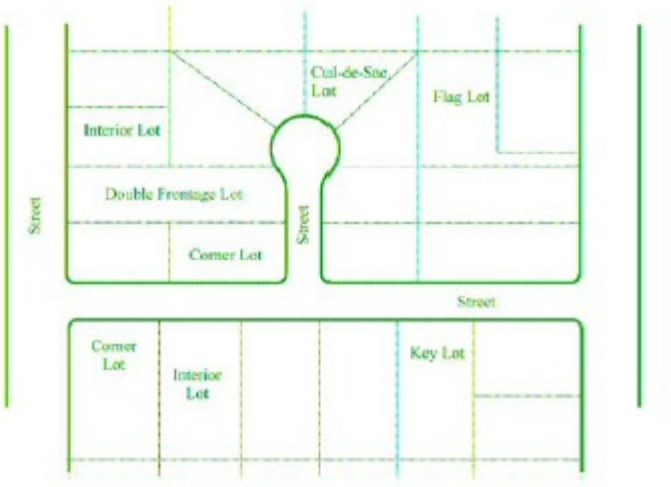
KITCHEN. Any room in a building which is used, intended or designed to be used for cooking or preparation of food.

LANDSCAPED AREA. An area containing living plants and void of asphalt or concrete pavement except that decorative fountains shall be allowed. A maximum of 20% of the area may be covered with decorative rock or boulders.

LOADING SPACE. A permanently maintained space used for loading on the same lot as the main building accessible to a street or alley.

LODGING HOUSE. A building where lodging only is provided for compensation to three or more, but not exceeding 20 persons.

LOT. A piece or parcel of land separated from other pieces or parcels by description, as in a subdivision or on a record of survey map or by metes and bounds, for purposes of sale, lease or separate use.



LOT, AREA. The area of the lot, not including any area in a public way.

LOT, CORNER. A lot adjoining two or more streets at their intersections.

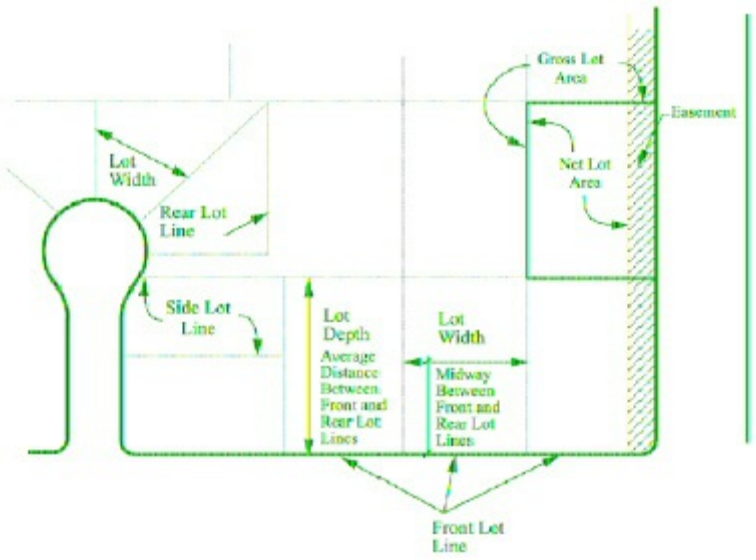
LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

LOT, KEY. A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street which forms the side boundary of the corner lot.

LOT LINE. The lines bounding a lot.

LOT OF RECORD. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Town Clerk of the County Recorder's office; or parcel of land, the deed of which is recorded in the office of the County Recorder.



LOT SPLIT. The division of improved or unimproved land whose area is two and one-half acres or less into two or three tracts or parcels of land for the purpose of sale or lease.

LOT, THROUGH. A lot abutting on two or more intersecting streets where the interior angle of an intersection does not exceed 135 degrees. A corner lot shall be considered to be in that block in which the lot fronts.

LOT, WIDTH. The width of a lot measured as follows: If the side property lines are parallel, the shortest distance between these side lines. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot, at a distance equal to the required front or rear building setback lines, whichever is the lesser. The axis of a lot shall be a line generally perpendicular to the fronting street which divides the lot into two equal parts.

MANUFACTURED HOME. A dwelling unit, manufactured after June 15, 1976 and built to HUD standards with a HUD seal affixed, that is transportable in one or more sections, built on a permanent chassis, designed for use with or without a permanent foundation and when installed will have the required utilities. Does not include ***MOBILE HOME*** or ***RECREATIONAL VEHICLE***.

MANUFACTURED HOME SUBDIVISION. Any lot, tract or parcel of land used or offered for use in whole or in part with or without charge for placement or installation of one or more manufactured homes.

MANUFACTURING. An establishment engaged in the manufacture or compounding process of raw materials. These activities may include the storage of large volumes of materials needed for the manufacturing process.

MANUFACTURING, LIGHT. A predominantly indoor establishment engaged in the manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of the products.

MOBILE HOME. A transportable structure suitable for year round single-family occupancy and utility connections similar to conventional dwellings, which was constructed prior to June 15, 1976, and bears a state insignia of approval pursuant to A.R.S. § 41-2195. Does not include ***MANUFACTURED HOME*** or ***RECREATIONAL VEHICLE***.

MODULAR BUILDING. A building including a dwelling unit or habitable room thereof that is either substantially or entirely manufactured at an off-site location to be assembled on-site, and which complies with all the applicable building codes adopted by the town.

MOTEL.

(1) Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients.

(2) Includes motor court, motor lodge and tourist court, but not a manufactured home subdivision.

MOTOR HOME. A vehicular design unit built on or permanently attached to a self-propelled vehicle chassis, van or chassis cab,

which is an integral part of the complete vehicle, to provide temporary or permanent living quarters for recreation, camping or travel use.

NEIGHBORHOOD PLAN. A plan designed by the Department to guide the platting of remaining vacant parcels in a partially built-up neighborhood so as to make reasonable use of all land, correlate street patterns and achieve the best possible land use relationships.

NONCONFORMING BUILDING. A building or portion thereof which was lawful when established but which does not conform to a subsequently established district or district regulation.

NONCONFORMING LOT. A parcel of land having less area, frontage or dimensions than required in the district in which it is located.

NONCONFORMING USE. Any building or land lawfully occupied by a use at the time of passage of this Development Code or amendment thereto which does not conform after the passage of this Development Code or amendment thereto with the use regulations of the district in which it is located.

OPEN SPACE. Space which can be enjoyed by people. This could include landscaped plazas, grass, trees, shrubs, fountains, sitting areas, shade structures for pedestrians and the like, and is meant to provide an open garden atmosphere. ***OPEN SPACE*** does not include parking areas, vacant or undeveloped lots or any other space which does not contribute to the quality of the environment.

OPEN SPACE, COMMON. Any open space, other than private or frontage open space, intended for use by all occupants of a development. This space may include recreation oriented buildings and areas.

OPEN SPACE FRONTAGE. All the open space between the right-of-way line of a dedicated public street and any perimeter structure(s) within the development, except that this space may extend between structures or between a structure and a side property line to a depth of not more than one-half the width of the opening.

OUTDOOR LIGHT FIXTURES. Outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. The devices shall include, but are not limited to, searchlight, spotlight or floodlights for:

(1) Buildings and structures;

(2) Recreational areas;

(3) Parking lot lighting;

(4) Landscape lighting;

(5) Billboards and other signage (advertising or other); and

(6) Street lighting.

OWNER. The person or persons holding title by deed to land, or holding title as vendees under land contract, or holding any other title of record.

PARK MODEL. A recreational vehicle that is designed for temporary, seasonal or permanent residential use and does not exceed 400 square feet in area, excluding accessory structures.

PARKING LOT. A parcel of land devoted to unenclosed parking spaces.

PARKING SPACE. A permanently surfaced area, enclosed or unenclosed, having an area of not less than 180 square feet which will accommodate a car, minimum width nine feet. Parking as used in this Development Code is to mean off-street parking with access from streets or secondary means or as approved by subdivision plat.

PEDESTRIAN WAY. A public walk dedicated entirely through a block from street to street or providing access to a school, park, recreation area or shopping center.

PERMITTED USES. A use specifically permitted or a use analogous to those specifically permitted.

PLASMA DONATION CENTER. A medical clinic that accepts blood product donations, particularly plasma, and provides monetary payment for donations.

PLAT. A map of a subdivision.

PLAT, FINAL. A map of all or part of a subdivision providing substantial conformance to an approved preliminary plat, prepared by a registered professional Engineer or registered land surveyor in accordance with the laws of the state and § 150.226.

PLAT, PRELIMINARY. A preliminary map, including supporting data, indicating a proposed subdivision development, prepared in accordance with § 150.213(E).

PLAT, RECORDED. A final plat bearing all of the certificates of approval required in § 150.227(D)(4) and duly recorded in the County Recorder's Office.

PRELIMINARY APPROVAL. Approval of the preliminary plat by the Commission as evidenced in its meeting minutes which constitutes authorization to proceed with final engineering plans and final plat preparation.

PUBLIC IMPROVEMENT STANDARDS. *Uniform Standard Details and Specifications for Public Works Construction* as published and amended by the Maricopa Association of Governments and approved by the Council.

RAILROAD. The land used for general railroad purposes, including mainline and switching trackage, repair shops, stations, communications equipment, roundhouses and storage facilities; the term does not include railroad equipment (miniature or otherwise) operated by its owner as a hobby or as a part of the equipment of an amusement resort.

RANCH. An area of ten or more contiguous acres which is used for the raising of livestock on a commercial basis; provided, however, that the ranch does not include commercial pen feeding (feed lots). ***RANCH*** shall include horse breeding and training but shall not include riding stables.

RECREATION BUILDING. An accessory building of one or more recreation uses which will be used exclusively by the members of a designated club and their guests. Recreational uses, and associated outdoor uses, permitted in this building include, but are not limited to:

(1) Swimming, exercise, sauna and Jacuzzi;

(2) Licensed massage facilities;

(3) Tennis;

(4) Card playing;

(5) Arts and crafts;

(6) Billiards and bingo; and

(7) Dancing.

RECREATIONAL VEHICLE. A vehicle designed to be self propelled or permanently towable that is designed for residential use for recreational, camping, travel, temporary or seasonal purposes, including ***PARK MODELS***.

RECREATIONAL VEHICLE ACCESSORY STRUCTURES. Covered carports, porches, recreational vehicle awnings, heating and cooling units, detached storage buildings and Arizona rooms.

RECREATIONAL VEHICLE AWNINGS. A lightweight overhead structure used in conjunction with a recreational vehicle for the purpose of shading or weather protection of areas such as carports, patios, porches and windows.

RECREATIONAL VEHICLE PARK. An approved parcel or subdivision together with certain accessory buildings and uses providing for the enjoyment and benefit of the patrons of the park, in which individual spaces are provided for parking or placement of a recreational vehicle for temporary or permanent housing, whether or not a charge is made for the accommodation, excluding a manufactured home subdivision.

REFINERY. A permanent facility for the purpose of refining, processing, storing, and/or delivery of fossil fuels byproducts including, but not limited to, gasoline, diesel fuel and motor oil. Uses include those that store products such as liquefied natural gas (LNG), compressed natural gas (CNG), butane, and propane.

RESORT. A group or groups of buildings containing more than five dwelling units and/or guest rooms and providing outdoor recreational activities which may include golf, horseback riding, swimming, shuffleboard, tennis and similar activities. A ***RESORT*** may furnish service customarily furnished by a hotel, including a restaurant, cocktail lounge and convention facilities.

RETAIL. The sale of commodities or goods in small quantities to ultimate consumers.

RETAIL, BIG BOX. Any single use building, whether stand alone or within a multi-building development, wherein the single use building occupies at least 100,000 square feet of building coverage primarily devoted to, or intended for, the sale or display of goods and merchandise for consumption by the general public, including any outdoor sales and display area(s) and storage/stockroom area(s), but excluding any outdoor area for the sale of cars, trucks, boats, recreational vehicles, or manufactured homes. For the purposes of this definition, calculation of the building area(s) shall include all other indoor and outdoor sales areas or customer service area(s) that may be incidental to, but nevertheless share customer walking aisles or store entrances with the big box retail use operator, whether or not the area(s) are under the same management as the big box retail use operator.

REVERSE FRONTAGE. A lot having frontage on two non-intersecting streets. The front of the lot shall be considered facing the interior street.

SCREENING WALL. A solid masonry wall designed and constructed so as to conceal areas used for refuse, mechanical equipment, parking, storage and service and loading bays from street and public view and to separate potential incompatible land uses.

SCHOOL or ***COLLEGE.*** Unless otherwise specified, private or public places of general instruction but shall not include daycare centers and/or nursery schools, dancing schools, riding academies, trade or specialized vocational schools.

SERVICE STATION, AUTOMOTIVE. A retail business engaged primarily in the sale of motor fuels but also in supplying goods and services generally required in the operation and maintenance of automotive vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, automotive maintenance and repair and the supplying of other incidental customer services and products. Major automotive repairs, painting and body and fender work, rental or sales of motor bikes, automobiles, boats, trailers, trucks and any other type of sales or services not specifically referred to herein are limited to the service area of the site.

SHADE STRUCTURE. An accessory building or a portion of a main building with two or more open sides. It shall contain no space that is more than 50% surrounded by walls.

SHOPPING CENTER. A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking, landscaped areas and pedestrian malls or plazas provided on the property as an integral part of the unit.

SIGN. Any object, device, display or structure (including but not limited to letters, words, numerals, figures, symbols, pictures, outline, character, color, illumination, trademark, logo or any part or combination) used for visual communication which is intended to attract the attention of the public and is visible from the public rights-of-way or other properties.

STABLE, COMMERCIAL. A stable for horses, mules or ponies which are let, hired, used or boarded on a commercial basis and for compensation.

STABLE, PRIVATE. A detached accessory building for the keeping of horses, mules or ponies owned by the occupants of the premises and not kept for remuneration, hire or sale.

STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, the basement, cellar or unused under floor space shall be considered as a story.

STREET. A dedicated, public or private passageway, which affords a principal means of access to abutting property. ***STREET*** shall mean any street, avenue, boulevard, road, lane, parkway, place, viaduct, easement for access or other way which is an existing state, county or municipal roadway or a street or way shown in a plat heretofore approved pursuant to law or approved by official action or a street or way in a plat duly filed and recorded in the County Recorder's Office. A ***STREET*** includes the land within the street right-of-way whether improved or unimproved and includes the improvements as pavements, shoulders, curbs, gutters, sidewalks, parking space, bridges and viaducts.

STREET, ARTERIAL. A street, which along with several others, forms the skeletal structure of the traffic system within the municipality. Those several streets carry the greatest number of cars across the municipality in any direction.

STREET, COLLECTOR. A street that collects traffic from several smaller streets within a residential neighborhood. It should serve as a major access from a neighborhood to an arterial street or highway.

STREET, CUL-DE-SAC. A short local street permanently terminated in a vehicular turnaround.

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

STREET, LOCAL. Provides for direct access to residential, commercial, industrial or other abutting land or local traffic movements and connects to collector or arterial routes.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, girders or any complete rebuilding of the roof.

STRUCTURE. Any artificial piece of work constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, but not including a tent, vehicle, trailer coach or mobile home.

SUBDIVIDER. Individual, firm, corporation, partnership, association, syndication, trust or other legal entity that files the application and initiates proceedings for the subdivision of land in accordance with the provisions of this Development Code, and the subdivider need not be the owner of the property as defined by this Development Code.

SUBDIVISION. Improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into four or more lots, tracts or parcels of land; or, if a new street is involved, any property which is divided into two or more lots, tracts or parcels of land or, any property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two parts. ***SUBDIVISION*** also includes any 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 the manner in which the buildings or airspace above the property shown on the plat are to be divided except as needed to ensure compliance with the regulations of this Development Code. ***SUBDIVISION*** does not include the following:

(1) The sale or exchange of parcels of land to or between adjoining property owners if the sale or exchange does not create additional lots;

(2) The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership; and

(3) The leasing of apartments, offices, stores or similar space within a building or trailer park, nor to mineral, oil or gas leases.

SWIMMING POOL, PRIVATE. A contained body of water, used for swimming or bathing purposes, either above ground level or below ground level, with the depth of the container being more than 18 inches or the area being more than 38 square feet.

SWIMMING POOL, PUBLIC. The same definition as private pool but operated as a commercial business. Public swimming pools shall conform to county health requirements.

TATTOO, BODY PIERCING ESTABLISHMENT. Any establishment offering indelible designs, letters, scrolls, figures, symbols or other marks that are placed on or under the skin with ink or colors by the aid of needles or other instruments and that cannot be removed without a surgical procedure; any establishment offering designs, letters, scrolls, figures or symbols or other marks done by scarring/branding on or under the skin; any establishment where decorations or other devices are inserted into the skin; any establishment using techniques such as penetrating, perforating, boring or creating a hole in the skin or another human body part; or any establishment whose primary function is permanent body alteration for non-surgical purposes. The following establishments shall be exempt from this definition: those where offering permanent facial make-up/cosmetics ancillary to the primary business; those where procedures are performed by a person authorized by the laws of this state to practice medicine, osteopathy, chiropractic, podiatry, naturopathy or acupuncture and the procedures are performed in conformity with the standards of that profession; those where procedures are performed by registered nurses, licensed practical nurses or technicians, when acting under the supervision of a licensed physician or osteopath; those where the only type of piercing offered is ear piercing.

TOBACCO RETAILER. Any person or business who primarily sells or offers for sale, tobacco, tobacco products, or tobacco paraphernalia, or who distributes samples of tobacco products or paraphernalia. These businesses include but are not limited to, tobacco shops, cigars and pipe retailer, cigarette or electronic cigarette retailer and smoking establishments.

TOWNHOUSE. Single-family dwelling with party walls and no side yards between abutting dwellings within a subdivision recorded in accordance with state statutes.

USE. The purpose for which land or building is occupied or maintained, arranged, designed or intended.

USE, ACCESSORY. A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide household employee's quarters.

UTILITIES.

(1) Installations or facilities, underground or overhead, furnishing for the use of the public electricity, gas, steam, communication,

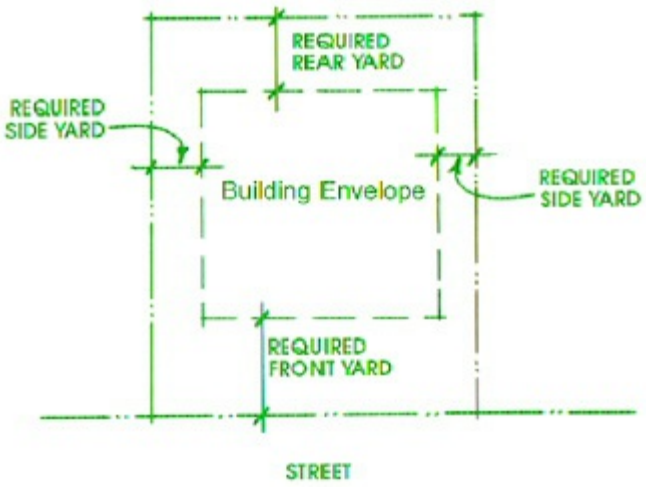
water, drainage, sewage disposal or flood control, owned and operated by any person, firm, corporation, municipal department or board, duly authorized by state or municipal regulation.

(2) As used herein may also refer to the persons, firms, corporations, departments or boards, as sense requires.

UTILITY COMPANY. Any provider of utility services including but not limited to water, sewer, electricity, gas, telephone, cable and the like within the town.

WALL. Any structure or device required by this Development Code for screening purposes forming a physical barrier, which is so constructed that 50% or more of the vertical surface is closed and prevents the passage of light, air and vision through the surface in a horizontal plane. This shall include concrete, concrete block, wood or other materials that are solids and are so assembled as to form a screen. Where a solid wall is specified, 100% of the vertical surface shall be closed, except for approved gates or other access ways. Where a masonry wall is specified, the wall shall be concrete block, brick, stone or other similar material and 100% of the vertical surface shall be closed, except for approved gates or other access ways.

YARD. An open area at grade level between the building envelope and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or depth of a rear yard, the minimum horizontal distance between the lot line and the main building envelope shall be used.



YARD, FRONT. An open unoccupied space on the same lot with a main building envelope, extending the full width of the lot and situated between the street line and the front line of the building envelope projected to the side lines of the lot. The front yard of a corner lot may be either street frontage. Double frontage lots within districts that require front yards shall maintain the required front yard on both streets.

YARD, REAR. An open space on the same lot with a main building envelope between the rear line of the building envelope and the rear line of the lot extending the full width of the lot. The rear yard shall always be opposite the front yard.

YARD, SIDE. An open unoccupied space on the same lot with a main building situated between the building envelope and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. An ***INTERIOR SIDE YARD*** is defined as the side yard adjacent to a common lot line.

(Prior Code, Ch. 4, Art. II, § 4-37) (Ord. 432-06, passed 6-19-2006; Ord. 593-13, passed 4-1-2013; Ord. 601-13, passed 9-16-2013)

ZONING DISTRICTS

§ 150.045 DISTRICTS.

In order to classify, regulate, restrict and separate the use of land, buildings and structures, and to regulate and to limit the type, height and bulk of buildings and structures, and to regulate the areas of yards and other open areas around and between buildings and structures, and to regulate the density of dwelling units, the municipality is hereby divided into the following zones:

(A) *Residential districts.*

(1) Rural Agricultural (RA-10);

(2) Rural Agricultural (RA-4);

(3) Single-Family Ranchette (R1-R);

(4) Rural Residential Equestrian Subdivision (RRES);

(5) Single-Family Residential (R1-18);

(6) Single-Family Residential (R1-6);

(7) Neighborhood Multiple-Family Residential (R-2);

(8) Multiple-Family Residential (MFR); and

(9) Manufactured Home Subdivision (MHS).

(B) *Employment/commercial districts.*

(1) Neighborhood Business (B-1);

(2) Neighborhood Office (NO);

(3) Downtown Commercial (DC);

(4) Highway Business Commercial (B-2);

(5) Tourist Commercial (TRC);

(6) Professional Office (PO);

(7) Public/Institutional (PI);

(8) Light Industrial (LI); and

(9) Heavy Industrial (HI).

(C) *Overlay districts.*

(1) Historic Overlay;

(2) Parking; and

(3) Recreation Vehicle Park/Subdivision.

(D) *Mixed use districts.*

(1) Planned Unit Development (PUD); and

(2) Territory Square (TS).

(Prior Code, Ch. 4, Art. III, § 4-46) (Ord. 432-06, passed 6-19-2006; Ord. 584-12, passed 10-1-2012)

§ 150.046 DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, on file in the office of the Town Clerk, accompanying the Code from which this Development Code is derived and made a part of this Development Code, the following rules apply:

(A) Where a boundary is indicated as approximately following a street or alley or the centerline thereof, or a lot line, the line shall be construed to be the boundary.

(B) Where a boundary divides a lot, the location of the boundary unless indicated by dimensions, shall be determined by use of the

scale appearing on the zoning map.

(C) Where a public street, alley or railroad or other right-of-way is vacated or abandoned, the zone applied to abutting property shall thereafter be deemed to extend to the centerline of the vacated or abandoned right-of-way.

(Prior Code, Ch. 4, Art. III, § 4-47) (Ord. 432-06, passed 6-19-2006)

§ 150.047 DISTRICT USE REGULATIONS TABLES.

(A) *Residential zoning district use regulations.*

P=Permitted N=Not Permitted C=Conditional T=Temporary Uses

Use	*RA-10*	*RA-4*	*R1-R*	*RRES*	*R1-18*	*R-1-6*	*R-2*	*MFR*	*MHS*
Agricultural buildings and structures	P	P	C	P	N	N	N	N	N
Accessory buildings and uses	P	P	P	P	P	P	P	P	P
Bed and breakfast	C	C	C	N	N	N	N	N	N
Boarding or lodging house	C	C	C	N	N	N	C	C	N
Cemetery	C	C	N	N	N	N	N	N	N
Condominium	N	N	N	N	N	N	P	P	N
Continuing care facility	C	C	N	N	N	N	N	C	N
Convent	C	C	C	N	C	C	C	P	C
Duplex	N	N	N	N	N	N	P	P	N
Daycare center and/or nursery	C	C	C	N	C	C	N	C	N
Dwelling, multi-family	N	N	N	N	N	N	P	P	C
Dwelling, single-family	P	P	P	P	P	P	P	P	N
Farm	P	P	N	N	N	N	N	N	N
Golf course	C	C	C	C	C	C	C	C	C
Guest home, detached	P	P	C	N	N	N	N	N	N
Greenhouse and/or nursery	C	C	N	C	N	N	N	N	N
Group home	C	C	C	C	C	C	C	C	C

Home for the aged or nursing home	C	C	N	C	N	N	N	C	C
Home occupation	P	P	P	P	P	P	P	P	P
Manufactured home	C	C	C	P	C	N	N	N	P
Medical marijuana operations, including medical marijuana dispensary offsite cultivation locations, medical marijuana dispensaries and medical marijuana infusion facilities (medical marijuana designated caregiver cultivation locations and qualifying patient cultivation locations per applicable Town and State Department of Health regulations)	N	N	N	N	N	N	N	N	N
Model home complex and/or sales office	T	T	T	T	T	T	T	T	T
Mobile home	N	N	N	N	N	N	N	N	N
Orphanage	C	C	N	N	N	N	N	P	N
Park, playground and community owned buildings	P	P	P	P	P	P	P	P	P
Private club, fraternity, sorority and lodges	C	C	C	C	N	N	N	C	C
Public institutional buildings	C	C	C	P	P	P	P	P	P
Public utility buildings, structures or appurtenances for public service	C	C	C	C	C	C	C	C	C

uses									
Public or private school	C	C	C	C	C	C	C	C	C
Ranch, non-commercial	P	N	N	N	N	N	N	N	N
Recreation fields, public or private	P	P	C	C	C	C	C	C	C
Recreation building	P	P	C	C	C	C	C	C	C
Stable, private	P	P	C	P	N	N	N	N	N
Stable, commercial	C	C	C	N	N	N	N	N	N
Swimming pool (private)	P	P	P	P	P	P	P	P	P
Temporary buildings used for the sale of homes or lots	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C
Town home	N	N	N	N	N	N	P	P	N
Triplex	N	N	N	N	N	N	P	P	N

(B) *Employment and/or commercial zoning district use regulations.*

P=Permitted N=Not Permitted C=Conditional T=Temporary Uses

Use	***B-1***	***B-2***	***TRC***	***NO***	***PO***	***DC***	***PI***	***LI***	***HI***
Airport	N	N	N	N	N	N	P	P	P
Armories and military installations	N	N	N	N	N	N	P	N	N
Accessory buildings	P	P	P	P	P	P	P	P	P
Animal hospital and/or clinic	C	P	P	N	P	N	N	N	N
Assembly within enclosed building	C	P	N	N	N	N	N	P	P
Art gallery	P	P	P	P	P	P	P	N	N
Automotive service stations and/or repairs including paint and body shops	C	P	C	N	N	N	N	P	P

Automobile wrecking yards	N	N	N	N	N	N	N	N	N
Automobile rental agencies	P	P	P	N	N	N	N	P	P
Banks	P	P	P	P	P	P	N	N	N
Bar, lounge	C	P	P	N	C	C	N	N	N
Bed and breakfast	P	P	P	C	C	P	N	N	N
Billiards parlor < 5,000 square feet	C	P	P	N	N	P	N	C	C
Car wash, auto spa	C	P	C	N	N	N	N	P	P
College, business	C	P	P	N	P	C	C	C	C
Commercial kennels, indoor	N	C	C	N	N	N	N	P	P
Commercial kennels, indoor and/or outdoor	N	N	C	N	N	N	N	C	P
Contractor office equipment yards	C	C	C	N	N	N	N	P	P
Correctional facility	N	N	N	N	N	N	N	C	C
Dairy/feedlot	N	N	N	N	N	N	N	N	C
Daycare center and/or nursery	P	P	P	P	P	P	P	N	N
Drive-through facilities	C	P	P	C	C	C	N	P	P
Dry cleaners without processing	P	P	P	P	P	P	N	P	P
Dry cleaners with processing	C	C	C	N	N	N	N	C	C
Dwelling, for sale, rent or lease	C	C	C	C	C	C	N	C	C
Farm	N	N	N	N	N	N	N	P	P
Gasoline dispensing and/or service stations	C	P/C	P/C	N	N	N	N	P/C	P/C
Grocery and/or supermarket	P	P	P	N	C	P	N	P	P
Halfway house	N	N	N	N	N	N	N	C	C
Hot mix, batch plants, concrete plants or similar	N	N	N	N	N	N	N	C	P

uses									
Hotel and/or motel	C	P	C	N	C	P	N	P	P
Hospital and outpatient clinics	C	P	P	N	C	N	P	P	P
Immigration processing and/or holding facility	N	N	N	N	N	N	N	C	C
Indoor commercial recreation facilities	C	P	P	N	C	C	N	P	P
Junk yard/salvage yard	N	N	N	N	N	N	N	N	C
Laundry (maximum 25 machines)	P	P	P	N	C	C	N	C	C
Laundry (more than 25 machines)	C	P	P	N	C	C	N	C	C
Manufactured home sales (new)	N	P/C	P/C	N	N	N	N	P/C	P/C
Manufacturing	N	N	N	N	N	N	N	C	P
Manufacturing, light	N	P	N	N	N	N	N	P	P
Medical, dental, clinical laboratories	C	P	P/C	N	N	N	N	C	C
Medical marijuana dispensaries	N	C	N	N	N	N	N	C	N
Medical marijuana operations, including medical marijuana dispensary offsite cultivation locations and medical marijuana infusion facilities (medical marijuana designated caregiver cultivation locations and qualifying patient	N	N	N	N	N	N	N	C	N

cultivation locations per applicable Town and State Department of Health regulations)									
Mini-storage facilities	N	C	N	N	N	N	N	P	P
Movie theaters excluding drive-in theaters	P	P	P	N	N	P	N	N	N
Motion picture production	C	C	C	C	C	C	C	P	P
Museum and cultural centers	P	P	P	P	P	P	P	P	P
Night watchman quarters	C	P	P	C	C	C	C	P	P
Nursery, plant sales	C	P	C	N	N	N	N	P	P
Office, business	P	P	P	P	P	P	N	C	C
Office, professional	P	P	P	P	P	P	N	C	C
Office, semi-professional	P	P	P	P	P	P	N	C	C
Outdoor recreation facilities	C	C	C	C	C	C	P	C	C
Quarry	N	N	N	N	N	N	N	C/T	P/T
Park, playground and community buildings	P	P	P	P	P	P	P	C	C
Personal services	P	P	P	P	P	P	N	P	P
Pharmacy > 10,000 square feet	P	P	P	C	P	P/C	N	C	C
Pharmacy > 10,001 square feet	P/C	P	P	N	P/C	P/C	N	C	N
Plasma donation center	N	P	N	N	N	N	N	P	P
Printing shop	P/C	P	C	N	C	P	N	P	P
Public, private or parochial schools	C	P	P/C	C	P	C	N	C	C
Public institutional buildings	P	P	P	P	P	P	P	P	P

Public utility buildings	P	P	P	P	P	P	P	P	P
Recreation vehicle park, campground	N	C	C	N	N	N	N	C	C
Refinery	N	N	N	N	N	N	N	N	C
Retail > 10,000 square feet	P	P	P	P	P	P	N	P	P
Retail > 10,000 square feet	C	P	P	C	C	C	N	C	C
Retail, big box	N	P	P	N	N	N	N	C	C
Retail, specialty	P	P	P	N	P	P	N	C	C
Restaurants with drive-through facilities	C	P	P	N	N	C	N	P	P
Restaurants without drive-thru	PP	P	P	P	N	P	N	P	P
Sale of new or used automobiles, trucks, boats, trailers and recreational vehicles	C	P	C	N	N	N	N	P	P
Social service facilities	C	C	N	N	N	N	N	N	N
Studio	P	P	P	P	P	P	N	N	N
Tattoo, body piercing establishment	N	P	N	N	N	N	N	P	P
Telephone answering service	C	P	C	C	P	N	N	P	P
Tobacco retailer	N	P	N	N	N	N	N	P	P
Vehicle motor sports facilities	N	N	N	N	N	N	N	C	P
Welding shop	N	C	N	N	N	N	N	P	P
Wholesale and/or distribution within enclosed building	C	P	C	N	N	N	N	P	P

(Prior Code, Ch. 4, Art. III, § 4-48) (Ord. 432-06, passed 6-19-2006; Ord. 555-11, passed 3-21-2011; Ord. 590-13, passed 1-22-2013; Ord. 593-13, passed 4-1-2013; Ord. 601-13, passed 9-16-2013; Ord. 606-13, passed 5-19-2014)

§ 150.048 RURAL AGRICULTURAL (RA-10).

(A) *Purpose.* The rural agricultural (RA-10) district is intended to preserve agricultural land and the agricultural heritage and aesthetic of the area. Land use is composed of farming, agriculture and the raising of livestock, together with a single-family residence and customary accessory uses and buildings.

(B) (1) *Permitted uses.* The following uses are permitted in the RA-10 zone:

(2) Those uses permitted in the RA-10 zoning district per the table in § 150.047(A).

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and the table in § 150.047(B)).

(1) Those uses conditionally permitted in the RA-10 zoning district per the table in § 150.047(A).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See Part 8 of this chapter, Additional Height and Area Regulations and Exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
50 feet	50 feet	50 feet	50 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	10 acres	200 feet	200 feet	30 feet
Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in Chapter 150, Development Code.				

(E) *Parking.* The applicable provisions of Part 7 of this chapter, Parking; Loading and Unloading shall apply.

(Prior Code, Ch. 4, Art. III, § 4-49) (Ord. 432-06, passed 6-19-2006; Ord. 593-13, passed 4-1-2013)

§ 150.049 RURAL AGRICULTURAL (RA-4).

(A) *Purpose.* The rural agricultural (RA-4) district is intended to encourage agricultural use of land, and as a holding zone for land that is not yet needed for more intensive use.

(B) (1) *Permitted uses.* The following uses are permitted in the RA-4 zone:

(2) Those uses permitted in the RA-4 zoning district per the table in § 150.047(A).

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and the table in § 150.047(B)).

(1) Those uses conditionally permitted in the RA-4 zoning district per the table in § 150.047(A).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See Part 8 of this chapter, Additional Height and Area Regulations and Exceptions.)

(1) *Setbacks.*

Front	*Interior Side*	*Street Side*	*Rear*
40 feet	20 feet	40 feet	40 feet

(2) *Area and bulk requirements.*

Minimum Site Area	*Minimum Lot Area*	*Minimum Lot Width*	*Minimum Lot Depth*	*Maximum Height*
N/A	4 acres	150 feet	150 feet	30 feet
Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in Chapter 150, Development Code.				

(E) *Parking.* The applicable provisions of Part 7 of this chapter, Parking; Loading and Unloading shall apply.

(Prior Code, Ch. 4, Art. III, § 4-50) (Ord. 432-06, passed 6-19-2006; Ord. 593-13, passed 4-1-2013)

§ 150.050 SINGLE-RESIDENTIAL RANCHETTE (R1-R).

(A) *Purpose.* The R1-R district is intended to promote and preserve the development of rural single-family residential neighborhoods. The dominant land use of this zone should be single-family dwellings with the other allowed uses, educational, recreational and religious, dispersed throughout and in proportion to the size of the R1-R neighborhood, so as to adequately serve the neighborhood.

(B) *Permitted uses.* The following are permitted uses in the R1-R district:

(1) Accessory buildings and uses, including private swimming pool, home occupation and model home;

(2) Dwelling, single-family;

(3) Farm animals, provided that there are no more than three hoofed animals per acre; and

(4) Park, playground and community owned buildings.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Agricultural buildings and structures;

(2) Bed and breakfast;

(3) Boarding and/or lodging house;

(4) Church;

(5) Convent;

(6) Golf course (except miniature course or practice driving tee operated for commercial purpose), including clubhouse and service facilities which are intended to primarily serve golf course uses and are no closer than 300 feet to any exterior boundary of the golf course, except that the facilities shall have direct access from a collector or arterial street or a highway from which they shall be a distance of at least 50 feet.

(7) Guesthouse, detached;

(8) Manufactured home;

(9) Model home complex and/or sales office;

(10) Private club, fraternity, sorority and lodge;

(11) Public institutional buildings, such as hospitals, fire stations, police stations, YMCA and Boys and Girls Club;

(12) Public or private school;

(13) Public utility buildings, structures or appurtenances thereto for public service uses;

(14) Ranch, non-commercial;

(15) Recreation fields, public or private;

(16) Recreation buildings, public or private;

(17) Stable (commercial) provided the following criteria are met:

(a) No stable, activity or pasture areas shall be permitted within 40 feet of any residential zoning district or use;

(b) There shall be a buffer strip, maintained and used as described in § 150.138(C) as it abuts any residential use or district and adjacent to any public street;

(c) There shall be no shows or other activities which would generate more traffic than is normal to a residential area, unless the proposed site has direct access from an arterial street or highway;

(d) Permission for the shows and activities may be obtained from the Council. Permission shall be requested in a letter that explains the nature and duration of the activity and accommodations for spectators, traffic and additional parking for cars and trailers. This letter shall be submitted to the Town Clerk at least one week prior to the hearing at which consideration is desired;

(e) All pasture and animal storage areas shall be enclosed with fences or walls of a minimum of four feet in height;

(f) All laws applicable to the public health must be complied with for the entire period of operation of the stable;

(g) All stable, activity and pasture areas that are not grassed shall be treated for dust control to Pinal County Air Quality Control standards; and

(h) Adequate parking shall be shown on the site plan and improved to municipal standards.

(18) Temporary buildings used for the sale of homes and lots.

Because no list of uses can be exhaustive, decisions on unspecified uses will be rendered by the Planning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions).

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
30 feet	25 feet	20 feet	20 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	1-1/4 acres	100 feet	150 feet	30 feet

Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in §§ 150.164 through 150.184

(E) *Off-street parking*. The provisions of §§ 150.156 through 150.163 shall apply.

(Prior Code, Ch. 4, Art. III, § 4-51) (Ord. 432-06, passed 6-19-2006)

§ 150.051 RURAL RESIDENTIAL EQUESTRIAN SUBDIVISION (RRES).

(A) *Purpose*. The purpose of the rural residential equestrian subdivision zoning district is to encourage unique, creatively developed subdivisions that are unified by common amenities, operations and associations for the accommodation of manufactured and/or site-built homes on individually owned lots, including necessary accessory uses and amenities and adequate open space to preserve the residential character. This district also serves to create or preserve compatible, rural enclaves with specified animal privileges within outlying and suburbanizing areas of Florence.

(B) *Permitted uses*. The following uses are permitted in the RRES district:

(1) One dwelling unit per lot, which may be one of the following:

(a) One manufactured home, being no more than five years in age since the date of original construction, shall only be permitted to replace an existing manufactured home on an approved RRES lot of record; or

(b) One site-built, single-family dwelling unit.

(2) Accessory buildings and uses, including private swimming pools and home occupations;

(3) Agricultural animals, subject to the following:

(a) No agricultural animal/livestock shall be kept, maintained or stabled on any lot of less than 42,000 square feet.

(b) Two horses are permitted per each residential lot of record that exceeds 42,000 square feet.

(c) Offspring (under the age of six months) of permitted horses on-site, do not count towards the number of permitted animals;

(d) Temporary agricultural/livestock activities or projects conducted primarily for educational purposes, i.e., Future Farmers of America (FFA), 4-H or school credits, are permitted in the RRES zoning district, and such animals are not counted toward the number of permitted agricultural animals. Animals may not include swine or roosters. Active membership must be maintained and verification of such may be required upon request. In addition, a sign (of less than six square feet) designating a given member (i.e., 4-H or Future Farmers of America) is in residence must be visibly posted or displayed on the property at all times for any such project or activity in progress.

(e) The area used for grazing, exercising or training of agricultural animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying. No confinement area shall be located in the front yard, and the grazing of livestock shall be limited to the side and rear yards.

(f) Fencing shall be required for all agricultural animals, and shall consist of a view- or partial view-type fence, pipe rail or other similar fencing material, or a wall of sufficient height to restrain the animal(s). The fence or wall shall be maintained and kept in a sound condition at all times,

(g) Private stables for the housing of agricultural animals shall be constructed so as to facilitate maintenance in a clean and sanitary condition.

(h) Stables used for the keeping of agricultural animals shall be located behind the front plane of the principal building or structure. Stables shall be set back a minimum of ten feet from all property lines and the principal structure or the distance required to comply with all applicable codes, whichever is greater. Stables shall not exceed the height regulations of the RRES zoning district.

(i) Corrals or yards areas used for the keeping of agricultural animals shall be located within the rear half of the lot (or side yard) or parcel, and shall be enclosed by a view- or partial view-type fence, pipe rail or other similar fencing material, or wall of sufficient height to restrain the animal(s). The fence or wall shall be maintained and kept in a sound condition at all times.

(j) Animal wastes shall be stored at least 20 feet from any property line, open space, drainage channel or surface waters, and

shall not violate the health and sanitation provisions of the town code and applicable county codes.

(4) Secondary uses:

(a) Community or recreational facilities for the use and benefit of the subdivision/ community association; and

(b) Common facility service buildings. All the buildings shall be centrally located and use shall be restricted to occupants.

(5) Those uses permitted in the RRES zoning district per Table 150.047(A).

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and Table 150.047(A)).

(1) Those uses conditionally permitted in the RRES zoning district per Table 150.047(A).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director, with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See elsewhere in this Development Code for additional standards and exceptions.)

(1) *Principal structure setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
20 feet	10 feet	10 feet	10 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
10 acres	42,000 square feet	60 feet	100 feet	30 feet
Note: Additional regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in Part 8 of this chapter, Additional Height and Area Regulations and Exceptions.				

(3) Accessory structure setbacks and height.

Front	***Interior Side***	***Street Side***	***Rear***	***Maximum Height***
60 feet	10 feet	10 feet	10 feet	20 feet

(4) *Permanent foundation.* All manufactured homes must be attached to a permanent foundation where the home is set at the level of the adjacent grade, an installation commonly known as "ground-set".

(E) *Off-street parking.* Parking regulations are as provided in Part 7 of this chapter, Parking; Loading and Unloading.

(Ord. 606-13, passed 5-19-2014)

§ 150.052 SINGLE-FAMILY RESIDENTIAL (R1-18).

(A) *Purpose.* The R1-18 district is intended to promote and preserve the development of single-family residential neighborhoods. The dominant land use of this zone should be single-family dwellings with the other allowed uses, educational, recreational and religious, dispersed throughout and in proportion to the size of the R1-18 neighborhood, so as to adequately serve the neighborhood. Each R1-18 neighborhood should be served by a conveniently located B-1 business area of a size in proportion to the residential area it serves. This zone provides for the lowest intensity of land use within the municipality, excepting the RA-10, RA-4 and R1-R districts. Whenever possible, the R1-18 zone should be protected from high intensity land uses and zones, and from heavily traveled transportation routes by areas of land zoned with one of the transitional zones: R1-6, MFR, MHS or NO.

(B) *Permitted uses.* The following are permitted uses in the R1-18 district:

(1) Dwelling, single-family;

(2) Accessory buildings (see § 150.258 for property development standards) and uses, including private swimming pool, home occupation and model home;

(3) Park, playground and community owned buildings; and

(4) Public institutional buildings.

(C) *Conditional uses.*

(1) The following uses may be permitted subject to a conditional use permit (see § 150.015):

(a) Church;

(b) Convent;

(c) Golf course (except miniature course or practice driving tee operated for commercial purpose), including clubhouse and service facilities which are intended to primarily serve golf course uses and are no closer than 300 feet to any exterior boundary of the golf course, except that the facilities shall have direct access from a collector or arterial street or a highway from which they shall be a distance of at least 50 feet;

(d) Group home;

(e) Manufactured home;

(f) Model home complex;

(g) Public utility buildings, structures or appurtenances for public service uses;

(h) Public or private recreation fields and recreation buildings;

(i) Temporary buildings used for the sale of homes or lots; and

(2) Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
20 feet	13 total feet 5 feet minimum	15 feet	12 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***

N/A	18,000 square feet	65 feet	110 feet	30 feet
Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in §§ 150.164 through 150.184.				

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply.

(F) *Continuation or termination of certain nonconforming uses.* All manufactured homes existing within the R1-18 zone as of the date of this amendment shall be declared to be nonconforming, and shall be allowed to remain until the time as any manufactured home within the R1-18 zone becomes a hazard to the life or safety of the occupants and is in complete disrepair, or the manufactured home is removed from the property, or any conditional use permit becomes void, the use of the property shall then conform to all the conditions then in force for the R1-18 zone. Any property owner effected shall have the right to apply for a variance, as provided for elsewhere in the Code, allowing for continued use by heirs, possible resale and replacement under certain circumstances.

(Prior Code, Ch. 4, Art. III, § 4-52) (Ord. 432-06, passed 6-19-2006; Ord. 606-13, passed 5-19-2014)

§ 150.053 SINGLE-FAMILY RESIDENTIAL (R1-6).

(A) *Purpose.* The R1-6 district is intended to allow for medium density residential development that is compatible with R1-18 zoning districts. Numerical restrictions have been kept to a minimum so as to allow as much flexibility as possible in housing design and still ensure adequate protection to adjacent R1-18 zoned property. This is a transitional zone and should be used to separate and protect the R1-18 zone from more intense land uses and zones and from heavily traveled transportation routes.

(B) *Permitted uses.* The following uses are permitted in the R1-6 zone:

(1) Dwelling, single-family;

(2) Accessory buildings (see § 150.258 for property development standards) and uses, including private swimming pools and home occupations; and

(3) Park, playground and community owned buildings.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Church;

(2) Convent;

(3) Golf course (except miniature course or practice driving tee operated for commercial purpose), including clubhouse and service facilities which are intended to primarily serve golf course uses and are no closer than 300 feet to any exterior boundary of the golf course, except that the facilities shall have direct access from a collector or arterial street, or a highway, from which they shall be a distance of at least 50 feet;

(4) Group home;

(5) Manufactured home;

(6) Model home complex;

(7) Public institutional buildings;

(8) Public or private school;

(9) Public utility buildings, structures or appurtenances thereto for public service uses; and

(10) Temporary buildings used for the sale of homes and/or lots. Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

Front	*Interior Side*	*Street Side*	*Rear*
20 feet	10 feet	12 feet	12 feet

(2) *Area and bulk requirements.*

Minimum Site Area	*Minimum Lot Area*	*Minimum Lot Width*	*Minimum Lot Depth*	*Maximum Height*
N/A	6,000 square feet	45 feet	100 feet	30 feet
Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in §§ 150.164 through 150.184.				

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply.

(Prior Code, Ch. 4, Art. III, § 4-53) (Ord. 432-06, passed 6-19-2006; Ord. 606-13, passed 5-19-2014)

§ 150.054 NEIGHBORHOOD MULTI-FAMILY (R-2).

(A) *Purpose.* The R-2 district is intended to allow for higher density residential development that is compatible with the R-1 (single-family) zone. Numerical restrictions have been kept to a minimum so as to allow as much flexibility as possible in housing design and still ensure adequate protection to adjacent R-1 zoned districts. This is a transitional zone and should be used to separate and protect the R-1 districts from more intense land uses and zones, and from heavily traveled transportation routes.

(B) *Permitted uses.* The following uses are permitted in the R-2 zoning district:

(1) Accessory buildings (See § 150.258 for property development standards) and uses, including private swimming pools and home occupations;

(2) Dwelling, single-family; and

(3) Duplex, triplex, condominium and town homes.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Boarding or lodging house;

(2) Convent;

(3) Golf course (except miniature course or practice driving tee operated for commercial purpose), including clubhouse and service facilities which are intended to primarily serve golf course uses and are no closer than 300 feet to any exterior boundary of the golf course, except that the facilities shall have direct access from a collector or arterial street or a highway from which they shall be a distance of at least 50 feet;

(4) Group home;

(5) Model home complex and/or sales office;

(6) Public institutional buildings;

(7) Public or private school;

(8) Public utility buildings, structures or appurtenances thereto for public service uses;

(9) Temporary buildings used for the sale of homes and/or lots; and

Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions).

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
20 feet	12 feet *	15 feet	10 feet
* Between structures.			

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
3 acres	4,500 square feet unit	75 feet	120 feet	30 feet

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-54) (Ord. 432-06, passed 6-19-2006; Ord. 606-13, passed 5-19-2014)

§ 150.055 MULTIPLE-FAMILY RESIDENTIAL (MFR).

(A) *Purpose.* The MFR district is intended to allow for high density residential development in close proximity to the downtown commercial center. This direct relationship provides consumer support for the commercial center and places necessary services and employment centers within walking distance of a large number of people. In spite of the high density allowed, the open space and landscaping requirements of this district are intended to ensure a spacious residential character.

(B) *Permitted uses.* The following uses are permitted in the MFR district:

(1) Multiple unit dwellings including apartments, condominiums and town home housing;

(2) Accessory buildings (see § 150.258 for property development standards) and uses, including recreation building, private swimming pools and home occupations;

(3) Boardinghouse or lodging house;

(4) Convent:

(5) Daycare center and/or nursery;

(6) Home for the aged or nursing home;

(7) Orphanage;

(8) Park, playground and community owned buildings; and

(9) Private lake, semi-public lake, swimming pools and tennis courts.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Private club, fraternity, sorority and lodges;

(2) School, public or private, having a curriculum equivalent to a public school and having no room regularly used for housing or sleeping;

(3) Church;

(4) Golf course;

(5) Nursing homes and convalescent homes;

(6) Group homes;

(7) Public utility buildings, structures or appurtenances thereto for public service uses;

(8) Community buildings or recreational fields not publicly owned; and

(9) Public or institutional buildings, such as hospitals, fire stations, police stations, YMCA and Boys and Girls Club. Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See elsewhere in this Development Code for additional standards and exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
40 feet	20 feet *	25 feet	10 feet
* Between structures.			

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	3,000 square feet unit *	90 feet	120 feet	35 feet
* All other uses shall have a minimum of 10,000 square feet of lot area. Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in §§ 150.164 through 150.184.				

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-55) (Ord. 432-06, passed 6-19-2006; Ord. 606-13, passed 5-19-2014)

§ 150.056 MANUFACTURED HOME SUBDIVISION (MHS).

(A) *Purpose.* The purpose of the manufactured home subdivision zoning district is intended to encourage unique and creatively

developed subdivisions that are unified by common amenities, operations and associations for the accommodation of manufactured homes on individually owned or rented lots, including necessary accessory uses and amenities and adequate open space to preserve the residential character.

(B) *Permitted uses.* The following uses are permitted in the MHS district:

(1) One manufactured home, being no more than five years in age since the date of original construction, shall be permitted on each approved manufactured home lot;

(2) Accessory buildings and uses, including private swimming pools and home occupations;

(3) Secondary uses:

(a) Community or recreational facilities to an extent not less than specified in the development requirements;

(b) Common facility service buildings (laundry facilities, accessory supplies, park maintenance, management, community buildings and other uses of a similar nature). All the buildings shall be centrally located and use shall be restricted to occupants; and

(c) One dwelling unit for manager, caretaker and/or watchperson employed on the premises.

(C) *Conditional uses.* Reserved.

Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See elsewhere in this Development Code for additional standards and exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
10 feet	5 feet	10 feet	10 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
8 acres	4,000 square feet	40 feet	100 feet	30 feet
Note: Regulations for distances between buildings, accessory buildings, access, walls, fences and required screening are contained in Part 8 of this chapter, Additional Height and Area Regulations and Expectations.				

(3) *Permanent foundation.* All manufactured homes must be attached to a permanent foundation where the home is set at the level of the adjacent grade, an installation commonly known as ground-set.

(E) *Off-street parking.* Parking regulations are as provided in Part 7 of this chapter, Parking; Loading and Unloading.

(Prior Code, Ch. 4, Art. III, § 4-56) (Ord. 432-06, passed 6-19-2006; Ord. 570-12, passed 3-5-2012; Ord. 601-13, passed 9-16-2013; Ord. 606-13, passed 5-19-2014)

§ 150.057 NEIGHBORHOOD BUSINESS (B-1).

(A) *Purpose.* The B-1 neighborhood business district is intended to allow for the development of basic commercial uses to serve the daily needs of a residential neighborhood. The size of any B-1 area should only be as large as is necessary to serve a given neighborhood. All B-1 areas should be located on a street of collector size or larger.

(B) *Permitted uses.* The following uses are permitted in the B-1 zone:

(1) Retail stores with sales only, not to exceed 10,000 square feet of gross floor area, individually and not to exceed 50,000 square feet in a commercial complex. Drive-through facilities and convenience uses require use permit approval;

(2) Restaurants and cafés not including entertainment, dancing, a bar for the serving of alcoholic beverages or drive-in types of restaurants;

(3) Grocery store, supermarket or drug store;

(4) Personal and household services such as barbers, beauty shops, health clubs and dry cleaners;

(5) Business and professional offices, banks and similar;

(6) Daycare center and/or nursery, nursery schools or private kindergartens; and

(7) Laundry limited to machines not exceeding a 25-pound capacity.

(C) *Conditional uses.* Conditional use permit required:

(1) Gasoline service station, provided the following criteria are met:

(a) All structures shall be of a unique design that is appropriate to the area in which they are constructed.

(b) The property adjacent to any street shall be landscaped to a minimum depth of 15 feet from the right-of-way line. This landscaped area may be penetrated by two access drives, 35 feet maximum width each per street.

(c) All indoor service areas shall have vehicular access doors that open only to an outdoor service area that is not on a street side of the building. The outdoor service area shall be completely enclosed by a solid wall or fence at least six feet in height, except for access openings no wider than 12 feet. There shall be no repair work done outside of the enclosed service areas.

(d) The minimum property size shall be 22,500 square feet.

(e) No driveway shall extend into the curb radius at a street intersection.

(f) All sources of artificial light shall be concealed from view, except for freestanding standards, which shall have translucent covers to diffuse the light and eliminate glare.

(g) All vending machines shall be within the building or an area that is screened from public view.

(2) Car wash, self-service or coin-operated, provided there is no conveyor belt or drying equipment as permitted in automobile laundry;

(3) Restaurant or café which include drive-up service;

(4) Indoor commercial recreation facilities;

(5) Small animal hospitals or clinics, confined to completely enclosed sound-attenuated facilities, subject to:

(a) Animals shall not be boarded or lodged except for short periods of observation incidental to care or treatment; and

(b) No kennel or exercise runs will be permitted.

Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***

20 feet	10 feet	12 feet	10 feet

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	N/A	50 feet	75 feet	35 feet

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-58) (Ord. 432-06, passed 6-19-2006)

§ 150.058 NEIGHBORHOOD OFFICE (NO).

(A) *Purpose.* The NO neighborhood office district is intended to provide for low intensity commercial development in established single-family residential neighborhoods. The standards provide for these uses to be compatible with, and similar in character to, the R1-18 low density residential zone. The primary main purposes of the NO zone is to provide for conversion of existing single-family residential structures to more intense use at the time as the conversion becomes appropriate. This is a transitional zone and should be used to separate and protect the R1-18 zone from more intense land uses and zones, and from heavily traveled transportation routes.

(B) *Permitted uses.* The following uses are permitted in the NO zone:

(1) Office, professional, for accountant, architect, chiropodists, chiropractor, dentist, Engineer, lawyer, minister, naturopath, osteopath, physician, surgeon, surveyor, optometrist and the like;

(2) Office, semi-professional, for insurance broker, public stenographer, real estate broker, stock broker and other persons who operate or conduct offices which do not require the stocking of goods for wholesale or retail, but shall not include barber, beauty operator, cosmetologist, embalmer or mortician except as otherwise provided;

(3) Studio for professional work or teaching of any form of commercial or fine arts, photography, music, drama, dance, but not including commercial gymnasium, dance hall or job printing;

(4) Dwelling units made available for rent, lease or sale;

(5) Accessory buildings (see § 150.258 for property development standards) and uses, including recreation building, private swimming pool, home occupation and model home;

(6) Art gallery;

(7) Pharmacy, limited to 10,000 square feet gross floor area;

(8) Banks, finance offices and lending institutions;

(9) Public or institutional buildings, such as hospitals, fire stations and police stations, YMCA and Boys and Girls Club;

(10) Daycare center and/or nursery;

(11) Park, playground and community owned buildings; and

(12) Public utility buildings, structures or appurtenances thereto for public service uses.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Church;

(2) Community center, public, recreation and park facility and

(3) School, elementary or secondary, meeting all requirements of the compulsory education laws of the state. Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See elsewhere in this Development Code for additional standards and exceptions.)

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
20 feet from all streets *	6 feet **	10 feet	20 feet
* From all streets 20 feet, the front 10 feet of which shall be maintained as open space, except that access drives may penetrate the open space. ** Unless a lesser yard has been legally established on a lot of record, in which case the building may contain any use allowed in this zone.			

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	N/A	50 feet	50 feet	30 feet

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-59) (Ord. 432-06, passed 6-19-2006)

§ 150.059 DOWNTOWN COMMERCIAL (DC).

(A) *Purpose.* The purpose of the downtown commercial zoning district is to maintain and enhance the character of the historic buildings within the central business district area of historic downtown Florence; and facilitate opportunities for redevelopment and new development. Use and development standard regulations for the DC district are designed to promote a pedestrian-oriented specialty retail and mixed-use district by encouraging the improvement of the pedestrian environment, delineating appropriate land uses within the district and ensuring that new and renovated buildings are designed to be compatible with the historic fabric of the area and at a scale consistent with existing buildings within the DC district.

(B) *Permitted uses.*

(1) Personal and household services, such as clothing alteration, seamstress shop, shoe repair shops, beauty and barber shops, jewelry and watch repair, small appliance repairs, bank, credit union, travel agency, launderette and dry cleaners (without processing);

(2) Specialty retail uses including, but not limited to, gift shops, stationery and card stores, clothing stores, bicycle shop, bookstores, art supply shops, florists, bakery, photo shop, copy/printing shops, photo studios, delicatessen, coffee house, candy shop, billiards parlor, movie theater, neighborhood grocery store, sporting goods store and ice cream shop;

(3) Art studios for the production and teaching of fine art, when located above the first floor or behind the commercial frontage;

(4) Art galleries, antiques, crafts, consignment and collectibles sales;

(5) Restaurants, cafeterias, taverns, liquor store and outdoor dining when ancillary to restaurant use;

(6) Hotels and bed and breakfasts;

(7) Residential units provided they are located behind the Main Street frontage on the street level floor, located above the street level floor if along the Main Street frontage and/or on any floor where not located along the Main Street frontage;

(8) Professional and administrative offices;

(9) Private club or lodge provided the facilities are under 5,000 square feet; and

(10) Those uses permitted in the DC zoning district per the table in § 150.047(B), employment an/or commercial zoning district use regulations.

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and the table in § 150.047(B)).

(1) Those uses conditionally permitted in the DC zoning district per the table in § 150.047(B).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and the Town Council.

(D) *Development standards.* The chart which follows specifies the maximum building heights and minimum yard setbacks.

(1) *Setbacks.*

Minimum Yard Setbacks*				
Land Use	***Front***	***Side***	***Street Side***	***Rear***
Commercial	0 feet	0 feet	0 feet	10 feet
Residential	0 feet	0 feet	0 feet	0 feet
*While zero lot line development is encouraged in the DC district, compliance with other applicable code requirements, such as building and fire codes, is still required.				

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	N/A	N/A	N/A	35 feet *
* As measured from grade.				

(E) *Parking regulations.* With the exception with any potentially applicable requirements for ADA (handicap accessible) parking for any new or redeveloped property in the DC district and loading requirements for any commercial business over 5,000 square feet, no on-site parking shall be required in the DC zoning district. Other applicable parking regulations are as provided in Part 7 of this chapter, Parking; Loading and Unloading.

(F) *Compliance with other provisions.*

(1) *Historic district provisions.* When a property located within the DC zoning district is also located within the town's historic district, the provisions and regulations in § 150.066 shall apply.

(2) *Additional height and area regulations and exceptions.* The provisions and regulations in Part 8 of this chapter, are applicable to the DC zoning district.

(Prior Code, Ch. 4, Art. III, § 4-60) (Ord. 432-06, passed 6-19-2006; Ord. 590-13, passed 1-22-2013)

§ 150.060 HIGHWAY BUSINESS COMMERCIAL (B-2).

(A) *Purpose.* The highway business commercial zoning district is intended to provide for general business and commercial uses in locations which are suitable and appropriate, taking into consideration existing conditions, future land use needs and the availability of public services. The intent of this zoning district is to allow commercial uses to satisfy the needs of the community while providing for a broad range of commercial activities.

(B) *Permitted uses.* The following uses are permitted in the B-2 district:

(1) Permitted uses in the B-2 highway business commercial zoning district shall be only those uses listed below. Permitted uses are subject to all other applicable standards of this section. No building permit shall be issued for a use not specifically mentioned and until site plan approval has been granted by the town;

(2) Those uses permitted in the B-1 neighborhood business zoning district and per Table 150.047(B);

(3) Accessory buildings and uses ancillary to the permitted use;

(4) Medical, dental and clinical laboratories;

(5) Hospital and outpatient clinics;

(6) Small animal hospitals or clinics, confined to completely enclosed sound-attenuated facilities, subject to the following:

(a) Animals shall not be boarded or lodged except for short periods of observation incidental to care or treatment; and

(b) No kennel or exercise runs will be permitted.

(7) General office uses;

(8) Drive-in window facilities;

(9) General big box retail stores such as: grocery stores, retail drug stores, video stores, dry goods and notions stores, appliance stores, home or hardware stores, floor and wall covering stores, furniture stores, bicycle and sporting good stores, and apparel stores;

(10) Restaurants including drive-in and drive-through facilities;

(11) Hotels and motels;

(12) Movie theaters (excluding drive-in movie theaters), dance halls and bowling alleys;

(13) Household, sickroom or office equipment rental and services;

(14) Car wash and auto spa;

(15) Sale of new or used automobiles, trucks, boats, trailers and recreational vehicles;

(16) Sale of new manufactured homes;

(17) General auto repair, including auto painting and body repair, provided all repair operations are conducted within a building and including an outside vehicle storage area to be used only for vehicles under repair which shall be screened from any street or surrounding property;

(18) Nurseries, flower and plant sales;

(19) Black smith shops;

(20) Night watchpersons quarters, as a security provision, as an accessory use to a permitted commercial use with town approval;

(21) Businesses engaged in wholesaling, assembly or manufacturing must be within a completely enclosed building and must have a retail component on-site; and

(22) Public schools, private schools or parochial schools.

(C) *Conditional uses.* Conditional use permit required:

(1) Amusement facilities, arcades, miniature golf, batting cages, go-cart tracks and similar uses;

(2) Commercial kennels provided all animals are kept indoors, and no outside runs are permitted;

(3) Churches or places of worship except those existing at the time of the adoption of this Development Code;

(4) Social service and community service agency facilities such as plasma centers, charity dining services, homeless shelters, day labor hiring centers, substance abuse detoxification and treatment centers, rescue missions and other similar social service uses; and

(5) Mini-storage facilities provided they are used solely for dead storage purposes.

(6) Medical marijuana dispensaries.

Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

Land Use	***Minimum Yard Setbacks***				***Lot Coverage***
	Front	Side	Side Street	Rear	
B-2	25 feet **	10 feet	20 feet **	10 feet	60%
** The front ten feet of which shall be maintained as open space, except that access drives may penetrate the open space.					

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	N/A	200 feet	100 feet	3 stories and/or 40 feet
* Additional building height allowances up to a maximum of 50 feet may be obtained with a conditional use permit.				

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen a minimum of three feet in height.

(F) *Development standards.*

(1) *General architectural requirements.* Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted or roof mounted, shall be screened from public view and designed to appear as an integral part of the building.

(2) *Building elevations.* All building elevations which face a public street or are adjacent to residential uses or zoning districts, shall have an architectural design other than metal or corrugated metal.

(3) *PUD buildings and group commercial development.* PUD buildings in group commercial development including service

stations, convenience stores, chain restaurants, auto maintenance facilities and similar uses should be designed in a compatible architectural style, and incorporate the same materials, colors and landscaping as the host development.

(G) *General site planning requirements.* Service and loading bays (car wash, automotive service, tires and the like) should be oriented away from adjacent residential zoning districts.

(1) Drive-through windows should not face a public street;

(2) Equipment such as, but not limited to, vending machines should be screened from street view and placed in an area designed for their use, as an integral part of the structure;

(3) Open space equivalent to 10% shall be required for group commercial development. Open space does not include parking areas.

(4) Bicycle parking facilities should be encouraged and should be located near the pedestrian space.

(Prior Code, Ch. 4, Art. III, § 4-61) (Ord. 432-06, passed 6-19-2006; Am. Ord. 555-11, passed 3-21-2011)

§ 150.061 TOURIST COMMERCIAL (TRC).

(A) *Purpose.* The tourist commercial zone is intended to provide for development within close proximity to major arterial thoroughfares providing specialty commercial areas tailored to the needs of visitors to the town.

(B) *Permitted uses.* The following uses are permitted in the TRC district:

(1) Banks, finance offices and lending institutions;

(2) Restaurants and cafés including entertainment, dancing, a bar for the serving of alcoholic beverages or drive-in types of restaurants;

(3) Art gallery;

(4) Pharmacy, limited to a maximum of 15,000 square feet of floor area;

(5) Park, playground and community owned buildings;

(6) Bed and breakfast;

(7) Barber and beauty shops;

(8) Automobile rental agencies; and

(9) Museums and cultural centers.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Hotels and motels;

(2) Freeway service facility;

(3) Gasoline dispensing and/or automotive service stations;

(4) Carwash, coin operated only; and

(5) Recreation vehicle park and/or campground.

Because no list of uses can be exhaustive, decisions on unspecified uses shall be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

		Lot

Land Use	*Minimum Yard Setbacks*				*Coverage*
	Front	Side	Side Street	Rear	
TRC	20 feet **	20 feet/0 **	20 feet */10 **	20 feet	60%
** The front ten feet of which shall be maintained as open space, except that access drives may penetrate the open space. ** If alleyway or similar is provided.					

(2) *Area and bulk requirements.*

Minimum Site Area	*Minimum Lot Area*	*Minimum Lot Width*	*Minimum Lot Depth*	*Maximum Height*
5 acres	½ acre	200 feet	100 feet	2 stories /35

(E) *Off-street parking*. The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen, a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-62) (Ord. 432-06, passed 6-19-2006)

§ 150.062 PROFESSIONAL OFFICE (PO).

(A) *Purpose*. The purpose of the professional office zone is intended to provide a mix of finance, insurance and real estate and other uses that require an office setting primarily located in the town core area.

(B) *Permitted uses*. The following uses are permitted in the PO zoning district:

(1) Business college, limited to the teaching of office and business practices and skills;

(2) Office, business;

(3) Office, professional;

(4) Optician, limited to prescription work only;

(5) Physiotherapist;

(6) Studio for professional work or teaching of any form of commercial or fine arts, photography, music, drama, dance, but not including commercial gymnasium, dance hall or job printing;

(7) Hospitals for animals including boarding and lodging; provided there shall be no open kennels maintained and provided and all facilities will be in soundproof buildings;

(8) Church;

(9) Community center, public;

(10) Recreation and park facility, public;

(11) Accessory buildings (see § 150.258 for property development standards) and uses, including recreation building, private swimming pool, home occupation and model home;

(12) Art gallery;

(13) Pharmacy, prescription, limited to pharmaceuticals only;

(14) Banks, finance offices and lending institutions;

(15) School, elementary or secondary, meeting all requirements of the compulsory education laws of the state; and

(16) Telephone answering service.

(C) *Conditional uses.* The following uses may be permitted subject to a conditional use permit (see § 150.015):

(1) Park, playground and community owned buildings;

(2) Public utility buildings, structures or appurtenances thereto for public service uses;

(3) Public or institutional buildings, such as hospitals, fire stations and police stations, YMCA and Boys and Girls Club; and

(4) Daycare center and/or nursery.

Because no list of uses can be complete, decisions on unspecified uses will be rendered by the Planning and Zoning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions.)

(1) *Setbacks.*

Land Use	***Minimum Yard Setbacks***				***Lot Coverage***
	Front	Side	Side Street	Rear	
PO	20 feet *	10 feet/0 **	20 feet/10 **	10 feet	60%
** The front ten feet of which shall be maintained as open space, except that access drives may penetrate the open space. ** If alleyway or similar is provided.					

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
4 acres	½ acres	200 feet	100 feet	35 feet

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen, a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-63) (Ord. 432-06, passed 6-19-2006)

§ 150.063 PUBLIC/INSTITUTIONAL (PI).

(A) *Purpose.* The principal purpose of the (P/I) Public/Institutional district is to allow those government and institutional uses which are necessary to serve the public in particular locations of the town and to distinguish them from private uses.

(B) *Permitted uses.*

(1) Open space, parks, fine arts center, convention center, public recreational facilities, festivals and accessory uses;

(2) Public schools and playgrounds;

(3) Governmental office buildings and grounds, including service and maintenance facilities;

(4) The public facilities as hospitals, libraries, museums and similar public facilities;

(5) Public water production and storage facilities, public sewage treatment plants, public facilities for the collection, transfer and disposal of solid wastes;

(6) Airports, armories and military installations; and

(7) Other uses approved by the Town Council.

(C) *Conditional uses.* Reserved.

Because no list of uses can be exhaustive, decisions on unspecified uses will be rendered by the Planning Commission with appeal to the Town Council.

(D) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions)

(1) *Setbacks.*

Land Use	***Minimum Yard Setbacks***				***Lot Coverage***
	Front	Side	Side Street	Rear	
P/I	20 feet	20 feet	20 feet	20 feet	N/A

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
N/A	N/A	N/A	N/A	N/A

(E) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply. In addition, parking shall be allowed in the rear ten feet of the front yard only if it is screened from the street by a solid wall, fence or landscape screen, a minimum of three feet in height.

(Prior Code, Ch. 4, Art. III, § 4-64) (Ord. 432-06, passed 6-19-2006)

§ 150.064 LIGHT INDUSTRIAL (LI).

(A) *Purpose.* The purpose of the Light Industrial zoning district is intended to promote and protect light manufacturing, warehouses and research and development industries, to cluster the industries into attractive planned industrial parks, to minimize incompatibility of industrial uses with adjacent land uses and, provide sufficient space in appropriate locations to businesses and manufacturing firms free from offensive land uses in modern, landscaped buildings and surroundings.

(B) (1) *Permitted uses.* The uses permitted in the LI zone are generally those industrial, office, storage, laboratory and manufacturing uses which do not create any danger to health and safety in surrounding areas and which do not create any offensive noise, vibration, smoke, dust, odor, heat or glare and which, by reason of high value in relation to size and weight of merchandise

received and shipped, generate a minimum of truck traffic.

(2) Those uses permitted in the LI zoning district per the table in § 150.047(B).

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and the table in § 150.047(B)).

(1) Those uses conditionally permitted in the LI zoning district per the table in § 150.047(B).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See Part 8, Additional Height and Area Regulations and Exceptions.)

(1) *Setbacks.*

Land Use	***Minimum Yard Setbacks***				***Lot Coverage***
	Front	***Side***	***Side Street***	***Rear***	
L/I	50 feet *	25 feet/0 **	50 feet * /20 **	25 feet	N/A
* From all streets, 50 feet which shall be maintained as open space, except that access drives may penetrate the open space and parking may cover 15% of the required setback area. The parking shall be screened from the street by a solid fence, wall or landscaping screen of three feet in height. ** If alleyway or similar is provided.					

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
5 acres	N/A	200 feet	200 feet	60 feet *
Additional building height allowances up to a maximum of 50 feet may be obtained with a conditional use permit.				

(E) *Parking*. The applicable provisions of Part 7, Parking; Loading and Unloading shall apply.

(Prior Code, Ch. 4, Art. III, § 4-65) (Ord. 432-06, passed 6-19-2006; Ord. 555-11, passed 3-21-2011; Ord. 593-13, passed 4-1-2013)

§ 150.065 HEAVY INDUSTRIAL (HI).

(A) *Purpose.* The purpose of the Heavy Industrial zoning district is intended to promote and protect large and intensive industrial manufacturing plants and their appurtenant uses, and to provide attractive and well maintained and planned industrial parks for the location of the activities.

(B) *Permitted uses.* Those uses permitted in the HI zoning district per the table in § 150.047(B).

(C) *Conditional uses.* Uses may be permitted subject to a conditional use permit (see § 150.015 and the table in § 150.047(B).

(1) Those uses conditionally permitted in the HI zoning district per the table in § 150.047(B).

(2) Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Development Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.* (See Part 8 of the chapter, Additional Height and Area Regulations and Exceptions.)

(1) *Setbacks.*

Land Use	***Minimum Yard Setbacks***				***Lot Coverage***
	Front	***Side***	***Side Street***	***Rear***	
H/I	50 feet *	25 feet	50 feet *	25 feet	N/A
* From all streets, 50 feet which shall be maintained as open space, except that access drives may penetrate the open space and parking may cover 15% of the required setback area. The parking shall be screened from the street by a solid fence, wall or landscaping screen of three feet in height.					

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Lot Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
10 acres	N/A	200 feet	200 feet	60 feet *
* Additional building height allowances up to a maximum of 50 feet may be obtained with a conditional use permit.				

(E) *Parking.* The applicable provisions of Part 7 of this chapter, Parking; Loading and Unloading shall apply.

(Prior Code, Ch. 4, Art. III, § 4-66) (Ord. 432-06, passed 6-19-2006; Ord. 593-13, passed 4-1-2013)

§ 150.066 OVERLAY DISTRICTS; HISTORIC DISTRICT.

(A) *Purpose.*

(1) It is the purpose of the historic district to promote the preservation of the unique historical character of the municipality while encouraging the retention and rehabilitation of historic districts and individual historic sites or structures in the community. The result of this preservation and rehabilitation will be to provide for the educational, cultural, economic and general social benefits which will occur because of the Code while ensuring an orderly growth for the historic portions of the community.

(2) To achieve these objectives, the historic district zoning designation is to be superimposed over existing zoning classifications where there is a recognized group of historic structures. This zoning designation is not intended to modify or alter those land uses permitted by the existing, underlying zoning and should not be used to do so. This zone is, however, intended to encourage the preservation of historic districts and structures, to promote their use while retaining their original architectural style and character and to provide for their rehabilitation, if necessary.

(3) It is also the intent of this zone to ensure that proposals for new or remodeled structures which are to be located within designated historic districts are designed and constructed to harmonize with the existing historic structures in the immediate vicinity.

Achievement of this objective will assist in the preservation of the historical character of the district while retaining the property values within the district. It will also provide for future development in the district. Finally, achieving this objective will promote an awareness of the unique historical character of the municipality for both its residents and visitors.

(B) *Creation of historic district.* Based on the information contained in Florence Townsite, A.T., the 1982 district nomination to the National Register of Historic Places, and other pertinent material on the history of the municipality which has been or will be prepared, the historic sites and structures of the municipality can be delineated. Based on the findings of these documents, a historic district may be proposed which will include all or a portion of these identified historic sites or structures.

(1) This proposed historic district may be initiated by the direct action of the Council or by the Commission. It may also be initiated by the application of not less than 75% of the owners of property in the proposed district or by the application of not less than 75% of the owners by area in the proposed

district. For purposes of this calculation of the number of owners of property within the proposed district and the amount of property which each owns, the most recent records of the County Assessor's office shall be used. Also for this purpose, a single parcel of property held in joint or common tenancy shall be counted as one owner and only one of the owners shall have to sign the application for historic district zoning.

(2) In approving an application for historic district zoning, the Council shall follow the same procedures that are used in other zoning cases. Before initiating the formation of a historically zoned district, however, the Council and/or the Commission may seek the advice, assistance and participation of qualified groups or individuals interested in the preservation and rehabilitation of the historic sites and structures of the community.

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

BUILDING DETAILS. Those features of a structure's design which relate it to a particular architectural period or style. These features may include arches, cornices, grill work, shutters, trim over doors and windows and other items.

BUILDING FORM. The size, shape, scale and mass of a structure.

BUILDING MATERIALS. The elements which make up the structure and which are appropriate to a particular architectural period or style, includes adobe, brick, wood, stucco, metal and other building materials.

FACADE STYLE. The appearance of the building taking all of the design components (materials, form, details, proportion, projections and recessions, rhythm, roof type and other design elements) into consideration.

HEIGHT. The vertical distance of a structure as measured between the highest part of the structure and the finished grade at the midpoint of the front facade of the structure, excluding chimneys or mechanical equipment.

HISTORIC SITE or ***HISTORIC STRUCTURE.*** Those sites or structures which:

(1) Are documented as dating from a particularly significant period in the history of the municipality;

(2) Are associated with the lives of historically outstanding persons;

(3) Are associated with events or occurrences of significant historical importance;

(4) Are examples of the significant architectural periods in the development of the municipality. These periods (as identified in Florence Townsite, A.T.) include:

(a) The Sonoran Tradition (1866-1950);

(b) The Early Transitional Tradition (1871-1947);

(c) The Late Transitional Tradition (1878-1949);

(d) The American-Victorian Styles (1885-1922);

(e) The Bungalow Style (1908-1950);

(f) The Mission Revival Style (1912-1943);

(g) Early Twentieth Century Commercial and/or Neo-Classic Revival Style (1913- 1936);

(h) Spanish Colonial Revival Style (1916-1931); and

(i) Moderne Style (1920-1931).

(5) Are structures which have distinguishing characteristics of style, type of construction or other aspects of architecture and/or are the work of a builder, designer or architect of historical importance to a specific period;

(6) Are related to events, persons or styles of architecture which are at least 50 years old or are examples of outstanding importance which are less than 50 years old but which deserve individual recognition;

(7) Are related positively to the buildings and other physical features in the immediate vicinity in terms of proportion, scale and style such that they are an integral part of their setting; and

(8) Are used to contribute information of architectural, archaeological, historical, cultural or social importance as it relates to the unique character of the municipality.

IMMEDIATE VICINITY. Those structures which are within 200 feet of the historic structure or which are clearly visible from the property lines of the lot on which the structure is placed.

PREVAILING SETBACK. The most frequently found distance from the front facade of the structures in the immediate vicinity to the front property line. If this distance is less than the setback requirement of the existing underlying zoning, the underlying zoning requirement shall prevail. However, the Board of Adjustment shall be encouraged to grant variances to this requirement in the case of historic or aesthetic importance.

PROJECTIONS and ***RECESSIONS.*** Those architectural features which break up the smooth plane formed by a facade of a structure, includes awnings, steps, entrances, overhangs, windows and other items.

PROPORTION. The relationship between the height and width of a building's facades, windows, doors and other architectural features.

RHYTHM. The ordered pattern of alternating between solids and voids in a structure's facades or in the other physical features of the historic district.

ROOF TYPE. The design of the roof, including slope, size, material and configuration, which is appropriate to a particular architectural period or style.

SITE UTILIZATION. The spacing between buildings within the immediate vicinity of the structure.

(D) *Criteria*. Prior to designating an area as a historic district and classifying it under this Development Code, the Council shall consider the following:

(1) A historic district shall include structures which meet the definition of ***HISTORIC STRUCTURES***.

(2) A historic district shall consist of a group of historic sites or structures which contribute to an appreciation and knowledge of the unique architectural character of the municipality.

(3) A historic district should be easily distinguishable in character and appearance from other parts of the community.

(4) A historic district should be of a size and shape which make it a recognizable and comprehensive unit in appearance.

(E) *Establishment and/or additions or deletions.* Prior to the establishment of a historic district or prior to the amendment to an existing district, the Planning and Zoning Commission shall hold a public hearing to consider the request. Notice of this hearing shall be sent to the owners of all real property within the proposed historic district or in the area proposed for amendment. This notice shall contain a map of the proposed district or amendment area and a summary of these regulations. At this public hearing, the Planning and Zoning Commission shall:

(1) Review the procedure for initiating the proposal;

(2) Delineate the boundaries of the proposed historic district or amendment to an existing district;

(3) Receive comments about the proposal; and

(4) Make a recommendation to the Council concerning the proposal.

(F) *Council action*. Within 30 days of receiving this recommendation from the Planning and Zoning Commission, the Council shall:

(1) Designate a historic district or amend an existing district as proposed;

(2) Deny the initiative for establishment of a district or amendment to an existing district; and/or

(3) Return the matter to the Planning and Zoning Commission for another public hearing or further considerations.

(G) *Designation*. A historic district zone shall be designated by preceding the underlying zoning classification with the letters "HD". This designation shall not alter the uses permitted by the underlying zoning.

(H) *Retention of existing zoning*. All property in the municipality which has been designated as lying within a historic district shall continue to be subject to the conditions of the zoning regulations which they were subject prior to the historic designation.

(I) *Historic District Advisory Commission*. The powers and duties of the Historic District Advisory Commission are outlined § 32.070.

(J) *New construction or alterations to existing structures*. The construction of new structures or the alterations of existing structures or any other activities within a historic district which require the issuance of a building permit shall comply with the following requirements in the preparation of these plans and details:

(1) Consistency with the Secretary of the interior's standards for the treatment of historic properties (36 C.F.R. part 68, 7-12-1995).

(2) While no specific architectural style will be required for new construction within a historic district, the following criteria shall be used by the Historic District Advisory Commission and the Council in determining the compatibility of the request with existing structures in the immediate vicinity and in the district as a whole:

(a) Height;

(b) Setbacks, including prevailing setback;

(c) Proportion;

(d) Rhythm;

(e) Site utilization;

(f) Facade style;

(g) Roof type;

(h) Materials;

(i) Projections and recessions;

(j) Details; and

(k) Building form.

(3) Each of these criteria shall be reviewed by the Commission and the Council before they rule on the appropriateness of the proposed new construction in the historic district.

(K) *Iterations*.

(1) Iterations to a structure within a historic district shall comply with the following criteria and shall preserve the historical and architectural character that makes the structure of historic significance if architecturally and economically appropriate. These changes shall be in keeping with the Secretary of the interior's standards for rehabilitation if economically feasible. The following criteria shall be used by the Historic District Advisory Commission and the Council in determining the compatibility of the request with the existing structure and with other structures in the immediate vicinity:

(a) Height;

(b) Setbacks, including prevailing setback;

(c) Proportion;

(d) Rhythm;

(e) Site utilization;

(f) Facade style;

(g) Roof type;

(h) Materials;

(i) Projections and recessions;

(j) Details; and

(k) Building form.

(2) Each of these criteria shall be reviewed by the Commission and the Council before they rule on the appropriateness of the proposed alterations to an existing structure within a historic district.

(L) *Demolition of structures.* The municipality shall not issue a demolition permit for any structure or part of a structure within a historic district until the application has been approved by either the Historic District Advisory Commission or upon appeal to the Council. In making this decision, the Commission and/or the Council shall consider the results of a cost and/or benefit analysis prepared by the applicant, as prescribed earlier in this division, as well as the plans for the property if the demolition permit is approved. Utilizing this information, the Commission and/or the Council shall determine if the structure or part of the structure may be preserved physically or economically.

(1) If the Commission and/or the Council find that the structure is in a condition that it is not economically or physically feasible to preserve it, and that taking into consideration the interests of the public and the interest of the property owner, they shall notify the Town Manager of their decision and a demolition permit shall be issued.

(2) If it is found that the structure can be preserved in terms of economic and physical feasibility, but the owner of the structure continues to want it demolished, the Historic District Advisory Commission shall have up to 180 days to attract a buyer for the property who will preserve it. At the end of this 180 days, if a buyer for the property has not been found, the Commission shall notify the Planning Director and a demolition permit shall be issued.

(3) Approval by either the Historic District Advisory Commission or the Council to the issuance of a demolition permit based on the regulations of this Development Code does not require the issuance of this permit if the municipality should find other reasons to deny the application under the provisions of this Development Code.

(Prior Code, Ch. 4, Art. III, § 4-67) (Ord. 432-06, passed 6-19-2006

§ 150.067 PARKING OVERLAY DISTRICT (P-1).

(A) *Purpose.* It is the intent and purpose of this Development Code to provide a district whereby off-street parking and parking structures in a planned harmonious site may be provided, either above or below the surface of the ground, for private, public, customer or commercial uses.

(B) *Permitted uses.* Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

(1) Surfaced parking lots for the off-street parking of passenger automobiles; and

(2) Carports.

(C) *Property development standards.* (See §§ 150.164 through 150.184 for additional standards and exceptions)

(D) *Off-street parking.* The provisions of §§ 150.156 through 150.163 shall apply.

(Prior Code, Ch. 4, Art. III, § 4-68) (Ord. 432-06, passed 6-19-2006)

§ 150.068 RECREATIONAL VEHICLE PARKS AND/OR SUBDIVISIONS.

(A) *Purpose.* The purpose of this division is to provide for recreational vehicle parks and/or subdivisions that are suitably

developed for the placement and occupancy of recreational vehicles for residential purposes on leased, rented or owned spaces on a long-term or temporary basis. The intent of these regulations is to encourage development of a unified project with adequate open space provisions to preserve the residential character of the area and to prohibit uses that are incompatible with the surrounding areas and development.

(B) *Permitted uses.* The following uses shall be permitted under this division:

(1) Only one recreational vehicle permitted per approved space or lot within a lawfully zoned, permitted, developed and conforming recreational vehicle park;

(2) Manager's office and residences may be of conventional type construction;

(3) Recreational and social centers shall be of conventional type construction and may be used for dancing, crafts, hobbies, games, meetings, banquets, theatrical performances, movie viewing and similar entertainment uses;

(4) Outdoor recreational facilities, such as parks, swimming pools, ramadas, playgrounds, shuffle boards, tennis courts, putting greens and similar recreational uses, provided all the improvements conform to state and county regulations for semi-public uses;

(5) Coin-operated laundry facilities, maintenance building and/or facilities;

(6) Security guard houses at park entrance;

(7) Recreational vehicle storage, including washing areas;

(8) Recreational centers and guest parking areas; and

(9) ***ACCESSORY STRUCTURES*** as defined in § 150.174. Accessory structure plumbing shall be limited to drains for the use of one clothes washer, one sink, one toilet and one shower or combination tub/shower. Heating and/or cooling, electrical convenience outlets and ceiling fans may be installed as per current Code requirements.

(C) *Conditional uses.* Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Town Community Director with the right to appeal to the Planning and Zoning Commission and Town Council.

(D) *Property development standards.*

(1) *Setbacks.*

Front	***Interior Side***	***Street Side***	***Rear***
5 feet *	5 feet	10 feet	5 feet
* Exclusive of recreational vehicle tongue.			

(2) *Area and bulk requirements.*

Minimum Site Area	***Minimum Space Area***	***Minimum Lot Width***	***Minimum Lot Depth***	***Maximum Height***
10 acres	2,000 square feet*	40 feet	50 feet	30 feet
*A maximum density of 14 recreational vehicles per net acre after deduction of existing and/or proposed right-of-way.				

(E) *Access.* Access to all recreational vehicle parks shall be from the interior of the park. There shall be no individual access to any recreational space from the public right-of-way.

(F) *Open space requirements.* A minimum of 75 square feet of recreational open space and/or recreational facilities for each recreational vehicle park. Public or private streets, vehicle storage areas and exterior boundary landscaping areas shall not be included in calculating open space.

(G) *Accessory structures.* Removal of sliding doors, windows or modifications of the existing recreational vehicle enclosed by an accessory structure is prohibited. Construction of all accessory structures shall conform to all building codes currently in force in the municipality.

(H) *Signs.* Directional and informational signs within the park and one identification sign in accordance with all Codes.

(I) *Temporary construction uses.* Temporary construction buildings and yards necessary during the actual development of the park.

(J) *Off-street parking.* Parking regulations are as provided in Part 7 of this chapter, Parking; Loading and Unloading.

(K) *Procedure for park approval.* Approval of a new or expanded recreational vehicle park shall be pursued through the town's design review application process. Any subdivision is subject to the town's applicable procedures and codes for subdivisions.

(Prior Code, Ch. 4, Art. III, § 4-69) (Ord. 432-06, passed 6-19-2006; Ord. 445-06, passed 9-18-2006; Ord. 601-13, passed 9-16-2013)

§ 150.069 PLANNED UNIT DEVELOPMENT (PUD).

(A) *Purpose.* The purpose of the PUD district is intended to accommodate, encourage and promote developments with innovative design involving residential and nonresidential land uses, which together form an attractive, harmonious unit in the community. Such a planned unit development may be designed as a large-scale separate entity, able to function as an individual community or neighborhood, as a small-scale project which requires flexibility because of unique circumstances or design characteristics or as a transitional area between dissimilar land uses. The planned unit development, if so specified at the time of zoning approval, may include standards or criteria that differ from those regulations pertaining to other districts when warranted by circumstances such as but not limited to, alternative residential lot design, innovative architectural or subdivision design features, retirement housing, in-fill development involving a small or irregularly shaped parcel or other circumstances found by the town through the PUD approval to merit departure from the regulations pertaining to other districts. The PUD may be used either as an overlay district to provide flexibility in an otherwise established land use district, or it can be used as an independent district. This district, which may only be developed in accordance with an approved development plan is further established to provide both the developer and the town with reasonable assurances that specific, proposed uses, intensities and phasing are consistent with the adopted general plan.

(B) *General applicability.* The provisions of this Development Code shall apply to all planned unit development documents and any additional or supplemental information that is deemed necessary by the Planning Director, or designee, to meet the following objectives: to accommodate variations in building design, lot arrangements and land uses for a maximum choice in the types of environments for residential, commercial, industrial uses and facilities, to provide for a coordinated and compatibly arranged variety of land uses with efficient and safe traffic circulation, including the separation of pedestrian from vehicular traffic through innovative site planning, to maintain quality of living excellence with the provision of usable open space standards to minimize adverse environmental impact on surrounding areas and, to assist in fulfilling the goals, objectives and policies of the town's general plan and amendments thereto.

(C) *Permitted uses.* All uses permitted within the PUD district are determined by the underlying zoning district, or by an approved development plan for the site. In the development of a balanced community, a variety of housing within one project shall be deemed most in keeping with the objectives of this Development Code. All other uses shall be determined by the compatibility of the uses with each other as well as with surrounding land uses and shall conform to policies established in the town's general plan.

(D) *Density and intensity.* Densities and intensities permitted in the PUD district shall conform with the town's general plan except as to portions of the PUD specifically covered by a plan of development, development agreement, standards or stipulations adopted prior to June 19, 2006.

(E) *Procedures.* A PUD proposal shall be submitted to the Planning Director in the form of a preliminary development plan consisting of a graphic layout with accompanying narrative. For small-scale or single phase projects, the PUD shall be filed as a zoning application and be reviewed and considered for approval in conjunction with the Committee, Planning and Zoning Commission and Town Council procedures. For large, multi-phase projects, the zoning application may be filed as a conceptual preliminary plan with sufficient description and documentation to identify the nature, mix and general arrangement, density, open space and quality of the project, which may be approved upon review by the Committee, Planning and Zoning Commission and Town Council.

(F) *Pre-application meeting.* A pre-application meeting shall be held between the owner or owner's representative(s) and the town. Formal application shall then be submitted to the Planning and Zoning Department, at which time the application shall be forwarded to the Committee for review and recommendation to the Planning and Zoning Commission at a public hearing, in accordance with § 150.019. The Planning and Zoning Commission shall hear the case and forward its recommendation to the Council. Within two years of preliminary PUD approval, the applicant shall submit the final PUD to the Planning Commission. The Commission's recommendations on the final development plan shall be referred to the Town Council for review and approval. Failure to initiate and complete all improvements within the time limits stipulated as part of the final PUD approval shall be cause for the Council to rescind the re-zoning, unless extension of time is granted by the Council.

(G) *Preliminary application.* A preliminary PUD (showing general land use concepts, but not requiring lotting plans at this stage) shall be submitted to and reviewed by the Planning Director, or designee, for consistency with town codes, policies and plans and shall indicate the following:

(1) Locational information including an area map showing adjacent property ownership and existing uses within 300 feet of the parcel, and a legal description of the metes and bounds of the parcel;

(2) Physical constraints to the site's development: existing topographical features, including any portions of the site that are subject to flooding (indicating the extent and frequency, retention areas, calculations and maintenance responsibility), proposed roadway or major utility line extensions which may impact development and areas within aircraft approach and holding patterns and the other impediments to the property's use and improvement as may be present or planned for the future;

(3) Proposed site development addressing the location and nature of the various uses and their areas in acres (summarizing land use areas, total number of dwelling units and approximate percentage allocation by dwelling type, calculation of the residential density in dwelling units per gross acre as defined in the general plan;

(4) The proposed circulation system, including any improvements (public or private) needed to accommodate additional traffic;

(5) The open space system (including a general statement regarding ownership and maintenance) with indication of responsiveness to general plan recreation and/or open space and perimeter treatments;

(6) Relationship of the project to surrounding land uses; and

(7) Evidence of proposed land use compatibility with existing and projected community requirements, with the goals of the general plan.

(H) *Preliminary review.* The preliminary PUD shall be reviewed by the Town Planning Department with staff comments forwarded to the Committee as well as any other agencies deemed appropriate by the Department. The Department shall compile and forward written comments within 30 days.

(I) *Waiver.* The Planning Director or designee, in writing, may waive any of the above required information which is not applicable or require additional information when necessary to clarify any aspect of the project or its potential impacts on the community.

(J) *Committee review.* The Committee shall conduct a meeting to review and make a recommendation to the Planning and Zoning Commission of the findings.

(K) *Planning and Zoning Commission review.* Thereafter, the Planning and Zoning Commission shall conduct a public hearing on the preliminary PUD and transmit recommendations to the Town Council for review.

(L) *Town Council review.* The Town Council may adopt the recommendations of Planning and Zoning Commission without holding a second public hearing if there is no objection, request for public hearing or protest pursuant to A.R.S. § 9-462.04(D). The Council shall hold a public hearing if requested by the applicant, any person appearing in opposition at the Commission hearing or who has filed a written protest, or any member of the Town Council.

(M) *Town Council approval.* The Town Council may approve a PUD only upon finding that the proposal meets the intent, objectives and general requirements of the PUD district and is in conformance with the town general plan, amendments thereto and all pertinent codes and policies.

(1) *Conditions.* The Council may, as necessary, attach conditions to PUD approval, which may include but are not limited to the following considerations: intensities and densities, use limitations, landscaping, screen planting, setback and height of buildings, paving, location of drives and parking areas, storm drainage and storm water retention, public and/or private open space, shape and size of lots, grouping and uses of buildings, maintenance of grounds, regulation of signs, fences and walls, adequacy of vehicle and pedestrian circulation and access, timing and phasing, elevations and architectural theme or any other reasonable considerations the Council finds germane to maintain community character and neighborhood quality.

(2) *Approval time limit.* Unless otherwise specified by Council approval, the preliminary PUD shall be submitted, in its entirety or for initial development phases, for preliminary plat approval within two years from Council adoption.

(N) *Final approval.* Final PUD review and approval, may be processed simultaneously with preliminary plat review. The plans required under this Development Code may be submitted in a form which satisfies the requirements of the subdivision regulations for final plat approval if submitted at the same time. Portions of the PUD which are intended for development at later stages, one year or more from the date of approval, shall not be required to show precise lot or site dimensions but shall be individually processed prior to the issuance of development permits. The applicant shall submit 25 copies of the final development plan, not less than 11 inches by 17 inches in dimension, and one color transparency to the Planning and Zoning Department containing the following information, unless specifically provided otherwise:

(1) All information required on the preliminary development plan as revised in response to preliminary plan approval, with plans showing location and type of all improvements including schematic grading plans with proposed treatment of sloped retention areas and the following explanatory, supporting details:

(a) Introduced by a statement of intended design philosophy and environmental quality (text, graphics or photographic examples), traffic analysis, including interior roadways, typical development envelopes for residential uses and building arrangements for recreational, employment, commercial or institutional uses;

(b) Standards including demand and capacity analyses for municipal systems such as transportation, water supply, sewage disposal and other community facilities, such as schools, public safety, cultural and social services (such as libraries or multi-generational activity centers);

(c) If the development is to be phased, a general indication, with chronology of the intended total project's staging and, if applicable, a list of development standards from which departure is requested stating justifications for each in terms of increased environmental quality; and

(d) Plans and elevations indicating a variety of building types, materials, colors and the number of dwelling units by type with estimated school enrollment to be generated for all portions of the PUD to be constructed pursuant to this review and, for subsequent phases, the timing of development in numerical order, if applicable.

(2) The PUD shall meet all applicable standards of design and construction required by pertinent town codes and policies unless modifications are accepted by the Planning Director or Town Council, whichever is applicable.

(3) All portions of the PUD, whether under development or reserved for future phases shall be maintained free and clear of weeds and debris with posted signs prohibiting dumping of waste, scrap or fill material of any type.

(4) The developer shall submit and the Planning Director shall make a part of the case file record statements regarding any and all approved deviations from the provisions of this Development Code.

(O) *Zoning map.* Upon Town Council approval, the PUD zoning shall be, by ordinance, reflected on the town zoning map.

(P) *Town Engineer approval.* The Town Engineer's approval of conceptual water, sewer and drainage master plans shall be obtained as a condition of development.

(Q) *Development standards.* The development plan shall respond to the following requirements:

(1) *Flexible development.* Quality land improvement, consistent with the town general plan, is required of developers in exchange for the applicant's alternative proposals for meeting or exceeding standards of the underlying zoning district (or comparable district); and

(2) *Alternative development methods.* The alternative development methods may be expressly stipulated in the final development plan.

(R) *Density and/or intensity.* Specific dwelling unit yields may be proposed for individual parcels and development units, notwithstanding otherwise applicable standards, so long as they are consistent with the principles of the general plan.

(S) *Minimum lot area.* Single-family residential developments may propose lotting arrangements with a portion of the site in parcels with less than the otherwise applicable minimum lot area of 6,000 square feet, in consideration of the following criteria as well as other justifications which the applicant may provide:

(1) Mixed housing types including multi-family units with attention to shelter affordability;

(2) Additional useable open space being provided;

(3) Compact residential lots are proximate to employment or freeway interchange or create a desirable housing market, such as attracting active retirees;

(4) Lots with areas less than 6,000 square feet are internal to the development or are adjacent to nonresidential uses; and/or

(5) Illustrations of the proposed street scene where garages are not dominating, porches are provided and the like.

(T) *Property improvement specifications.* Unless otherwise requested, approved and specified on the final development plan, improvements to individual lots or sites shall conform with the standards set forth in the zoning district tables for the district most nearly approximating proposed uses and intensities of use.

(1) Joint use parking facilities, including appropriately buffered and screened recreational vehicle, automotive maintenance and washing areas, may be proposed in accordance with § 150.155.

(2) Parking spaces shall be designated for parks and recreation areas.

(3) Separate, designated spaces shall be provided for temporary model home sales or rental offices.

(U) *Signage.* Comprehensive signage packages shall be proposed to identify and provide entry monumentation, street signs and common area information, including monument signs for freestanding nonresidential uses and directory signage for retail, office or industrial park centers.

(V) *Other improvements.* Off-site installation of municipal system extensions, including streets, sidewalks, pathways, drainage facilities, water, sewer and private provider utility trenching and sub-station facilities necessary to serve the development may be master planned in compliance with town engineering specifications or with attenuation methods and materials approved by the Public Works Director or designee.

(W) *Open space.* Allotments of required percentages of the gross site area in improved or preserved open space to be maintained shall be specified in the final development plan. Desert or agricultural lands, portions of natural washes, stormwater retention areas, golf courses and lineal pathway and/or trail corridors may be accepted as appropriate to the development. Minimum open space shall be provided, based on the following average lot sizes:

(1) Open space requirements:

Average Lot Size	***Minimum Open Space***
Less than 6,000 square feet	15%
6,000-10,000 square feet	10%
10,001-18,000 square feet	5%
18,001 plus square feet	No minimum

(2) Common open space useable for recreation or leisure purposes shall constitute not less than 75% of residential development's open space requirements in development units where the number of multi-family units and average lot size of 6,000 square feet in gross area or less represents the majority of dwelling units. Percentages for larger lot development units or nonresidential parcels shall be specified in the final development plan. Peripheral landscape tracts are required along arterial roadways and the outer edges of planned development units. Tract widths, wall treatments and improvements such as pathways or street furniture shall be specified on the final development plan. Tracts 35 feet or greater in width may abut lots with 2-story dwellings.

(X) *Amenity expectations.* Development plans shall specifically address and provide positive response in terms of land improvement enrichments for the benefit of residents, businesses, visitors and the entire community, including, but not limited to, the following:

(1) *Residential neighborhoods.* Safety, spaciousness, attractive appearance, streetscape, recreation, outdoor enjoyment, residential privacy and compatibility among land uses and housing types are among considerations to which development plans shall respond.

(2) *Design.* Planned neighborhoods' visual appearance shall be enhanced by creative, master planned response to the design standards and regulations as outlined in §§ 150.080*et seq*.

(3) *Facilities.* Housing areas are expected to provide and maintain amenities to enhance neighborhood livability and sustainability for residents of all ages.

(4) *Recreational facilities.* Each dwelling should be located within 1,000 feet of the nearest common open space or within 500 feet of a pathway linkage (sidewalk and/or bike path) to the facilities.

(5) *Drainage structures.* Open, flow-conducting swales, retention or detention basins, which may be coordinated with areas credited toward open space requirements, should be engineered to prevent safety hazard or creation of attractive nuisance.

(6) *Community integration.* Neighborhood design contributes to town-wide enhancements as well as features that provide residential diversity and linkages among neighborhoods.

(7) *Pathways.* Bicycle and pedestrian connections to schools, parks, shopping and other neighborhood activity centers should be conveniently accessible from all dwellings.

(8) *Neighborhood identity.* Entry monumentation, banners, public art, variations in lighting fixtures or street furniture help to distinguish neighborhood units.

(9) *Residential safety.* Pedestrian and security lighting, non-access landscaping varieties, traffic visibility, elimination of lurking areas and public safety and/or emergency accessibility should be addressed.

(10) *Commercial, employment or institutional uses.* Safety, reduction of traffic congestion, architectural excellence, compatible signage, landscaping and/or street furniture treatments in peripheral tracts and parking lots, integration of impacts on other properties in the vicinity are among considerations to which development plans shall respond.

(11) *Design.* Planned neighborhoods' visual appearance shall be enhanced by creative, master planned response to the design standards and regulations as outlined in §§ 150.080*et seq.*

(12) *Facilities.* Community benefitting spaces, fixtures and conveniences should be installed and maintained in accessible, secure locations.

(13) *Activity centers.* Gathering places (including performance sites, outdoor dining, recreation or relaxation areas) may be provided for customers, business invitees, employees and residential neighbors' use at appropriate times.

(14) *Joint use facilities.* Parking, playing fields, restrooms, drinking fountains, plazas, walkways and other facilities may be installed and maintained for community use.

(15) *Transportation amenities.* Bicycle and pedestrian convenience should be stressed, with consideration of bus stop improvements, park-and-ride lots, employee shuttle services and the like.

(16) *Community integration.* Non-residential development should seek to relate, both visually and functionally, with its surrounding neighborhood.

(17) *Open space connection.* Recreation space and multi-purpose pathways are employed as means to allow employees or customers from the adjacent neighborhood to access shopping or jobs and interact with business people.

(18) *Transitional buffering.* Separation distance, landscaping, walls or joint-use areas are provided to protect residential privacy and soften the impacts and edges between nonresidential and housing areas.

(19) *Impact mitigation.* Noise, glare, dust and industrial emissions should be abated to acceptable residential levels at residential property lines. Exposure to hazardous materials of any type is prohibited outside of enclosed, controlled-environment structures.

(Prior Code, Ch. 4, Art. III, § 4-57) (Ord. 432-06, passed 6-19-2006; Ord. 584-12, passed 10-1-2012)

§ 150.070 TERRITORY SQUARE (TS).

(A) *Adoption.* The territory square zoning district zoning book is adopted by reference.

(B) *Purpose.* The purpose of the territory square zoning district is to allow for a more creative and flexible hybrid zoning mechanism that can be utilized to effectively implement the town-endorsed North End Framework Vision Plan. This zoning district is intended to accommodate, encourage and promote high quality and innovative residential, non-residential and mixed use development within a centralized area of Florence that is critical for the ultimate connectivity of historic and downtown Florence with suburbanizing

areas of Florence north of the Gila River. Furthermore, the purpose of the territory square zoning district is to encourage social, physical and economic advantages resulting from the comprehensive and orderly planned use of land resources and land development strategies as reflected in the North End Framework Vision Plan.

(C) *General applicability.* The provisions of the territory square zoning district shall apply only to those properties within the indicated boundaries of the territory square area as indicated within the territory square zoning district zoning book and as identified as part of the Territory Square MPC (Master Planned Community) on the town's general plan future land use map. All development within the territory square area shall be subject to the provisions in the territory square zoning district code book, except where applicable provisions are not expressly stated in the territory square zoning district code book. In the case of the latter, the town will refer to other applicable codes within the town's code of ordinances, such as the town's Development Code.

(D) *Permitted uses.* Permitted uses within the territory square zoning district are defined within the territory square zoning district code book. Furthermore, any municipal use or any infrastructure use necessary to support development within the territory square area shall be considered a principally permitted use. Because no list of uses can be exhaustive, interpretations on unspecified uses shall be rendered by the Community Development Director, with the right to appeal to the Planning and Zoning Commission and Town Council.

(E) *Development standards.* Development standards within the territory square zoning district are defined within the territory square zoning district code book.

(1) *Setbacks.* Setback ranges are defined within the territory square zoning district zoning book. Final setbacks for each development block or subdivision shall conform to the specified ranges and be precisely defined as each development block or subdivision is processed through the town's subdivision and/or design review application process. This flexibility affords increased latitude in establishing setbacks that work best for the type of development being proposed with each land use group area.

(2) *Parking.* Parking shall be in compliance with applicable sections of the town's Development Code, except that community or municipal parking areas will be encouraged within the core land use group and the town, upon review, may approve the usage of alternative parking surfaces. Parking deviations from the town's Development Code can be proposed for consideration by the Planning and Zoning Commission by means of a design review application process.

(3) *Roadways.* The Town Engineer shall be allowed to consider, and where appropriate, approve alternate roadway development standards as indicated within the territory square zoning district zoning book or as proposed as part of a subdivision or design review application.

(4) *Signs.* General language regarding the character of signage is indicated in the territory square zoning district zoning book. Signage cannot deviate from or exceed that allowed by town code, except as may be allowed by comprehensive sign plans for territory square approved through the design review process. Comprehensive sign plans may apply by land use group or development blocks within a land use group.

(5) *Design review.* All future development shall be subject to the town's design review process, which shall consider, amongst other things, site design, architectural designs, building materials, lighting, parking, landscaping, grading, drainage, access, circulation, building colors, signage, building locations, buffering, sanitation, walls, fences, fire protection and compatibility with surrounding properties. Design review approval is required prior to the issuance of building permits for the site.

(F) *Density and intensity.* Densities and intensities permitted in the territory square zoning district shall conform to those set forth within the territory square zoning district zoning book.

(G) *Procedures.* Application of the territory square zoning district to properties shall be subject to the rezoning process as defined with the town's code of ordinances and per applicable state statutes. Amendments to the territory square zoning district code book shall be processed as text amendments to the town's Development Code.

(Ord. 584-12, passed 10-1-2012)

REGULATIONS

PART 1. GENERAL PROVISIONS

§ 150.080 NONCONFORMING USE.

(A) *Continuance of use of land; abandonment.* The lawful use of land existing on July 19, 2006, although not conforming to the

provisions hereof for the land, may be continued, but if the nonconforming use is abandoned, and a nonconforming use discontinued for a period of three months, it is presumed abandoned, then any future use of the land shall be in conformity with the provisions of this Development Code.

(B) *Continuance of use of building or land.* The lawful use of a building or land existing on July 19, 2006 may be continued, although the use does not conform with the provisions of this Development Code for the building or land and the use may be continued providing only reasonable repairs and alterations are made. Whenever a nonconforming use of a building or land has been changed to a more restricted use or to a conforming use, the use shall not thereafter be changed to a less restricted use or a nonconforming use.

(C) *Abandonment of use of building or land.* In the event that a nonconforming use of any building is abandoned, and a nonconforming use discontinued for a period of three months is presumed abandoned, then any future use of the building or land shall be in conformity with the provisions of this Development Code.

(Prior Code, Ch. 4, Art. IV, § 4-91) (Ord. 432-06, passed 6-19-2006)

§ 150.081 ENLARGEMENT OF BUILDING OR LAND; DESTRUCTION.

(A) *Enlargement, extension, reconstruction or structural alteration of building or land.* No existing building or land designed, arranged or intended for or devoted to a use not permitted under the regulations of this Development Code for the district in which the building or land is located shall be enlarged, extended, reconstructed or structurally altered unless the building and the enlargement, extension, reconstruction and structural alterations, and further use hereof, conform in every respect with the regulations specified by this Development Code for the district in which the building or land is located, provided nothing herein shall prohibit any reasonable repairs or alterations in a building or land used for the existing purposes.

(B) *Destruction of building or land.* If at any time any building or land in existence or maintained on July 19, 2006, which does not conform to the regulations for the district in which it is located, shall be destroyed by fire, explosion, during modification, remodeling, renovation or acts of God or acts of the public enemy to the extent of 50% of its value as determined by three competent appraisers, then and without further action by the Council, the building and the land on which the building was located or maintained shall from and after the date of the destruction be subject to all the regulations specified by this Development Code for the district in which the land and building are located.

(Prior Code, Ch. 4, Art. IV, § 4-92) (Ord. 432-06, passed 6-19-2006)

§ 150.082 ABANDONED OR JUNKED VEHICLES.

(A) All abandoned or junk vehicles, or vehicles while being repaired or restored, shall be stored in an enclosed area by the owner or occupant of the property upon which the vehicle is located, in such a manner as to not be visible from any point lying outside the property upon which the abandoned or junk vehicle is stored or parked.

(B) ***ABANDONED OR JUNK VEHICLE.*** A vehicle or any major portion thereof which is incapable of movement under its own power and will remain so without major repair or reconstruction or a vehicle not having current license and registration.

(C) ***MAJOR REPAIR.*** The removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block or oil pan.

(D) ***VEHICLE.*** Any self-propelled device in, upon or by which any person or property is or may be transported upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(Prior Code, Ch. 4, Art. IV, § 4-93) (Ord. 432-06, passed 6-19-2006)

PART 2. OUTDOOR LIGHTING CONTROL

§ 150.083 INTENT.

It is the intent of this Development Code to encourage lighting practices and systems which will:

(A) Minimize light pollution, glare, light trespass and conserve energy and resources while maintaining nighttime safety, utility,

security and productivity; and

(B) Curtail the degradation of the nighttime visual environment.

(Prior Code, Ch. 4, Art. IV, § 4-111) (Ord. 432-06, passed 6-19-2006)

§ 150.084 CONFORMANCE WITH APPLICABLE CODES.

(A) All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this Development Code, and any building codes which may hereafter be enacted, as applicable.

(B) Where any provisions of any of the state statutes, or any of the federal law or any companion Code comparatively conflicts with the requirements of this Development Code, the most restrictive shall govern.

(Prior Code, Ch. 4, Art. IV, § 4-112) (Ord. 432-06, passed 6-19-2006)

§ 150.085 APPROVED MATERIAL AND METHODS OF INSTALLATION.

(A) The provisions of this Development Code, are not intended to prevent the use of any material or method of installation not specifically prescribed by this Development Code provided any alternate has been approved.

(B) The Planning Director or designee thereof may approve any alternate provided the alternate:

(1) Provides approximate equivalence to these specific requirements of this Development Code; or

(2) Is otherwise satisfactory and complies with the intent of this Development Code.

(Prior Code, Ch. 4, Art. IV, § 4-113) (Ord. 432-06, passed 6-19-2006)

§ 150.086 PERMANENT EXEMPTIONS; NONCONFORMING FIXTURES.

All outdoor light fixtures existing and fully installed prior to July 19, 2006, may remain nonconforming indefinitely; provided, however, that no change in use, replacement, structural alteration or restoration after abandonment of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this Development Code.

(A) *Fossil fuel light.* All outdoor light fixtures producing light directly or indirectly by the combustion of natural gas or other utility type fossil fuels are exempt from this Development Code.

(B) *Federal and state facilities.* Those facilities and lands owned, operated or protected by the federal government or the state are exempted by law from all requirements of this Development Code. Voluntary compliance with the intent of this Development Code at those facilities is encouraged.

(C) *Special exemption.* The Planning Director or designee thereof may grant a special exemption to the requirements of § 150.094 only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

(Prior Code, Ch. 4, Art. IV, § 4-114) (Ord. 432-06, passed 6-19-2006)

§ 150.087 REQUEST FOR TEMPORARY EXEMPTIONS.

(A) Any individual may submit a written request on a form prepared by the municipality to the Planning Director or designee thereof for a temporary exemption to the requirements of this Development Code, the exemption to be valid for 30 days, renewable at the discretion of the Planning Director or designee thereof. The request for temporary exemption shall contain minimally the following listed information:

(1) Specific exemptions requested;

(2) Type and use of exterior light involved;

(3) Duration of time for requested exemption;

(4) Total wattage of lamp or lamps;

(5) Proposed location of exterior light;

(6) Previous temporary exemptions, if any; and

(7) Physical size of exterior light and type of shielding provided.

(B) In addition to the above data, the Planning Director or designee thereof may request any additional information necessary to make a reasonable evaluation of the request for temporary exemption.

(Prior Code, Ch. 4, Art. IV, § 4-115) (Ord. 432-06, passed 6-19-2006)

§ 150.088 APPEAL FOR TEMPORARY EXEMPTION.

The Planning Director or designee thereof, within five days from the date of the properly completed request for temporary exemption, shall approve or reject in writing the request. If rejected, the individual making the request shall have the right of appeal to the appropriate Board of Adjustment for review pursuant to the procedures applicable to other appeals.

(Prior Code, Ch. 4, Art. IV, § 4-116) (Ord. 432-06, passed 6-19-2006)

§ 150.089 PROCEDURES FOR CODE COMPLIANCE.

(A) *Applications.* Any individual applying for a building or use permit under this Development Code, and intending to install outdoor lighting fixtures shall, as a part of the application, submit evidence that the proposed work will comply with this Development Code.

(1) All other individuals intending to install outdoor lighting fixtures shall submit an application to the Manager or designee thereof providing evidence that the proposed work will comply with this Development Code.

(2) Utility companies entering into a duly approved agreement with the town, which agreement requires compliance with the provisions of this Development Code, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures, including residential security lighting.

(B) *Content.* The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Development Code upon application for the required permit:

(1) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices and the like;

(2) Description of the illuminating devices, fixtures, lamps, supports and other devices and the like. This description may include, but is not limited to, manufacturers' catalog cuts and drawings (including sections where required); and

(3) The above required plans and descriptions shall be sufficiently complete to enable the Town Manager or designee thereof to readily determine whether compliance with the requirements of this Development Code will be secured. If the plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

(C) *Issuance of permit.* Upon compliance with the requirements of this Development Code, the outdoor lighting fixtures may be installed as provided in the approved application. In the event the application is part of the building permit application under this Development Code, the issuance of the building permit will be made if the applicant is in compliance with this Development Code as well as the other requirements for issuance under this Development Code. Appeal procedures of the zoning regulations for decisions of the Town Manager or designee thereof shall apply.

(D) *Amendment to permit.* Should the applicant desire to substitute outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the Town Manager or designee thereof for approval, with adequate information to assure compliance with this Development Code.

(Prior Code, Ch. 4, Art. IV, § 4-117) (Ord. 432-06, passed 6-19-2006)

§ 150.090 GENERAL REQUIREMENTS.

(A) *Shielding.* All exterior illuminating devices, except those exempt from this Development Code, shall be fully or partially shielded as required by division (C) below.

(1) ***FULLY SHIELDED*** means that those fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

(2) ***PARTIALLY SHIELDED*** means that those fixtures shall be shielded in such a manner that the bottom edge of the shield is below the plane center line of the light source (lamp), minimizing light above the horizontal.

(B) *Filtration.* Those outdoor light fixtures requiring a filter in division (C) below shall be equipped with a filter whose transmission is less than 5% total emergent flux at wavelengths less than 3,900 angstroms. ***TOTAL EMERGENT FLUX*** is defined as that between 3,000 and 7,000 angstrom units. It is recommended that existing mercury vapor fixtures shall be equipped with a filter whose transmission is less than 10% total emergent flux at wavelengths less than 4,400 angstroms or shall be replaced. Low pressure sodium lamps are the preferred lamp for minimizing adverse effects on astronomical observations.

(C) *Requirements for shielding and filtering.* The requirements for shielding and filtering light emissions shall be as indicated in the following table:

Fixture Lamp Type	***Shielded***	***Filtered***
Low pressure sodium[1]	Partially	None
High pressure sodium	Fully	None
Metal halide[6]	Fully	Yes
Fluorescent	Fully[5]	Yes[2]
Quartz[3]	Fully	None
Incandescent greater than 150W	Fully	None
Incandescent 150W or less	None	None
Mercury vapor	Fully[7]	Yes[7]
Fossil fuel	None	None
Glass tubes filled with neon, argon, krypton	None	None
Other sources	As approved by town	

Footnotes:

1. This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.

2. Warm white and natural lamps are preferred to minimize detrimental effects.

3. For the purposes of this Development Code, quartz lamps shall not be considered an incandescent light source.

4. Most glass, acrylic or translucent enclosures satisfy these filter requirements.

5. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.

6. Metal halide display lighting shall not be used for security lighting after 11:00 p.m.

(or after closing hours if before 11:00 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries.
7. Recommended for existing fixtures. The installation of mercury vapor fixtures is prohibited.

(Prior Code, Ch. 4, Art. IV, § 4-118) (Ord. 432-06, passed 6-19-2006)

§ 150.091 PROHIBITIONS.

The following prohibitions apply throughout the town:

(A) *Searchlights.* The operation of searchlights for advertising purposes is prohibited.

(B) *Recreational facility.* No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11:00 p.m. except to conclude a specific recreational or sporting event or any other activity conducted at a ballpark, outdoor amphitheater, arena or similar facility in progress prior to 11:00 p.m.

(C) *Outdoor building or landscaping illumination.* The unshielded outdoor illumination of any building, landscaping, signing or other purpose is prohibited except with incandescent fixtures less than 150 watts.

(D) *Mercury vapor.* The installation of mercury vapor fixtures is prohibited.

(Prior Code, Ch. 4, Art. IV, § 4-119) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

PART 3. SIGN REGULATIONS

§ 150.092 PURPOSE.

The purpose of this Development Code is to establish comprehensive provisions that will promote public welfare and safety by safe placement and installation of appropriate signage, establish reasonable regulations to promote economic vitality for local businesses and services and enhance the visual environment of the town.

(Prior Code, Ch. 4, Art. IV, § 4-136) (Ord. 432-06, passed 6-19-2006)

§ 150.093 INTENT.

The intent of these provisions is to maximize establishment identification, balance sign function with the community's aesthetic standards, avoid over-proliferation of signs and maintain a high quality of signs throughout the town.

(Prior Code, Ch. 4, Art. IV, § 4-137) (Ord. 432-06, passed 6-19-2006)

§ 150.094 GENERAL APPLICABILITY.

(A) The regulations, requirements and provisions set forth in this Development Code shall apply to all signs erected, placed or constructed within the town.

(B) Sign permits shall be required for all signs except those signs specified in § 150.123. The Planning Director or designee shall issue a sign permit only if the proposed sign, construction, alteration, re-erection, maintenance and location of the sign comply with these regulations.

(C) All signs shall be structurally designed, constructed, erected and maintained in accordance with all applicable provisions and requirements of the town codes and ordinances.

(Prior Code, Ch. 4, Art. IV, § 4-139) (Ord. 432-06, passed 6-19-2006)

§ 150.095 DEFINITIONS.

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

A-FRAME SIGN. A portable and temporary sign used to display advertising or a business logo. Might also be used to indicate hours of operation or be used as menu boards.

ANIMATED SIGN. Any sign or part of a sign which changes physical position by any movement, rotation or undulation or by the movement of any light used in conjunction with a sign such as blinking, traveling, flashing or changing degree of intensity of any light movement other than burning continuously.

AWNING, CANOPY or ***MARQUEE SIGN.*** A sign that is mounted or painted on or attached to an awning, canopy or marquee that is otherwise permitted by this Development Code. A ***MARQUEE*** is defined as a canopy constructed of rigid materials which projects over an entrance to a building.

BANNER SIGN. A sign designed to advertise products, businesses, or events that is temporary in nature and printed on cloth, vinyl or plastic and typically suspended from two ends that are attached to buildings or poles. ***BANNERS*** are not permanently attached and can not be enclosed in a rigid frame. May also be referred to as pennant signs.

BILLBOARD. The same as an off-site sign.

BUSINESS SIGN. A sign which directs attention to a business or profession conducted on-site or to a commodity or service sold, offered or manufactured on-site, or to an entertainment offered on-site.

CABINET SIGN. A 3-dimensional structure which includes a frame, borders and sign panel face and which may include internal lighting.

CONSTRUCTION SIGN. A temporary sign, limited to the period of construction, erected on a premises of an existing construction project, and designating the architect, contractor, designer Engineer, financier or name and nature of the project.

DIRECTIONAL SIGN. A sign containing information for the purpose of directing traffic or pedestrian travel and placed on the property to which or on which the public is directed. No more than 25% of the area of a directional sign may be devoted to the display of a business logo or identification on the signs.

DIRECTORY SIGN. A sign listing the names, uses and/or locations of the various businesses or activities conducted within a building or group of buildings, but not for the purpose of advertising products, goods or services.

FIGURATIVE SIGN. A sign that advertises the occupant's business through the use of graphic or crafted symbols, such as shoes, keys, glasses, books and the like. ***FIGURATIVE SIGNS*** may be incorporated into any of the allowable sign types identified in this Development Code.

FREEWAY PYLON SIGN. A freestanding identification sign, permitted as part of a comprehensive sign package, for a multi-tenant commercial or industrial development that is adjacent to a freeway and has at a minimum 300 feet of freeway frontage.

FREESTANDING MONUMENT SIGN.

(1) An identification sign on its own self-supporting permanent structure, detached from supportive elements of a building, on a base that has an aggregate width of at least 50% of the width of the sign and with supports that complement the materials and colors used in the architecture on-site.

(2) Street address numerals shall be provided on any freestanding monument sign located along the street to which the address numbering applies, in a contrasting color and/or material from the color and material used for the background for the numerals on the sign.

ILLUMINATED SIGN. A sign with the surface artificially lighted, either internally or externally.

MENU BOARD SIGN. A sign displaying the bill of fare of a drive-in or drive-through restaurant.

NONCONFORMING SIGN. A sign lawfully erected and maintained prior to the adoption of this Development Code which does not conform with the requirements of this Development Code.

OFF-SITE SIGN. A sign which directs attention to a business, commodity, service, entertainment, product or attraction sold, offered or existing elsewhere than upon the property where the sign is located.

OPEN HOUSE DIRECTIONAL SIGN. A sign used to advertise the sale of a house and direct traffic to the house for sale.

PARAPET SIGN. A sign attached to that portion of a building's exterior wall that projects above the plate line of the building.

POLITICAL SIGN. A temporary sign which supports any candidate for public office or urges action for or against any other matter of a political nature.

PORTABLE SIGN. A temporary sign not affixed to a structure or ground-mounted on a site.

PROJECTING SIGN. A sign attached to a building or other structure and extending in whole or in part not more than 12 inches beyond the building or other structure.

READER PANEL SIGN. A sign which identifies a noncommercial institution or organization, on-site, which contains the name of the institution or organization and associated individuals and general announcements of events or activities at the institution, or similar messages of general public interest and is designed to permit immediate change of copy.

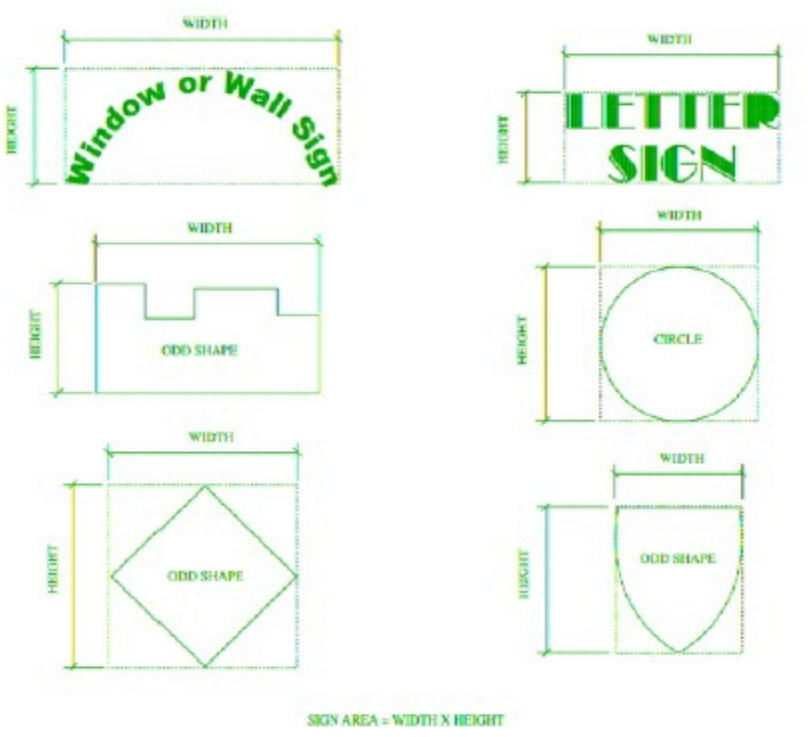
REAL ESTATE SIGN. A sign advertising the sale, lease or rent of the property or building upon which it is located.

RESIDENTIAL KIOSK SIGN. A town-provided, informational sign indicating direction to multiple residential developments and community facilities.

ROOF SIGN. A sign erected on, above or over the roof so that it projects above the highest point of the roofline, parapet or fascia.

SHINGLE SIGN. A sign suspended from, and located entirely under a covered porch, covered walkway or an awning and is anchored or rigidly hung to prevent the sign from swinging due to wind movement.

SIGN. Any identification, description, illustration, symbol or device which is affixed directly or indirectly upon a building, vehicle, structure or land and which identifies or directs attention to a product, place, activity, person, institution or business.



SIGN AREA. The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing all of the letters or devices.

SIGN HEIGHT. The vertical distance measured from the lowest adjacent grade to the highest point of the sign or sign structure.

VEHICLE SIGN. A sign mounted, painted or otherwise placed on a truck, bus, car, boat, trailer or other vehicle or equipment and used in such a manner that the sign is visible from a public street or right-of-way and the primary purpose of the vehicle or equipment is for the display of the signage. The primary purpose of the vehicle or equipment shall be presumed to be for the display of the signage if the vehicle and/or equipment is not in operating condition, currently registered or licensed to operate on public streets and actively used in the daily function of the business to which the signs relate, or is used primarily as a static display for the display of the signage. Vehicles and equipment engaged in active construction projects and the on-premise storage of equipment and vehicles offered to the general public for rent or lease shall not be considered to be vehicle signs.

WALL SIGN. A sign fastened to or painted on the exterior 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.

WINDOW SIGN. Any poster, cut-out letters, painted text or graphic, or other text or visual presentation affixed to the interior or exterior of a window, or placed within six feet behind a window pane, and is placed to be read from the exterior of a building. This does not include any item of merchandise normally displayed within a store window of a merchant.

(Prior Code, Ch. 4, Art. IV, § 4-138) (Ord. 432-06, passed 6-19-2006; Am. Ord. 573-12, passed 3-19-2012)

§ 150.096 LOCATION.

(A) Signs shall not be located in a manner that interferes with pedestrian or vehicular travel, poses a hazard to either pedestrians or vehicles or within the specified ***SIGHT TRIANGLE*** as defined in § 150.169.

(B) Signs shall be located a minimum of five feet from property lines.

(C) Signs shall not be located within, on or projecting over any public street, right-of-way or other public property, except for town-approved residential kiosk sign structures, A-frame signs, bus bay signs, shingle signs and projecting signs as permitted by this Development Code. The town may install signs on its own property to identify public buildings and uses, and to provide necessary traffic control.

(Prior Code, Ch. 4, Art. IV, § 4-140) (Ord. 432-06, passed 6-19-2006; Am. Ord. 573-12, passed 3-19-2012)

§ 150.097 MAINTENANCE.

All signs and sign structures, conforming and nonconforming, shall be maintained in good order, repair and appearance at all times so as not to constitute a danger or hazard to the public safety or create visual blight as determined by the Planning Director or designee.

(Prior Code, Ch. 4, Art. IV, § 4-141) (Ord. 432-06, passed 6-19-2006)

§ 150.098 SOURCE OF ILLUMINATION; SUPPORTS.

(A) The source of the sign's illumination, except neon illumination, shall not be visible from any street, sidewalk or adjacent property. This shall not preclude the use of neon sign elements within the commercial zoning districts, which are subject to staff review and approval.

(B) There shall be no visible angle iron supports, guy wires, braces or secondary supports except in the case of projecting signs. All sign supports shall be an integral part of the sign design.

(Prior Code, Ch. 4, Art. IV, § 4-142) (Ord. 432-06, passed 6-19-2006)

§ 150.099 PLANNED UNIT DEVELOPMENT.

Signage within approved Planned Unit Developments (PUDs) may deviate from the requirements of this Development Code provided the PUD has an approved comprehensive sign package and all proposed signage within the PUD is in compliance with that comprehensive sign package.

(Prior Code, Ch. 4, Art. IV, § 4-143) (Ord. 432-06, passed 6-19-2006)

§ 150.100 COMPLIANCE.

(A) Signage should comply with the town design standards adopted by the town on February 26, 2001, and as amended from time to time.

(B) Signs and/or banners should not be placed in such a manner that they obstruct town required informational, traffic or safety signs.

(C) Where there is conflict between these regulations and other town regulations, the more restrictive shall apply.

(Prior Code, Ch. 4, Art. IV, § 4-144) (Ord. 432-06, passed 6-19-2006)

§ 150.101 SIGN AREA.

SIGN AREA is defined and shall be measured as follows:

(A) Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy shall be measured as that area within the outside dimensions of the background panel or surface. The base of a freestanding monument sign shall not be calculated as sign area unless the base contains signage (see definition of ***SIGN***).

(B) Sign copy mounted as individual letters and/or graphics against a wall 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 rectangle that will enclose each word and each graphic in the total sign copy.

(C) Multi-face signs shall be measured as follows:

(1) A 2-faced sign shall be considered as one sign when determining the sign area, provided both faces are parallel and the distance between faces does not exceed four feet or the interior angle between the two sign faces is 60 degrees or less. If the interior angle is greater less than 60 degrees, the sign area shall be the sum of the area of the two faces.

(2) Where a sign has three or more faces, the area of the sign shall be calculated as 50% of the sum of the area of all faces.

(3) Where a sign is a spherical, freeform, sculptural, figurative or other non-planar sign, the sign area shall be 50% of the sum of the area of the sides of the smallest polygon that will encompass the sign structure.

(D) The aggregate sign area of all signs on a lot or parcel shall be the sum of the areas of all the signs except the area for the following:

(1) Directional signs, assisting in the flow of traffic, which do not exceed an area of six square feet or a height of three feet and may include a maximum of 25% of the sign area devoted to the display of a business logo or identification.

(2) Street address wall signs, which do not exceed an area of six square feet.

(3) Signs necessary for safety, which do not exceed an area of six square feet or height of three feet.

(4) One sign per lot, parcel or business which does not exceed an area of three square feet and is located near the entrance to the lot, parcel or business for the purpose of aiding pedestrian traffic.

(5) For sale, lease or rent signs.

(Prior Code, Ch. 4, Art. IV, § 4-145) (Ord. 432-06, passed 6-19-2006)

§ 150.102 SIGN HEIGHT.

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

SIGN HEIGHT is defined and shall be measured as follows:

(B) Freestanding signs shall be measured as 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 nearest adjacent 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 the sign height.

(C) Wall or parapet-mounted sign height shall be measured as the vertical distance to the top of the sign or sign structure from the base of the wall on which the sign is located.

(Prior Code, Ch. 4, Art. IV, § 4-146) (Ord. 432-06, passed 6-19-2006)

§ 150.103 PERMITTED PERMANENT SIGNS.

(A) *Residential districts.* For all signs within residential districts (RA-10, RA-4, R1-R, R1-18, R1-6, MFR, MHS and residential PUDs) the following shall apply:

(1) *Wall sign.* May or may not be illuminated with a maximum height of ten feet except where specifically noted.

(2) *Single residence uses.* One or more identification signs may be permitted. Signs may include only the name of the residence or occupant, and the street address. Street address signs shall not exceed a total aggregate area of three square feet. Within the RA-10, RA-4, R1-R, R118, R1-6, MFR, MHS and residential PUD zoning districts, a total aggregate area of four square feet may be permitted.

(3) *Multiple residence uses (includes apartments, condominiums, townhouses, a manufactured home park, recreational vehicle park or similar such use).* One or more identification sign per unit, not to exceed a total aggregate area of three square feet, may be permitted. The maximum height of any identification sign, for multi-story buildings, shall be six feet from the story floor level. The sign may include only the name of the residence or occupant, and the street address or unit number. Building number or letter signs for multiple building developments shall be in compliance with Fire Department requirements and shall not be counted as part of the aggregate sign area.

(4) *Non-residential uses (such as but not limited to churches, schools, group homes and farms, but not intended for home occupations).* One or more identification sign per lot or parcel, not to exceed a total aggregate area of 16 square feet, may be permitted unless deviations are approved through a use permit. The sign may include the name and/or logo of the facility, organization or development and the street address.

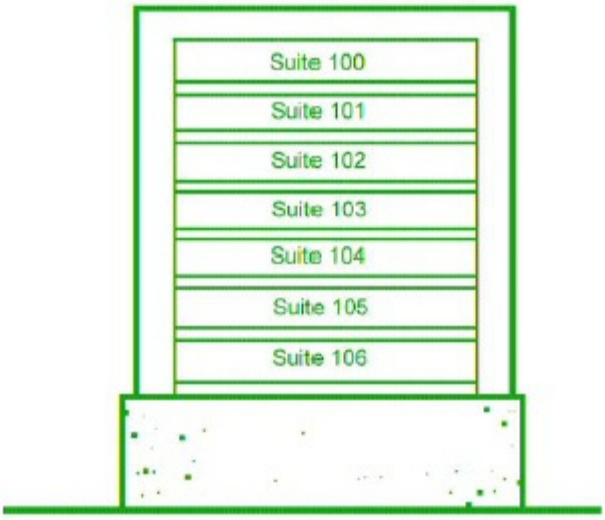
(B) *Freestanding monument sign.* May or may not be illuminated with a maximum height of six feet.

(1) *Multiple residence uses (includes apartments, condominiums, townhouses, a manufactured home park, recreational vehicle park or similar use).* A maximum of two freestanding monument signs with an aggregate area of 32 square feet may be permitted. The maximum height shall be six feet. Signs should be located near the main entrances and may include the name and/or logo of the development and shall include the street address. Street address numerals shall be provided on any freestanding monument sign located along the street to which the address numbering applies, in a contrasting color and/or material from the color and material used for the background for the numerals on the sign.

(2) *Nonresidential uses (such as but not limited to churches, schools, group homes and farms, but not intended for home occupations).* One freestanding monument sign per lot, not exceeding 32 square feet in area nor a height of six feet, may be permitted. The sign may include the name and/or logo of the facility, organization or development and shall include the street address.

(C) *Directional signs.* The signs are permitted for multiple residence uses and nonresidential uses and shall not exceed an area of six square feet or a height of three feet. These signs shall not be included in calculating the total aggregate area of signage allowed on a particular lot or for a particular business, and may include a maximum of 25% of the sign area devoted to the display of a business logo or identification. They shall not be located within the sight triangle of any driveway. The use, number and location of the signs must be approved through the design review process and comply with all other code requirements.

(D) *Directory signs.* The signs may be used for multiple residence uses and nonresidential uses when required to identify the location of various buildings, offices or businesses within a complex. The use, number and location of the signs must be approved through the design review process and comply with all other code requirements. Each sign may be illuminated and have a maximum area of 18 square feet and a maximum height of six feet. These signs shall not be included in calculating the total aggregate area for signage allowed on a parcel or lot or for a particular business.



(Prior Code, Ch. 4, Art. IV, § 4-147) (Ord. 432-06, passed 6-19-2006)

§ 150.104 TOTAL SIGNAGE.

(A) *Single residence uses.* A maximum aggregate area of three square feet per lot or parcel may be permitted.

(B) *Multiple residence uses (includes apartments, condominiums, townhouses, a manufactured home park, recreational vehicle park or similar use).*

(1) One wall sign per individual unit or dwelling, not to exceed three square feet, may be permitted.

(2) A maximum of two freestanding monument signs per development, with a total aggregate area of 32 square feet, may be permitted.

(3) Freestanding directory or directional signs may be permitted through the design review process.

(C) *Non-residential uses (such as but not limited to churches, schools, group homes, farms, but not intended for home occupations).*

(1) A maximum of two signs per lot or parcel may be permitted with the total aggregate sign area not to exceed 48 square feet.

(2) Freestanding directory signs may be permitted through the design review process.

(3) Freestanding directional signs may be permitted through the design review process.

(Prior Code, Ch. 4, Art. IV, § 4-148) (Ord. 432-06, passed 6-19-2006)

§ 150.105 READER PANEL SIGNS.

(A) Elementary and secondary schools may also have, in addition to § 150.104, one freestanding reader panel sign with an area not exceeding 32 square feet and a height not greater than 14 feet.

(B) Churches may use up to one-half of the allowed freestanding sign area for a reader panel.

(Prior Code, Ch. 4, Art. IV, § 4-149) (Ord. 432-06, passed 6-19-2006)

§ 150.106 COMMERCIAL DISTRICTS.

Signs within commercial districts (B-1, NO, B-2, TRC, TRC/NO, PO and commercial PUDs) shall comply with the following applicable restrictions. Additionally, any complex of three or more businesses shall be required to submit a comprehensive sign

package to be reviewed and recommended by the Planning and Zoning Commission and approved by the Town Council.

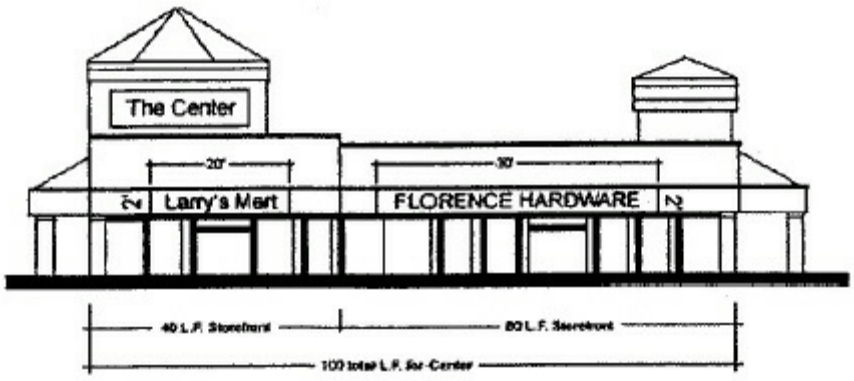
(Prior Code, Ch. 4, Art. IV, § 4-150) (Ord. 432-06, passed 6-19-2006)

§ 150.107 WALL SIGNAGE.

(A) Wall signage may or may not be illuminated.

(B) Wall signs pertaining to any one business within a complex, on a separate parcel or lot, or on a freestanding PUD shall be permitted on the exterior walls of the space occupied by the business in accordance with the following guidelines:

(1) A wall sign may be permitted on any building elevation and shall have a maximum area not to exceed one square foot for each linear foot of the building wall upon which the sign is displayed.



Wall Signs

(2) Under no circumstances may any business have an aggregate area for all wall signs exceeding 200 square feet, unless as otherwise approved with a comprehensive sign plan.

(3) Signage shall not extend horizontally a distance greater than 80% of the width of the building wall on which it is displayed.

(4) Wall-mounted cabinet signs exceeding ten square feet in area are prohibited, unless the sign:

(a) Utilizes a cabinet that is stylized in shape, rather than rectangular, to reflect the shape of the image printed on the sign face;

(b) Utilizes a molded sign face, with embossed copy, sign copy or sign copy in relief; or

(c) Utilities a nationally registered trademark.

(Prior Code, Ch. 4, Art. IV, § 4-151) (Ord. 432-06, passed 6-19-2006)

§ 150.108 FREESTANDING MONUMENT SIGNAGE.

May or may not be illuminated.

(A) One freestanding monument sign for identification purposes shall be permitted per business, except as otherwise allowed.

(B) Any freestanding sign shall not exceed eight feet in height.

(C) For a single tenant building, the sign shall not exceed 32 square feet in area and may include the name and/or logo of the business and shall include the address.

(D) For a single building development with multiple tenants, the sign shall not exceed 48 square feet in area and may include the name and/or logo of the businesses and shall include the address.

(E) For multiple building developments or commercial centers, one sign may be permitted for every 330 feet of street frontage for the entire development with a maximum of two signs per street frontage if applicable. The individual buildings within the development and/or the PUD sites within the commercial center shall not be considered as separate developments for signage purposes.

(F) The minimum distance between two signs on the same street frontage shall be 330 feet. Each sign may be a maximum of 48 square feet in area and may be either a freestanding center identification sign or a multi-tenant identification sign.

(Prior Code, Ch. 4, Art. IV, § 4-152) (Ord. 432-06, passed 6-19-2006)

§ 150.109 DIRECTIONAL SIGNS.

The signs shall not exceed an area of six square feet or a height of three feet. These signs shall not be included in calculating the total aggregate area of signage allowed on a particular lot or for a particular business, and may include a maximum of 25% of the sign area devoted to the display of a business logo or identification. They shall not be located within the sight triangle of any driveway. The use, number and location of the signs must be approved through the design review process and comply with all other code requirements.

(Prior Code, Ch. 4, Art. IV, § 4-153) (Ord. 432-06, passed 6-19-2006)

§ 150.110 DIRECTORY SIGNS.

The signs may be used when required to identify the location of various buildings, offices or businesses within the complex. The use, number and location of the signs must be approved through the design review process and comply with all other code requirements. Each sign may be illuminated and have a maximum area of 18 square feet and a maximum height of six feet. These signs shall not be included in calculating the total aggregate area for signage allowed on a parcel or lot or for a particular business.

(Prior Code, Ch. 4, Art. IV, § 4-154) (Ord. 432-06, passed 6-19-2006)

§ 150.111 DRIVE-THROUGH RESTAURANT MENU BOARDS.

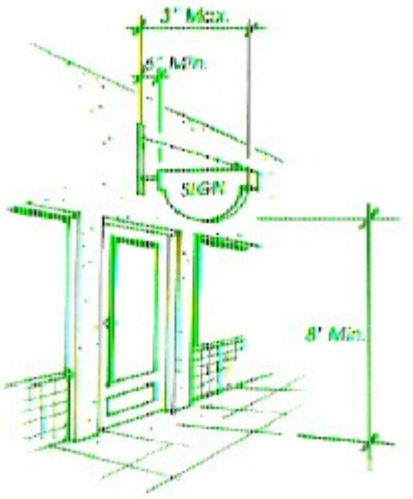
(A) Each drive-through restaurant may be permitted one preview menu board and one ordering menu board. These signs may be freestanding or wall-mounted and shall be located a minimum of 45 feet from the street property line and the front of the board(s) shall not be visible from the public street. The maximum aggregate area for both signs shall not exceed 50 square feet or a maximum height of eight feet per sign. These signs shall not be included in calculating the total aggregate area for signage allowed on a parcel, lot or for a particular business.

(B) Freestanding menu boards shall have a monument base of masonry construction and shall have a landscape area at the base of the sign equal to at least two square feet for each square foot of sign area.

(Prior Code, Ch. 4, Art. IV, § 4-155) (Ord. 432-06, passed 6-19-2006)

§ 150.112 WINDOW SIGNAGE.

The total aggregate area of all window signs shall not exceed 25% of the total area of the windows through which they are visible.

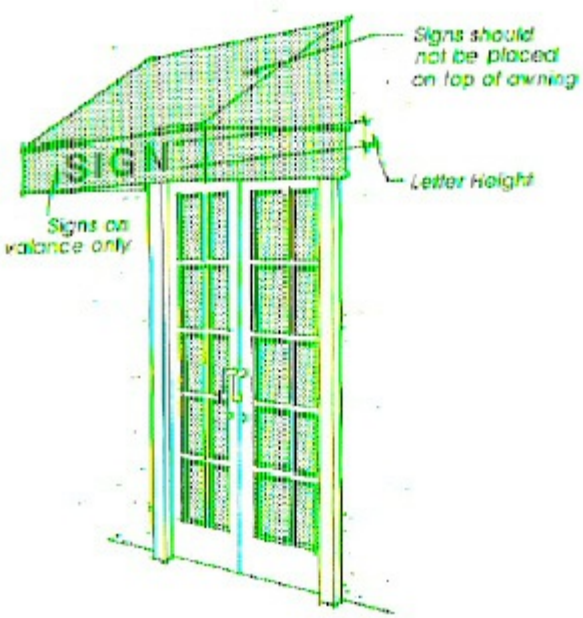


(Prior Code, Ch. 4, Art. IV, § 4-156) (Ord. 432-06, passed 6-19-2006)

§ 150.113 AWNING SIGNS.

A maximum of 25% of the front face area of the awning may be used for signage. Awning signs may identify the name of the business. Logos may be used but not in such a way where it is the predominant element of the awning sign. The signs shall not include any additional advertising copy.

Window Signage



(Prior Code, Ch. 4, Art. IV, § 4-157) (Ord. 432-06, passed 6-19-2006)

§ 150.114 SHINGLE SIGNS AND PROJECTING SIGNS.

(A) Shingle signs shall have a maximum area of three square feet.

(B) One shingle sign or projecting sign, which is designed and oriented primarily for the aid of pedestrians, may be allowed per business and shall be located immediately adjacent to the business it identifies.

(C) Shingle signs and projecting signs shall have an eight foot minimum clearance between the bottom of the sign and the sidewalk.

(D) Projecting signs for each ground floor business on a street shall not exceed one square foot for each linear street frontage of the business, up to a maximum of 15 square feet.

(E) May identify the name and/or logo of the business, and the signs shall not include any additional advertising copy.

(F) A wall or parapet sign is not permitted if a projecting sign is used to identify the business.

(Prior Code, Ch. 4, Art. IV, § 4-158) (Ord. 432-06, passed 6-19-2006)

§ 150.115 PARAPET SIGNS.

(A) Parapet signs shall not project above the top of the building parapet.

(B) A maximum of 25% of the front face area of the parapet may be used for signage.

(C) Parapet signs may identify the name of the business. Logos may be used but not in such a way where it is the predominant element of the parapet sign. The signs shall not include any additional advertising copy.

(Prior Code, Ch. 4, Art. IV, § 4-159) (Ord. 432-06, passed 6-19-2006)

§ 150.116 TOTAL SIGNAGE.

(A) The total maximum aggregate signage, inclusive of wall, freestanding monument, window, awning, shingle, projecting or parapet signs, shall not exceed 232 square feet for a single-tenant development.

(B) The total maximum aggregate signage, inclusive of wall, freestanding monument, window, awning, shingle, projecting or parapet signs, shall not exceed 248 square feet for a multi-tenant development. The freestanding monument sign(s) for multi-tenant, multi-building or shopping center developments shall not be counted towards the individual businesses' or anchor tenant's allowed signage provided that the name of the businesses or anchor tenant is not part of the center identification name on the freestanding sign. In addition, drive-through restaurants may be permitted one freestanding or wall-mounted preview menu board and one ordering menu board with a maximum aggregate area of 50 square feet for both signs.

(C) Freestanding directional signs may be permitted through the design review process.

(D) In addition to the above, multiple building developments or commercial centers may be permitted additional freestanding center or multi-tenant identification signs with a maximum area of 48 square feet each in accordance with the provisions outlined in this Development Code.

(E) The provisions above shall apply unless the guidelines are addressed in an approved comprehensive sign plan.

(Prior Code, Ch. 4, Art. IV, § 4-160) (Ord. 432-06, passed 6-19-2006)

§ 150.117 READER PANEL SIGNS.

Theaters, municipal uses, religious and academic institutions, or quasi-government organizations may also have, in addition to § 150.116, one freestanding reader panel sign not to exceed 24 square feet in area and six feet in height.

(Prior Code, Ch. 4, Art. IV, § 4-161) (Ord. 432-06, passed 6-19-2006)

§ 150.118 INDUSTRIAL DISTRICTS.

(A) Signs within industrial districts (LI and HI) shall comply with the following applicable restrictions.

(B) Additionally, any development of three or more businesses shall be required to submit a comprehensive sign package to be reviewed and recommended by the Planning and Zoning Commission and approved by the Town Council.

(Prior Code, Ch. 4, Art. IV, § 4-162) (Ord. 432-06, passed 6-19-2006)

§ 150.119 TEMPORARY SIGNS.

(A) *Banners, pennants and displays for grand openings and special events.*

(1) All businesses shall be permitted to display grand opening signs at the time of original opening or when reopened by a new owner or lessee for a maximum period of 60 days.

(2) The signs may be allowed on-site, in commercial or industrial districts or public or institutional property. In residential districts, the signs may only be permitted for multiple residence uses and nonresidential uses.

(3) Banners, pennants and other displays for special events and promotions may be allowed for a maximum period of 30 consecutive days on each occasion, with the exception of grand opening or reopening signs.

(4) No pennant, banner or display shall be placed on or above the roof of any building.

(5) A minimum of 30 days shall pass between each display.

(6) For special events and promotions, the maximum banner size shall be 48 square feet and shall be limited to one per street frontage of the business.

(7) For grand openings, the maximum banner size shall be 48 square feet, and shall be limited to three per street frontage of the business.

(8) Banners and pennants shall be displayed on the building or within the parking area, perimeter landscape or some other area of the development. No banner shall be located in a manner that impedes visibility or accessibility.

(B) *Special events; off-site directional signs.*

(1) A sign plan shall be required in conjunction with the special event permit or temporary use permit. The sign plan shall show the proposed location, placement and size of all off-site directional signs.

(2) Signs may be placed 24 hours in advance of the event and shall be removed within 24 hours after the conclusion of the event.

(3) Signs shall not be placed or located within the public rights-of-way.

(4) Prior to installation, approval shall be obtained from the owner of the property on which off-site directional signs will be placed.

(C) *Banners.*

(1) Banners shall be made of cloth, nylon or similar material.

(2) Banners may be hung from street lights that are specifically designed to accommodate banners and which advertise a town-authorized special event or a community wide event or a community message but not for individual businesses.

(3) Approval of the time and location of the banners shall be obtained from the Planning Director, or designee, and the Public Works Director or designee on forms provided by the town's Planning and Zoning Department.

(D) *Political signs.*

(1) Signs pertaining to an election shall not be displayed earlier than 60 days prior to an election and shall be removed within ten days after the specific election to which they refer.

(2) Signs shall not be placed in any portion of the public right-of-way.

(3) Prior to installation, approval shall be obtained from the owner of the property on which political signs will be placed.

(E) *Real estate signs.* Signs advertising the sale, lease or renting of a building, suite, dwelling or lot shall conform to the following regulations and are exempt from the total aggregate sign area:

(1) In residential zoning districts one non-illuminated sign, located on the subject property, shall be permitted. The sign shall not exceed six square feet in area or five feet in height. Parcels or lots of five or more acres shall be permitted one sign with a maximum area of 32 square feet and a maximum height of eight feet per street frontage.

(2) For vacant property in commercial and industrial zoning districts 1, non-illuminated sign, shall be permitted which shall not exceed 32 square feet in area nor eight feet in height.

(3) For developed property within the commercial and industrial zoning districts, one non-illuminated sign, pertaining only to the building upon which displayed, shall be permitted. The sign shall have a maximum area of 12 square feet and a maximum height of six feet.

(4) A maximum of four open house directional signs, including any sign on the property of the home for sale may be posted for each home provided they are not placed or located upon town sidewalks or within the public rights-of-way. Each sign shall have a maximum height of three feet. The signs may be posted only when a sales person is on duty at the home and for no longer than nine hours during any 24 hour period.

(F) *Construction or development signs.*

(1) One sign may be posted on the lot or parcel where the construction or repair will be conducted. The sign shall have a maximum area of 32 square feet and a maximum height of eight feet.

(2) If construction plans have not been submitted to the town for the parcel or lot within 120 days after issuance of the construction or development sign permit, the sign shall be removed and will not be approved for replacement until after a building permit has been issued by the town for the project.

(3) In all cases, signs shall be removed within ten days following the issuance of a certificate of occupancy for the project.

(G) *A-frame signs.*

(1) An A-frame sign shall be no greater than three feet in width and four feet in height.

(2) A-frame signs shall be limited to one per street frontage of the business.

(3) A-frame signs may only be displayed during the posted hours the business is open to conduct business.

(4) Must include the name of the business being advertised.

(5) A-frame signs shall be located only:

(a) At grade level.

(b) On the property of the business being advertised or in the right-of-way immediately adjacent to the business property.

(6) A-frame signs should not be located:

(a) In parking aisles or stalls.

(b) In raised or painted medians.

(c) Across any street from the business being advertised.

(d) So as to cause a hazard to or impede pedestrian traffic.

(e) In driving lanes.

(g) On fences, boulders, trees, planters, other signs, vehicles, utility facilities, or any structure.

(7) A-frame signs shall be professionally constructed and maintained in a manner free from chipping paint, cracks, gouges, and/or loss of letters.

(8) The following shall be prohibited on A-frame signs:

(a) Any form of illumination, including flashing, blinking, or rotating lights.

(b) Animation.

(c) Reflective materials.

(d) Speakers or other sound emitting devices.

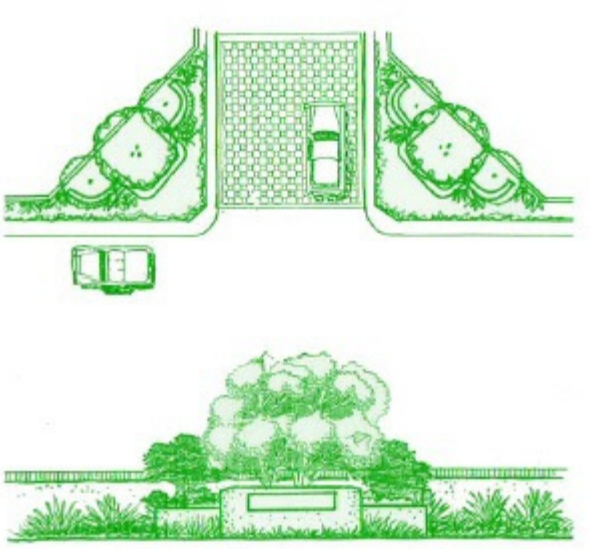
(Prior Code, Ch. 4, Art. IV, § 4-163) (Ord. 432-06, passed 6-19-2006; Am. Ord. 573-12, passed 3-19-2012)

§ 150.120 SUBDIVISION SIGNS.

The following signs may be permissible after administrative review and approval by the Planning Director or designee.

(A) *Permanent subdivision entry/identification signs.*

(1) A wall sign or monument sign may be permitted at the entryway(s) of a subdivision. The signage shall be integrated to complement the streetscape and landscaping frontages. A maximum aggregate area of 24 square feet per subdivision or parcel and/or unit may be permitted.



(2) The maximum height of any subdivision entry and/or identification sign shall be six feet. The sign may include only the name of the development and the street address.

(B) *Temporary subdivision advertising and directional signs, on-site sign.* During the construction phase, each subdivision shall have one sign located at the subdivision (on-site) advertising the subdivision. The sign shall have a maximum area of 96 square feet and may be single or double faced with a maximum height of 13 feet and boxed edges. The sign shall not be located within 100 feet of any property line of an existing residence. The sign must be removed when 95% of the lots within the subdivision are sold and/or the on-site sales office(s) closes. Additional on-site subdivision advertising and directional signs may be permitted in a PUD district if prior approval by the Planning and Zoning Commission and Town Council is obtained.

Temporary Subdivision Advertising and Directional Signs

(C) *Residential kiosk signs.*

(1) Sign panels on a town-approved kiosk structure may be authorized for the purpose of providing directional information to community facilities and residential developments, including manufactured home parks and apartments, which are offering the first time sale and/or lease of single-family subdivisions, multi-family condominiums or apartments that are located within the town limits. Sign panels may be single or double-faced. Maximum sign height for a single sign structure (kiosk) shall be 13 feet.

(2) Sign panels shall be located on designated town kiosk structures within the public right-of-way, or, upon finding that the location will not permit adequate directional information, kiosk structures may be approved on private property with the written permission of the property owner.

(3) The permission shall include the consent of the property owners to allow the town, in the event of non-compliance, to enter the property and remove the sign. A kiosk location plan shall be prepared showing the site of each kiosk and shall be submitted to and approved by the Planning Director or designee prior to the acceptance of a sign permit application.

(4) Each temporary real estate directional sign panel may contain only the name of the subdivision or builder or new multi-family development, the corporate logo and a directional arrow. Community directional sign panels (town hall, library, medical facilities, parks, historic sites and the like) may also be allowed on kiosk structures.

(5) No temporary real estate kiosk sign shall be placed within 100 feet of another except when they are across the street from one another.

(6) Directional sign panels shall conform to colors and design standards approved by the Planning Director or designee.

(7) Any sign panel approved for a particular development project within the town shall not be changed to another project without prior approval of the Planning Director or designee.

(D) *Flags.* Subdivision identification flags may be placed on or behind the property line of the subdivision. No more than six flags may be placed at any one subdivision. The flags shall have a maximum area of 12 square feet, shall contain no lettering and may not be maintained higher than 25 feet above the adjoining ground. The flags must be removed when 95% of the lots in the subdivision are sold and/or the on-site sales office closes.

(Prior Code, Ch. 4, Art. IV, § 4-164) (Ord. 432-06, passed 6-19-2006)

§ 150.121 PLANNED UNIT DEVELOPMENT DIRECTIONAL SIGNS.

A maximum number of three homebuilder or marketing directional signs may be permitted within an approved PUD. Each sign shall have a maximum height of three feet and six square feet in area.

(Prior Code, Ch. 4, Art. IV, § 4-165) (Ord. 432-06, passed 6-19-2006)

§ 150.122 SUBMITTAL AND PERMIT REQUIREMENTS.

(A) Sign permit approval is required for constructing or altering any non-exempt sign.

(B) A sign permit application shall be made in writing on forms provided by the Planning and Zoning Department.

(C) The following information will be required on all sign permit applications:

(1) Business owner's name, address and telephone number.

(2) Sign contractor's name, address and telephone number.

(3) Inventory of all existing signs on the property showing the type, dimensions and location of each sign.

(4) Fully dimensioned plans and elevations showing the dimensions, design copy and location of each proposed sign in relation to the property line(s) and public right-of-way.

(5) Plans indicating the scope and structural detail of the work to be done; including details of all connections, supports, footings and materials to be used.

(6) Required information for an electrical permit for all signage illumination. Please contact the Building Safety Department for specific requirements and/or additional information.

(7) Comprehensive sign packages, if required by this Development Code, shall provide information regarding the color(s), material, type and letter samples that are for all tenant signage, freestanding center identification signage, directional signs, window signs and any other information deemed necessary by the town to adequately review the comprehensive sign package.

(8) A PUD must submit a comprehensive sign package and may, through the comprehensive sign package, request deviations from the sign regulations only if the deviations are reviewed and recommended by Planning and Zoning Commission and approved by the Town Council.

(9) Two copies of all information listed above shall be submitted with the application for each sign, one copy being returned to the applicant at the time the permit is issued.

(10) Before issuing any sign permit required by this Development Code, the town shall collect a fee in accordance with a fee schedule established by the Town Council. If work, for which a permit is required by this Development Code, is started before a permit has been issued, the fees specified above shall be doubled. The payment of the double fee shall not relieve any persons from complying fully with the requirements of this Development Code in the execution of the work or from any penalties prescribed herein.

(11) All signs for which a permit is required shall be subject to inspections during various stages of construction as prescribed by the Town Building Safety Department.

(Prior Code, Ch. 4, Art. IV, § 4-166) (Ord. 432-06, passed 6-19-2006)

§ 150.123 EXCEPTIONS; PERMITS NOT REQUIRED.

Sign permits are not required for the following signs provided that the signs are subject to all other provisions of this Development Code (Note: Electric permit required for all exterior electric signs):

(A) Any sign not exceeding six square feet in area and not otherwise prohibited by this Development Code;

(B) Standard sign maintenance;

(C) Relocation as required by the town;

(D) Garage sale signs not exceeding six square feet. The signs shall not be up longer than three days. Signs may not be located upon town sidewalks or within the public rights-of-way. Signs may be placed, in the permitted areas, only between sunrise and sunset. Signs shall be removed daily prior to sunset or they shall be subject to confiscation by the town;

(E) Grand opening and special event banners; A-frame signs; political signs; and

(F) Messages painted directly on or adhesive vinyl film affixed to, the exterior surface of existing mineral glass windows, except that the aggregate square footage of the signs shall be calculated as window signage.

(Prior Code, Ch. 4, Art. IV, § 4-167) (Ord. 432-06, passed 6-19-2006; Am. Ord. 573-12, passed 3-19-2012)

§ 150.124 EXCEPTED SIGNAGE.

The provisions of this Development Code shall not apply to the following (Note: Electric permits are required for all exterior electric signs):

(A) Flags, pennants or insignia of any nation, state, county, town or other political unit, or any church or religious organization;

(B) Tablets, grave markers, headstones, statuary or remembrances of persons or events noncommercial in nature;

(C) Works of fine art, historic or cultural artifacts when not displayed in conjunction with a commercial enterprise which may derive direct commercial gain from the display;

(D) Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic, religious or local holidays or events;

(E) Temporary signs less than 30 days for events of a general town-wide, civic or public benefit;

(F) Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way;

(G) The placement and maintenance of official traffic, fire and police signs, signals and devices and markings of the state and the town or other authorized public agency, and the posting of notices as required by law;

(H) Non-illuminated directional or informational signs of a non-commercial public or quasi-public nature, including street, building or suite numbers which do not exceed six square feet;

(I) Signs displayed during recognized holidays, as identification of temporary sales areas for trees and similar holiday items in conjunction with an approved permit should one be required. The signs shall be excepted only when displayed within 30 days of the recognized holiday;

(J) Signs displayed within the interior of a building;

(K) Identification signs for individual residences; and

(L) On-site directional and similar informational signs provided the signs are utilized only when necessary for traffic directional or similar informational purposes and do not display corporate colors, logos or other commercial messages. The signs shall be wall mounted or, if detached, shall not exceed a height of three feet.

(Prior Code, Ch. 4, Art. IV, § 4-168) (Ord. 432-06, passed 6-19-2006)

§ 150.125 PROHIBITED SIGNS.

Any sign not specifically listed as permitted by this Development Code is prohibited, including, but not limited to the following:

(A) Billboards are prohibited in the town;

(B) Vehicle signs or signs mounted, attached or painted on trailers, boats or motor vehicles primarily or consistently parked, stored or displayed in a manner intended to attract the attention of the public for advertising purposes;

(C) Signs attached to any utility pole, structure, street light, traffic signal, tree, fence, fire hydrant, bridge, park bench or other location on public property unless otherwise specifically allowed in this Development Code;

(D) The use of pennants, banners, balloons and similar displays except as permitted elsewhere in this Development Code;

(E) Off-site signs, unless otherwise permitted by this Development Code, more specifically signs which direct 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;

(F) Signs that are animated, audible, rotate or have intermittent or flashing illumination or emit audible sound or visible matter, except time and/or temperature units or to drive-up menu boards, except as otherwise approved in a comprehensive sign plan;

(G) Roof signs, signs displayed in a manner or location that prevent free ingress and egress from a door, window or other exit;

(H) Portable signs and/or temporary signs which advertise a business, commodity, service, entertainment, product or attraction except as permitted elsewhere in this Development Code;

(I) Signs displayed in a location prohibited by this Development Code;

(J) Weekend directional signs;

(K) Projecting signs unless mounted entirely under an awning or roof hanging and designed primarily for the aid of pedestrian traffic. The signs shall not interfere with the pedestrian traffic; and

(L) Awning mounted signs, unless painted directly on the face of the awning.

(Prior Code, Ch. 4, Art. IV, § 4-169) (Ord. 432-06, passed 6-19-2006; Am. Ord. 573-12, passed 3-19-2012) Penalty, see § 150.999

§ 150.126 LEGAL NONCONFORMING SIGNS.

(A) ***LEGAL NONCONFORMING SIGN(S)*** shall mean a sign that is lawfully existing at the time of the enactment of this Development Code that does not conform to the regulations as specified in this Development Code.

(B) A legal nonconforming sign may continue to be utilized in perpetuity only in the manner and to the extent that it existed at the time of the adoption of this Development Code or any amendment thereto.

(C) A legal nonconforming sign may not be altered in any manner not in conformance with this Development Code. This does not apply to reasonable repair and maintenance of the sign or to a change of copy provided that by changing the copy, structural alterations are not required.

(D) Any construction permit which invokes certificate of occupancy requirements shall specify and require that any nonconforming sign located within the boundaries of the development site and within the limits of the applicant's control, authorized by the permit shall be brought into conformance with the provisions of this Development Code, provided that if the nonconforming sign is a type of sign that is prohibited under § 150.125, it shall be removed.

(E) Legal nonconforming signs that are located on a parcel of property which is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal nonconforming status of that sign provided that the nonconforming sign:

(1) Is not increased in area or height to exceed the limits of the district in which it is located;

(2) Remains structurally unchanged except for reasonable repairs or alterations;

(3) Is placed in the most similar position on the remaining property that it occupied prior to the relocation; and

(4) Is relocated in a manner so as to comply with all applicable safety requirements.

(F) After relocation pursuant to this division, the legal nonconforming sign shall be subject to all provisions of this Development Code in its new location.

(Prior Code, Ch. 4, Art. IV, § 4-170) (Ord. 432-06, passed 6-19-2006)

§ 150.127 SIGNS RENDERED NONCONFORMING.

(A) Except as provided in this Development Code, a nonconforming sign may continue in the manner and to the extent that it existed at the time of the ordinance adoption, amendment or annexation which rendered the sign nonconforming. This Development Code shall not prohibit reasonable repairs and alterations to nonconforming signs.

(B) A sign approved by variance or comprehensive sign plan before June 19, 2006, shall not be considered nonconforming and shall not be subject to the regulations set forth in this Development Code.

(C) A nonconforming sign shall not be re-erected, relocated or replaced unless it is brought into compliance with the requirements of this Development Code.

(D) If the structure of a nonconforming sign is changed, the height and area of the sign shall not be increased to exceed the height and area limits of the site on which it is located. If the sign exceeds the site's height and/or area limitations, the excess height and/or area shall be reduced a minimum of 50%. Two reductions shall be permitted; after the third structural change, the sign shall conform to current standards. Nothing in this Development Code shall require a nonconforming sign to be reduced to a height or area less than that allowed on the site.

(E) If a nonconforming sign is located on a parcel which is experiencing development for which site plan and/or design review is required, the height and area of the sign shall not be increased to exceed the height and area limitations of the site. If the sign exceeds the site's height and/or area limitations, the excess height and/or area shall be reduced to a minimum of 50%. Two reductions shall be permitted; after the third structural change, the sign shall conform to current standards. Nothing in this Development Code shall require a nonconforming sign to be reduced to a height or area less than that allowed on the site.

(F) Site plan and/or design review required by one of the following types of development shall not cause reduction in a sign's nonconforming height and/or area:

(1) An addition of less than 2,000 square feet when the addition is less than 50% of the size of the usable space of the site which is the subject of design review. A series of additions, which total more than 50% of the usable space of the site shall require reduction of non-conformities. Usable space shall not include areas such as restrooms and storage rooms.

(2) An addition of more than 2,000 square feet when the addition is less than 10% of the size of the usable space of the site which is the subject of design review. A series of additions, which total more than 10% of the usable space of the site shall require reduction of non-conformities. Usable space shall not include areas such as restrooms and storage rooms.

(3) A modification required by federal, state or local regulations or programs.

(G) Any nonconforming sign shall be removed or rebuilt in full conformity to the terms of this Development Code if it is damaged or allowed to deteriorate to such an extent that the cost of repair or restoration is 50% or more of the cost of replacement of the sign.

(Prior Code, Ch. 4, Art. IV, § 4-171) (Ord. 432-06, passed 6-19-2006)

§ 150.128 SIGNS FOR A LEGAL NONCONFORMING USE.

New or additional signs for a nonconforming use shall not be permitted. A nonconforming sign for a nonconforming use which ceases to be used for a period of 90 consecutive days or is suspended by a conforming use, shall be considered a prohibited sign and shall be removed or brought into conformance upon establishment of a conforming use.

(Prior Code, Ch. 4, Art. IV, § 4-172) (Ord. 432-06, passed 6-19-2006)

§ 150.129 SIGNS RENDERED DISCONTINUED.

(A) Sign structures which remain vacant, unoccupied, devoid of any message for a period of six months, or display a message pertaining to a time event or purpose that no longer applies shall be deemed to be discontinued.

(B) A sign whose use has been discontinued is prohibited and shall be removed by the owner of the sign or owner of the premises. Removal shall occur by no later than six months after the use has been discontinued.

(C) The owner and/or operator of a discontinued business shall cover the sign copy used to advertise the business.

(Prior Code, Ch. 4, Art. IV, § 4-173) (Ord. 432-06, passed 6-19-2006)

§ 150.130 UNSAFE SIGNS.

If the Planning Director or designee determines any sign or sign structure to be in an unsafe condition, he or she shall immediately notify, in writing, the owner of the sign who shall correct the condition within 48 hours. If the correction has not been made within 48 hours, the Planning Director, or designee, may have the sign removed if it creates a danger to the public safety or have any necessary repairs or maintenance performed at the expense of the sign owner, owner or lessee of the property upon which the sign is located. The cost shall be an assessment against the property which may be recorded by the town pursuant to A.R.S. § 9-499.

(Prior Code, Ch. 4, Art. IV, § 4-174) (Ord. 432-06, passed 6-19-2006)

PART 4. LANDSCAPE STANDARDS

§ 150.131 STANDARDS.

Standards and requirements are provided for the installation of landscaping for all new and expanded development within the town in order to promote the general welfare of the community, effectuate attractive and logical development, aid in the enhancement of property values, create an attractive appearance along town streets, complement the visual effect of buildings, provide appropriate buffers between incompatible land uses and protection from intense activities and to aid in conserving water by encouraging the use of varieties of plants, trees and shrubs indigenous to arid regions which are characterized by low-water consumption. The standards and regulations of this Development Code shall be held to be the minimum requirements necessary for the promotion of the foregoing objectives of this Development Code. In those instances where the minimum standards and requirements are not sufficient to achieve the purpose and objectives of this Development Code, the Planning Director or designee may impose other reasonable requirements as may be deemed appropriate.

(Prior Code, Ch. 4, Art. IV, § 4-201) (Ord. 432-06, passed 6-19-2006)

§ 150.132 GENERAL APPLICABILITY.

The landscape plan, installation and maintenance provisions of this Development Code shall apply to all new buildings, all new uses of land and any addition to or expansion of existing buildings and uses, occurring in any multi-family, commercial or industrial districts and to nonresidential uses in the residential districts. The provisions and guidelines of this Development Code shall apply to residential uses in the agricultural, single-family and multiple family districts.

(Prior Code, Ch. 4, Art. IV, § 4-202) (Ord. 432-06, passed 6-19-2006)

§ 150.133 BUILDING AND OCCUPANCY PERMITS.

(A) Prior to the issuance of a building permit, the Planning Director or designee shall review and approve the site plan and landscape plan.

(B) In lieu of the installation of plant material prior to issuance of an occupancy permit, a cash deposit or an irrevocable letter of credit in an amount guaranteeing the complete 100% installation of the plant material within six months may be accepted by the Planning Director or designee. Failure to install the material in the six month time period shall be deemed a violation of this Development Code, and the town may use the cash deposit or funds set aside by letter of credit to complete the landscape improvements required.

(Prior Code, Ch. 4, Art. IV, § 4-203) (Ord. 432-06, passed 6-19-2006)

§ 150.134 APPROPRIATE USE OF LANDSCAPING.

(A) Any landscape areas in the public right-of-way shall comply with all the requirements of this Development Code and with the criteria of the State Department of Water Resources. These criteria specify plant material which have low water needs and encourage the conservation of water resources.

(B) Landscaped areas shall not be used for parking of vehicles, display of merchandise or other uses detrimental to the landscaping, but may be used for screening and decorative walls and for art.

(C) Plant material that is high in pollen production is discouraged. Also, extreme care should be exercised when using plants that are known to be poisonous.

(D) Plants should be placed in such a way as to maximize survivability (i.e., low water-use plants should not be placed in drainage ways, and the use of frost-tender plants should be limited to accent locations, not primary focal points).

(Prior Code, Ch. 4, Art. IV, § 4-204) (Ord. 432-06, passed 6-19-2006)

§ 150.135 MAINTENANCE.

The landscape areas on-site, as well as in the required right-of-way, shall be maintained by the owner or owner's association (should the property be subdivided) or the lessee of the site. Any areas designated and intended for the purposes of on-site water retention shall be maintained and reserved for the specific purpose. Any alteration or deterioration of those areas shall be considered a violation of this and any applicable codes.

(Prior Code, Ch. 4, Art. IV, § 4-205) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

§ 150.136 COMPLIANCE.

(A) Any plant material that does not survive shall be replaced within 30 days.

(B) The removal, failure to maintain or destruction of landscape material previously approved by the town shall constitute a violation of this Development Code. Replacement of landscape material shall be of like size as that which was removed or destroyed.

(C) Landscaping and irrigation systems shall be reasonably maintained in accordance with the approved site and/or landscape plan. Plant material shall not be severely pruned such that the natural growth pattern or characteristics are significantly altered. Palm trees shall, however, be pruned once each year to remove dried fronds and eliminate fire hazard and insect infestation.

(D) Modifications and/or removal of existing landscaping on other than single-family residential property shall require prior approval.

(Prior Code, Ch. 4, Art. IV, § 4-206) (Ord. 432-06, passed 6-19-2006)

§ 150.137 MAINTENANCE BY TOWN.

(A) The town may accept responsibility for the maintenance and operation of all landscaping and appurtenances installed in accordance with the provisions of this chapter for reverse street frontage landscaping or any landscaping and appurtenances installed within other street rights-of-way, which rights-of-way are described by one of the following categories:

(1) Arterial and/or secondary street right-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;

(2) 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;

(3) Public bridle trails, bicycle paths and multi-use recreational facilities within town limits;

(4) Median islands on arterial and secondary public streets within the town;

(5) All publicly dedicated alleys within town limits;

(6) Dedicated street rights-of-way abutting municipal public facilities;

(7) Street landscaping within districts specially approved or created by Town Council; and

(8) Flood control facilities which have been accepted for operation and maintenance by the town.

(B) Prior to the town accepting for maintenance any reverse street frontage landscaping or other street right-of-way landscaping, the following conditions shall have been satisfied:

(1) The landscaping shall be inspected and approved by the town for compliance with the approved landscape plan. The town shall perform the inspection within 30 days of a written request to schedule an inspection.

(2) The subsequent completion of the 24 month maintenance period wherein the developer shall be responsible for all watering, weeding and replacement of all dead or dying plant materials.

(3) A final inspection called by the developer or his or her representative at the completion of the 24 month maintenance period resulting in final approval and acceptance by the town.

(Prior Code, Ch. 4, Art. IV, § 4-207) (Ord. 432-06, passed 6-19-2006)

§ 150.138 LANDSCAPE PLAN AND DESIGN STANDARDS.

(A) *Landscape plan.* A landscape plan shall be prepared, submitted and approved for all applicable development projects in accordance with the procedures, design standards and requirements set forth in this Development Code.

(B) *Plan submittal.* Three copies of the landscape plan shall be submitted to the Planning Director or designee for review and approval, and shall include the following information:

(1) The location and identification of all proposed landscape areas (on-site, street right-of-way, parking area, landscape buffers and others);

(2) Data pertaining to the amount of net site area, the ground floor areas of all proposed buildings, the number of required and proposed parking spaces and the amount of all proposed landscaped areas, required and provided;

(3) The location of all proposed trees, shrubs and other landscape materials and improvements;

(4) Notes or graphical representations adequately showing the intent of the proposed plans and materials and indicating how those plans will comply with this Development Code;

(5) The location, height, type and general design and finish of all proposed walls and other screenings;

(6) The location of all proposed storm water retention areas;

(7) A specific schedule of all trees and shrubs identified by common and botanical name and the quantity and size of each tree and shrub to be installed; and

(8) All changes in landscape plans or landscaping on-site before, during or after preliminary or final landscape plan approval shall be approved by the Planning Director or designee prior to the installation of any landscape change.

(C) *Design standards.* Each site to be developed shall be required to provide landscape areas and amounts equal to or exceeding the following minimum amounts:

(1) Each site of a multi-family use shall have a minimum of 20% of the net site and/or lot area in landscaping.

(2) Each site of commercial use shall have a minimum of 15% of the net site and/or lot area in landscaping.

(3) Each site of industrial use shall have a minimum of 10% of the net site in landscaping.

(4) In addition to the minimum on-site landscaping, there shall be landscaping in the entire area of the right-of-way, between the property line and back of street curb except for approved driveways, walkways and bike paths.

(5) Landscape designs shall be compatible with adjacent properties.

(D) *On-site water retention areas.* All on-site water retention areas, other than paved surfaces, shall be entirely landscaped and shall comply with the following criteria:

(1) The retention areas shall not occupy more than 50% of the on-site street frontage landscape area;

(2) All retention areas shall maintain slopes no steeper than 6:1 when adjacent to public rights-of-way, or when there is pedestrian type access to that portion of the basin. Side slopes adjacent to walls, fences, hedges and the like (i.e., no or limited pedestrian type access in that area) may have side slopes up to 4:1; and

(3) All mounding and berming shall have slopes no steeper than 4:1.

(E) *Parking areas.* All parking areas shall incorporate the following elements:

(1) Landscape islands, with raised concrete curbing to define parking lot entrances, aisles and ends of all parking aisles;

(2) Landscape islands to separate rows of more than 15 parking spaces;

(3) Each landscape island shall be a minimum of three feet in total width including curbing and equal 75% of the length of the parking stall(s); and

(4) Each landscape island shall include a minimum of one tree of 15-gallon size and five shrubs of five-gallon size for each parking stall length.

(F) *Vegetative ground cover.* A minimum of 50% of the landscaped areas are to be planted with vegetative ground cover. Minimum size and spacing to be one gallon size plants at a maximum three feet on center.

(Prior Code, Ch. 4, Art. IV, § 4-208) (Ord. 432-06, passed 6-19-2006)

§ 150.139 DESIGN CRITERIA PERTAINING TO SPECIFIC DISTRICTS OR USES.

(A) Entry features of future commercial and industrial development sites shall be landscaped in the first phase of construction.

(B) In multi-family and nonresidential uses in the agricultural, single-family and 2-family districts, the required front and street side yards shall be entirely landscaped except for necessary and provided walkways and driveways.

(C) In the commercial and industrial development, a minimum of 30 feet of any yard adjacent to a street shall be entirely landscaped, except for required walkways and access driveways.

(D) Where multi-family, commercial, office or industrial uses are adjacent to or separated by an alley or lesser separation from any residential development or district, the trees shall be planted at 20 feet on center, with every other tree being a minimum 24-inch box size.

(E) Where a commercial, office or industrial user of over 50,000 square feet building area is located adjacent to a residence or residential district, the landscape buffer described in § 150.138(C), shall be increased to ten feet (adjacent to that user), with two rows of trees along the interior side of the required wall. Each tree shall be a minimum 15-gallon size spaced 20 feet on center, staggered for maximum effect in buffering the two uses.

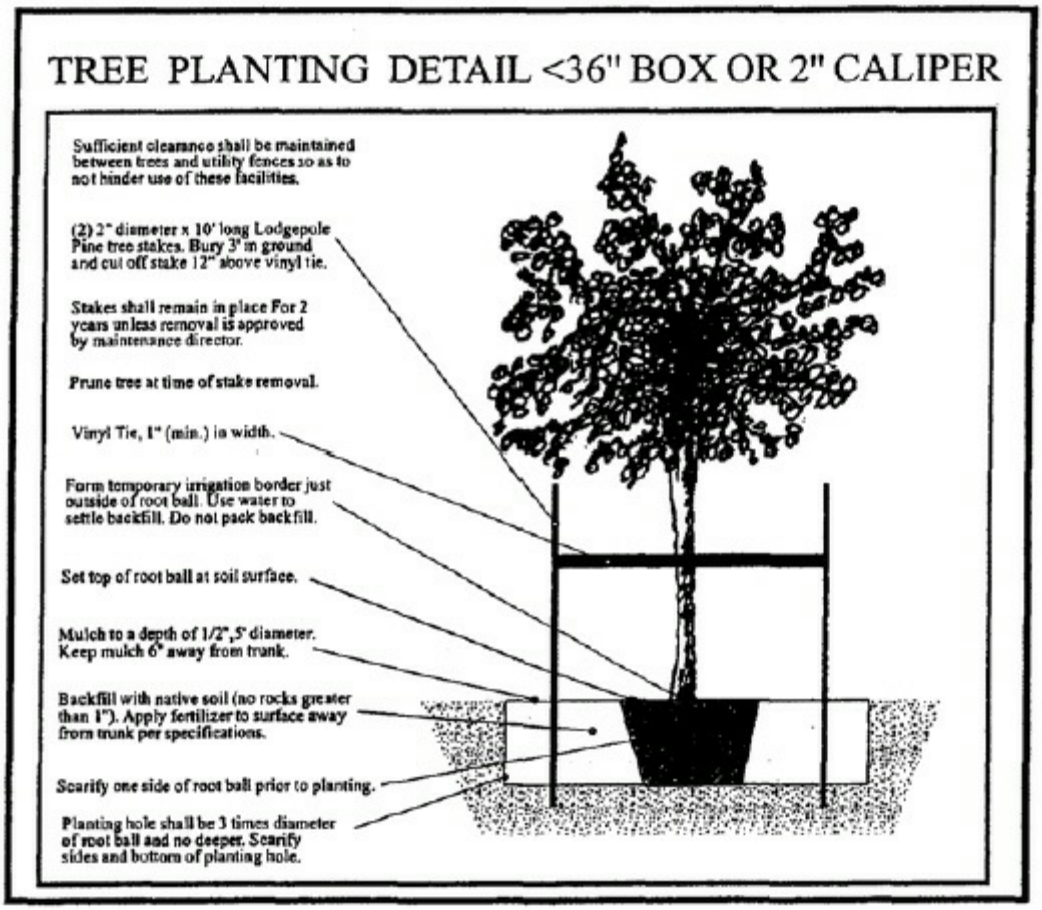
(F) Trees shall be required along all street frontages according to the following criteria:

(1) A minimum of one tree shall be planted for every 25 feet of lineal street frontage;

(2) The trees selected shall be compatible with the overall site and landscape plan, as well as adjacent sites; and

(3) All trees shall be planted and staked in accordance with the Standard Tree Planting Detail located below.

(G) All developments that back or side onto a street and which have a six foot high screening wall constructed on the property line shall install within the street right-of-way contiguous with the property, three water conserving variety shrubs and one water conserving variety tree for every 30 feet of the reverse street frontage. All trees and shrubs shall be provided with an automatic drip or soaker irrigation system. Ground cover shall be one-fourth inch minus decomposed golden granite without plastic liners. A pre-emergent herbicide shall be applied to the ground prior to and after the placement of natural surface materials (decomposed granite, river run rock and the like) in any landscaped area to prevent weed growth. The foregoing requirement shall apply in lieu of the street frontage landscape improvements required in this section.



(Prior Code, Ch. 4, Art. IV, § 4-209) (Ord. 432-06, passed 6-19-2006)

§ 150.140 PLANTING SPECIFICATIONS.

(A) 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 boxes or larger size.

(B) All shrubs shall be a minimum of five gallons in size.

(C) All 15-gallon trees must be a minimum of eight feet in height, four feet in spread and one and one-fourth-inch truck caliper at the ground level.

(D) All 24-inch boxes and larger trees shall be a minimum of ten feet in height, six feet in spread and two inch trunk caliper at the ground level.

(E) Upon approval of the Planning Director or designee, the installation of 20 square feet of vegetative groundcover in any landscaped area shall substitute for one required shrub, up to a maximum of 30% of the required shrubs in any particular landscaped area.

(F) Fifteen gallon size trees (of a non-deciduous variety) 20 feet on center shall be planted along any property lines of parcels developed for multi-family, commercial, office or industrial uses which are adjacent to or separated by an alley from any residential development or district. Minimum width of landscape buffer shall be six feet clear.

(Prior Code, Ch. 4, Art. IV, § 4-210) (Ord. 432-06, passed 6-19-2006)

§ 150.141 APPROVAL BY PLANNING DIRECTOR.

(A) The types and varieties of landscaping shall be approved by the Planning Director.

(B) Whenever olive trees (Olea Europaea) are specified, they shall be the Swan Hill variety.

(C) All Mexican Fan Palms (Washington Robusta), California Fan Palms (Washingtonia Filifera) and Queen Palms (Cocos Plumosa) 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 50 feet of the street property line.

(Prior Code, Ch. 4, Art. IV, § 4-211) (Ord. 432-06, passed 6-19-2006)

§ 150.142 LANDSCAPED AREAS.

(A) All landscaped areas shall be finished with a 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.

(B) 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.

(C) An automatic irrigation system which may be spray, flood, soaker or drip type system. A pressure-type vacuum breaker shall be required with the installation of all sprinkler systems.

(D) All irrigation systems and landscaped areas shall be designed, constructed and maintained as to promote water conservation and prevent water overflow or seepage into the street or parking areas.

(E) 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 the 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.

(F) All landscaping and landscape materials established in close proximity to a driveway or street intersection shall be installed and maintained in a manner which does not effect visibility.

(Prior Code, Ch. 4, Art. IV, § 4-212) (Ord. 432-06, passed 6-19-2006)

§ 150.143 ENFORCEMENT.

Where, in the opinion of the Planning Director or designee, there exists extraordinary conditions of topography, land ownership, site boundaries and dimensions, adjacent development characteristics or other circumstances not provided for in this Development Code, the Planning Director or designee may modify or vary the strict provisions of this Development Code in such a manner and to such an extent as is deemed appropriate to the public interest, provided that the purpose and intent of this Development Code is maintained with the modification or variance.

(Prior Code, Ch. 4, Art. IV, § 4-213) (Ord. 432-06, passed 6-19-2006)

§ 150.144 ALTERNATE MATERIALS.

The Planning Director or designee may accept alternate sizes or varieties of plant material of comparable value and durability when it is shown that specified plant materials cannot reasonably be obtained from local nursery stock.

(Prior Code, Ch. 4, Art. IV, § 4-214) (Ord. 432-06, passed 6-19-2006)

§ 150.145 INSPECTION AND APPROVAL.

(A) All projects required by this Development Code to be landscaped shall pass a landscape inspection prior to certificate of occupancy being issued by the town. The inspections shall be requested by the applicant at least 24 hours prior to being performed.

(B) The town shall have the right to refuse to pass any project not meeting the provisions of this Development Code.

(C) The town shall also have the right to reject landscape materials which are substandard as to size, condition or appearance

including a pre-inspection of materials at the supplier if deemed necessary

(Prior Code, Ch. 4, Art. IV, § 4-215) (Ord. 432-06, passed 6-19-2006)

§ 150.146 RESIDENTIAL LANDSCAPE DESIGN STANDARDS.

Single-family and 2-family dwelling homebuilders are required and homeowners are encouraged to observe the following guides when maintaining master planned residential landscaping.

(A) *General guidelines.* Traditional landscapes with extensive turf areas, trees and shrubs requiring large amounts of water shall be replaced with low water use landscapes (xeriscapes).

(B) *Water conservation guidelines.* In order to conserve water as required by the Department of Water Resources and the town regulations, the following landscape and irrigation criteria shall be followed:

(1) Grass (turf) use shall be restricted to 30% of the "gross" area of single-family and 2-family lots;

(2) Drip emitters shall be used in watering trees, shrubs, flowers and groundcovers;

(3) Landscape plantings should be grouped according to similar water needs; and

(4) Low water use trees, shrubs, flowers and groundcovers are to be used in conjunction with desired landscape materials.

(Prior Code, Ch. 4, Art. IV, § 4-216) (Ord. 432-06, passed 6-19-2006)

PART 5. WALLS AND FENCES

§ 150.147 GENERAL APPLICABILITY.

Walls or fences include any structure intended for confinement, prevention of intrusion, boundary identification or screening of activity. Screening devices are any structure installed to conceal refuse, mechanical equipment, parking (service and loading bays or lanes), multi-family habitation and commercial or industrial activities from adjacent residential districts and from street view.

(Prior Code, Ch. 4, Art. IV, § 4-221) (Ord. 432-06, passed 6-19-2006)

§ 150.148 PLACEMENT REGULATIONS.

(A) No walls, buildings or other obstructions to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points 33 feet from the intersection of the street right-of-way lines.

(B) Height of walls and fences in residential districts shall be measured from the lowest adjacent grade, except when adjacent to an alley or street right-of-way which has a higher grade than the adjacent site, then the height shall be measured from the top of the crown of road or alley (if no curb). Height of screening devices shall be measured from the highest adjacent grade.

(Prior Code, Ch. 4, Art. IV, § 4-222) (Ord. 432-06, passed 6-19-2006)

§ 150.149 DESIGN, CONSTRUCTION, MAINTENANCE AND DEVELOPMENT STANDARDS.

(A) *Design criteria.*

(1) All fences or walls 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 or wall may be erected on the division line of the respective properties.

(2) Any fence or wall 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.

(3) Outdoor storage areas for materials, trash, equipment, vehicles or other similar items shall be provided with a masonry screening wall six feet in height.

(4) Parking areas shall be screened from street view by masonry walls or berms to a minimum height of three feet above the highest finished grade (may be supplemented by up to 25% intermittent landscaping).

(5) Masonry walls six feet in height shall be installed along interior boundaries of a site adjacent to or across from a residential district.

(B) *Construction maintenance.*

(1) Every fence or wall shall be constructed in a substantial, workmanlike manner and of a substantial material reasonably suited for the purpose for which the fence or wall is proposed to be used. Every fence or wall shall be maintained in a condition of reasonable repair and shall not be allowed to become or remain in a condition of disrepair, damage or unsightliness, or constitute a nuisance, public or private. Any fence or wall which is, or has become, dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect is a public nuisance and the Planning Director or designee shall commence proper proceedings for the abatement thereof.

(2) No fence may be constructed of combustible materials, erected, placed or located to serve as a perimeter fence if within four feet of a property line, except that gates for the fences may be of a combustible material provided the gate is no wider than 12 feet.

(C) *Additional criteria for specified use types and conditions are required.*

(1) In residential and agricultural districts with residential uses, the maximum height of any freestanding wall or fence in a required front yard shall be three feet, except for walls that create a portal which shall be designed as an integral component of the portal fixture as determined during staff review process. In rear and side yards, the maximum height shall be six feet.

(2) All fences in a side or rear yard of a lot abutting an alley must allow for a three foot deep by eight foot wide inset with gate for storage of garbage cans.

(3) Exterior boundaries of mobile home and/or RV subdivisions and mobile home and/or RV parks shall be bounded by a six-foot high masonry wall. Land between the wall and the public street improvement shall be landscaped with street trees and other landscaping materials and shall be maintained by the owners or tenants.

(4) In LI and HI districts, walled areas for storage of materials and equipment may include three-strand barbed wire or barbed tape for maximum security (maximum eight foot height).

(5) All utility substations, wells, storage facilities and other utilities shall be screened from view by a solid masonry wall or landscape screen.

(6) Open wire fences exceeding the otherwise permitted heights may be built around schools and other public or quasi-public facilities when necessary for the safety or restraint of the occupants.

(7) Open wire fences exceeding the otherwise permitted heights may be built around tennis courts by use permit or administrative approval, dependent upon the following criteria:

(a) Use permit is required for open wire fences around tennis courts that are located within 500 feet of the nearest property line of any property zoned or platted for single-family residential development;

(b) Use permit is not required for open wire fences around tennis courts where there is no residentially zoned property line within 500 feet of the tennis court; and

(c) A building permit must be obtained prior to the installation of any fence that exceeds six feet in height.

(Prior Code, Ch. 4, Art. IV, § 4-223) (Ord. 432-06, passed 6-19-2006)

§ 150.150 BARBED WIRE AND ELECTRIC FENCES.

It shall be unlawful for any person to erect or maintain any electric fence or any fence constructed in whole or in part of barbed wire. Any fence is hereby declared a public nuisance and subject to abatement by order of the court.

(Prior Code, Ch. 4, Art. IV, § 4-224) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

PART 6. SWIMMING POOLS

§ 150.151 GENERAL APPLICABILITY.

Outdoor swimming pools, in ground or above ground, wading pools, hot tubs, spas or other similar pools used or designated to be used for swimming, wading or bathing purposes shall be fenced and are subject to these regulations. Wading pools, fish ponds or shallow decorative pools less than 18 inches deep may be exempt, except where the Planning Director or designee in individual cases deems it a public nuisance and/or dangerous to the public health, safety and welfare.

(Prior Code, Ch. 4, Art. IV, § 4-236) (Ord. 432-06, passed 6-19-2006)

§ 150.152 LOCATION.

(A) *Residential districts.* In any residential district, private swimming pools shall be located in the side or rear yards and shall not be any closer that three feet from any property line and may not be located within any recorded easement except with a written approval of the easement holder. In case of a corner lot, a pool may not be located any closer than five feet to the street side property line. Minimum width of yards adjacent to an alley, an alley easement, a street or an existing building shall not be less than the depth of the pool adjacent thereto unless approved in writing by the Planning Director, and in no case shall the yards be reduced to less than three feet in the side or rear yard or five feet in the street yard.

(B) *Nonresidential districts.* In any district other than those above, a private swimming pool or a semi-public swimming pool shall not be closer than seven feet to any property line, except that in the case of a corner lot, a swimming pool shall not be closer than ten feet to the side property line on the street side and, if located in other than a side yard, rear yard or in a court or other open space which is more than 50% surrounded by a building, the same shall be subject to the grant of a use permit as provided for in this Development Code.

(C) *Public swimming pools.* No public swimming pool shall be located closer than 25 feet to any lot line on the lot which it is situated.

(Prior Code, Ch. 4, Art. IV, § 4-237) (Ord. 432-06, passed 6-19-2006)

§ 150.153 ENCLOSURES AND GATES.

(A) *Enclosures.* All swimming pools shall be enclosed by wall of a single-family residential building, a solid wall, chain link or wrought iron fence not less than five feet nor more than six feet in height. If the design or material of the fence or gate is such that there are openings, the openings shall be of a size to prohibit a spherical object four inches in diameter from passing through or under the fence or gate. If a residence or living area constitutes part of the enclosure for a swimming pool or other contained body of water, in lieu of the requirements above, at least one of the following shall apply:

(1) Between the swimming pool or other contained body of water and the residence or living area, a minimum four foot wall, fence or barrier to the pool area that meets all of the requirements of § 150.152(A).

(2) The pool shall be protected by a motorized safety pool cover which requires the operation of a key switch that meets the American Society of Testing and Materials Emergency Standards (ASTME) 13-89 and which does not require manual operation other than the use of the key switch.

(3) All ground level doors or other doors with direct access to the swimming pool or other contained body of water shall be equipped with a self-latching device that meets the requirements of this division. Emergency escape or rescue windows from sleeping rooms with access to the swimming pool or other contained body of water shall be equipped with a latching device not less than 54 inches above the floor. All other operational dwelling units or guest room windows with similar access shall be equipped with a screwed in place wire mesh screen, or a keyed lock that prevents opening the window more than four inches, or a latching device located not less than 54 inches above the floor.

(4) If the swimming pool is an aboveground swimming pool which has non-climbable exterior sides which are a minimum height of four feet. Any access ladder or steps shall be removable without tools and secured in an inaccessible position with a latching device

not less than 54 inches above the ground when the pool is not in use.

(5) It is hereby declared to be a public nuisance to maintain an outdoor swimming pool, either above or below ground level, with a maximum depth of 18 inches or more in the town unless either the premises upon which the pool is located or the pool itself is enclosed as required herein. Irrigation and storm water retention facilities, and the water features in public parks and golf courses are exempt from the fencing requirement of this Development Code.

(B) *Gates*. All gates shall be substantially the same height as the wall or the fence and shall be self-closing and self-latching and be constructed in such a manner as to prevent uninvited access.

(Prior Code, Ch. 4, Art. IV, § 4-238) (Ord. 432-06, passed 6-19-2006)

§ 150.154 EXCEPTIONS.

(A) The above regulations shall not apply to non-permanent wading pools made of rubber, plastic or similar materials and containing water up to a maximum depth of not more than 18 inches.

(B) Where the premises upon which the pool is located abuts a body of water in an approved planned unit development, the fence enclosure parallel to the water shall not be required to provide that the abutting enclosure extends horizontally 18 inches beyond the lake bank. For purposes of this exception, the ***ABUTTING*** shall mean terminating at the point of contact with the lakeside edge of the bank.

(Prior Code, Ch. 4, Art. IV, § 4-239) (Ord. 432-06, passed 6-19-2006)

§ 150.155 PERMIT, INSPECTION AND MAINTENANCE.

(A) A building permit shall not be issued for any swimming pool unless the plans for the pool provide for an enclosure as required by this Development Code.

(B) No swimming pool shall be filled in whole or in part with water unless the pool structure has been installed in accordance with this Development Code and approved by the Building Official or designee.

(C) It shall be the responsibility of both the property owner and the occupant of the premises to install and maintain the fences, locks, latches and gates in good condition and proper working order when water is in the pool, and either or both may be deemed in violation of this Development Code for failure to do so.

(Prior Code, Ch. 4, Art. IV, § 4-240) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

PART 7. PARKING; LOADING AND UNLOADING

§ 150.156 PARKING AREAS.

Parking areas required herein shall be provided, improved and maintained in accord with the following specifications.

(Prior Code, Ch. 4, Art. IV, § 4-256) (Ord. 432-06, passed 6-19-2006)

§ 150.157 PARKING STANDARDS PERTAINING TO ALL DISTRICTS.

(A) No building permit shall be issued until the applicant has presented satisfactory evidence to the Planning Director or designee that he or she owns or has otherwise available for his or her use, sufficient property to provide required parking.

(B) No additions to or enlargement of an existing building or use shall be permitted unless parking requirements are met for the entire building or use.

(C) For new buildings, building expansion or conversions, plans must show the arrangement of required parking spaces, and indicate sufficient space for turning maneuvers and adequate ingress and egress by patrons and delivery vehicles to the parking area before a

permit is granted. Plans shall be submitted full dimensioned to the Planning Director or designee for approval prior to the permit being granted.

(Prior Code, Ch. 4, Art. IV, § 4-257) (Ord. 432-06, passed 6-19-2006)

§ 150.158 GENERAL REQUIREMENTS FOR ALL SPACES.

(A) Required parking and loading spaces, maneuvering areas, driveways and fire lanes shall be paved with asphalt, concrete or masonry to a sufficient thickness to withstand repeated vehicular traffic.

(B) All vehicular egress from parking lots to public right-of-way shall be by forward motion only, except in the case of single-family and 2-family residences fronting on a local street or a primary or secondary collector street.

(C) Tandem arrangement of required parking spaces is prohibited, except as otherwise permitted by this Development Code.

(D) Permanent use of off-street parking areas for other than the purpose shall constitute a violation of this Development Code. Should the owner or occupants of a building change the use of the building and thus increase the requirement for off-street parking, it shall constitute a violation of this Development Code, until the parking requirements have been complied with.

(Prior Code, Ch. 4, Art. IV, § 4-258) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

§ 150.159 PARKING STANDARDS FOR NONRESIDENTIAL OR MIXED-USES.

(A) *Mixed uses computed separately.* In case of mixed uses, the total requirements for off-street parking space shall be the sum of the requirements of the various uses computed separately.

(B) *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, access ways, striping, landscaping and required fences or screening.

(C) *Parking area improvements.* For multi-family residential, commercial, industrial and PUD districts, the following shall apply:

(1) Parking areas shall be screened from street view and residential development by a berm, and/or wall (minimum of three feet in height), with landscaping.

(2) Lights illuminating a parking space shall be arranged and screened to reflect light away from adjoining residences and streets. Light standards shall be a maximum height of 24 feet.

(3) Except where a wall is required, a minimum six-inch high curb or permanently attached or affixed bumper guard shall be constructed so that no part of a vehicle extends beyond the property line.

Parking Area Improvements

(D) *Access.* Off-street parking space shall be connected with a public street by a paved driveway, which affords safe and

reasonably convenient ingress and egress. The minimum width of driveways shall be 40 feet if ingress and egress are the same. If ingress and egress are by separate drives, then the minimum width of each drive shall be 20 feet.

(E) *Parking space location.* All required parking spaces for non-residential or mixed uses shall be located on the lot upon which the use is located or on an adjacent lot. Required parking spaces for multi-family, commercial or industrial use may be located on an adjacent lot in another district (other than in a single-family residential district).

(F) *Joint use parking for PUD.*

(1) If an applicant for a mixed use PUD can demonstrate through a parking study supplied by the applicant and approved by the Planning Director or designee that the peak parking demand for the mixed uses will be less than the sum of the parking spaces required for each use served, a reduction in spaces may be allowed.

(2) The approved joint use parking plan shall specify the typical hours of operation with anticipated periods of greatest parking demand for all uses within the development and shall indicate the number, location and convenience of pedestrian access of all spaces available to serve each use.

(3) The joint use parking plan shall remain on file with the Planning and Zoning Department for the purpose of monitoring the continued adequacy of available parking.

(4) At the time of joint use parking plan approval, or at any subsequent time when uses, intensities of use or hours of operation may be expanded or otherwise change, or upon findings that the parking facilities are inadequate, the Planning Director or designee may require additional site area to be provided, and as necessary, improved to supply additional parking facilities.

(Prior Code, Ch. 4, Art. IV, § 4-259) (Ord. 432-06, passed 6-19-2006)

§ 150.160 PARKING STANDARDS FOR RESIDENTIAL USES.

(A) *Parking space location.* No part of any vehicle parked in the front yard of a single-family or 2-family residence lot shall extend over the public right-of-way or sidewalk, pavement edge or street curb where no sidewalk exists; nor shall any vehicle be parked within the area formed by a ten-foot by ten foot triangle as measured from the point of intersection of the back of the sidewalk, or street curb where no sidewalk exists, and a side property line extended to the back of the sidewalk, or street curb where no sidewalk exists, when the side property line is within five feet of a driveway or an improved parking surface located on an adjacent lot.

(B) *Parking space allocation and/or improvement standards.* Requirements and directions for the allocation, and design of parking spaces in all residential districts are described for various land uses.

(Prior Code, Ch. 4, Art. IV, § 4-260) (Ord. 432-06, passed 6-19-2006)

§ 150.161 PARKING STANDARDS; CALCULATIONS.

Calculations to determine the required number of parking spaces, and the design of the space shall consider the following:

(A) Minimum standards for parking space allocation shall be subject to the requirements of this Development Code.

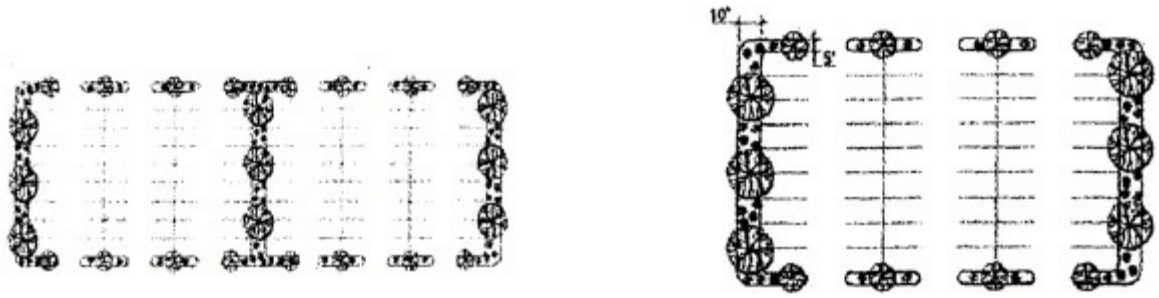
(B) The maximum number of parking spaces provided shall not exceed the minimum number of spaces and an additional 20% of parking spaces, except as otherwise provided in this Development Code.

(C) Parking lots shall be designed with a clear hierarchy of circulation with major access drives providing access from the major street, major circulation drives forming circulation through the parking area and parking aisles whose purpose is to provide access to parking spaces.

(D) Reciprocal access between adjacent commercial developments is required.

(E) Large parking lots shall be divided into a series of smaller lots of approximately 150 spaces each, using raised landscape island(s) at least ten feet in width, and at least 500 square feet in total area, located along the sides of the parking areas to separate large parking areas. Walkways should be considered as part of these landscape areas. Raised landscape strips at least five feet wide and at least 95 square feet in total area, should be located on the ends of parking rows, extending the full length of parking spaces. Additional landscape islands should be considered in the interior of the individual parking areas to provide shade and break up large expanses of parking area. As part of design review, town staff shall provide review parking lot and landscape layouts to determine if

they are in keeping with the requirements of this Development Code.



Large Parking Lots

(F) Parking areas may be combined and share the required landscape buffers.

(G) Parking lots shall be separated from the sides of buildings by a raised walkway with a minimum width of six feet.

(Prior Code, Ch. 4, Art. IV, § 4-261) (Ord. 432-06, passed 6-19-2006)

§ 150.162 ALTERNATIVE DESIGN STANDARDS.

(A) To provide flexibility in design and development of projects, alternative design standards are provided. The total number of parking spaces may be increased by 10% above the maximum for each additional 2-1/2% increase in total landscape area, exceeding the minimum required amount. However, in no case may the total number of parking spaces be increased by more than 40% above the base maximum allowed.

(B) In the case of fractional results in calculating parking requirements, the required number shall be rounded up to the nearest whole number if the fraction is 0.5 or greater.

(C) All uses not specifically designated, or similar to a specified use, shall have parking space requirements determined by the Planning Director.

(D) In multi-family, commercial and industrial districts, handicapped parking spaces shall be provided at the ratio of three spaces for the first 50 parking spaces provided, and one space for each 20 spaces thereafter.

(Prior Code, Ch. 4, Art. IV, § 4-262) (Ord. 432-06, passed 6-19-2006)

§ 150.163 PARKING SPACE ALLOCATION REQUIREMENTS.

Use	***Minimum Standards***
Residential	
Single residences, duplexes and detached dwellings	2 spaces per dwelling unit
Mobile home	1 space per unit
Multiple residence and apartments	
Efficiencies and studios	1 space per dwelling unit
One and 2 bedroom unit	1-1/2 spaces per dwelling unit

Two+ bedroom units	2 spaces per dwelling unit
All apartment developments with five or more units shall also provide guest parking and recreational vehicle parking	1 space per 10 dwelling units
Condominium and town homes	2 spaces per unit plus 1 guest space for each additional and 1 recreational vehicle park for each 10 units
Boarding house or similar facility	1 space per each 2 guest rooms plus 2 spaces for the dwelling unit
Public assembly and schools	
Churches and clubs, lodges and fraternal buildings, assembly halls, funeral homes, community centers, libraries, auditoriums and theaters	1 space for each 75 square foot of indoor floor area used for public assembly
Schools, kindergarten through ninth grade	1 space per 375 square foot indoor floor area
High schools, academies, colleges, universities, trade or vocational schools	1 space per 200 square foot indoor floor area
Health care	
Medical or dental offices and out-patient	1 space per 150 square foot indoor floor area clinics
Hospitals, nursing and convalescent homes	1 space per 400 square foot indoor floor area
Day nurseries	1 space per 375 square foot indoor floor area, but not less than 5
Retail and other commercial developments	1 space per 300 square foot floor area

Use	***Minimum Standards***
Independent commercial buildings and uses	
General offices and/or retail and services	1 space per 300 square foot floor area
General auto repair. Garage, service station, car wash and drive-through lubrication shops	1 space per 300 square foot floor area, including service bays, wash tunnels and retail areas
Hotel and motel	1 space per room or suite or rooms plus 1 space for each 25 rooms for truck trailers and recreational vehicles, the space is to be 10 feet by 75 feet

Restaurant and/or bar	1 space per 50 square foot floor area and outdoor seating area
Outdoor sales and service areas (car lots, plant nurseries, building supplies and the like)	1 space per 375 square foot indoor floor area, of sales and service building, but not less than 4 spaces per use
Recreation	
Bowling alleys	5 spaces per lane plus ancillary use requirements
Theaters	1 space for every 3 patron seats
Golf course	1 space per 2 practice tees in driving range plus 4 spaces per green plus ancillary use requirements
Miniature golf, amusement parks and water slides	1 space per 500 square foot outside recreation area
Health spas and/or clubs, gyms and tennis, handball, racquetball courts and/or clubs	1 space per 100 square foot indoor floor area, excluding courts, which require 2 spaces per court
Skating rinks and dance halls	1 space per 75 square foot gross floor area used for recreational activities and ancillary use requirements
Industrial buildings and uses	
Industrial buildings and uses	2 spaces for every 3 employees on the shift with the greatest number of employees
Independent industrial buildings and uses	
Warehouses	One space per 900 square foot floor area
Manufacturing	One space per 600 square foot floor area

(Prior Code, Ch. 4, Art. IV, § 4-263) (Ord. 432-06, passed 6-19-2006)

§ 150.164 OFF-SITE LOADING.

(A) *Minimum loading space.* Commercial and industrial uses requiring delivery shall observe minimum loading space accommodation.

(B) *Spaces required.* Every hotel, restaurant, department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishments, 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 Required	

Building greater than 15,000 square feet up to and including 40,000 square feet	1
40,001 square feet up to 100,000 square feet	2
100,001 square feet up to 160,000 square feet	3
160,001 square feet up to 240,000 square feet	4
240,001 square feet up to 320,000 square feet	5
320,001 square feet up to 400,000 square feet	6
400,001 square feet up to 490,000 square feet	7
Each additional 100,000 square feet	1 additional

(C) Any office building 100,000 square feet or larger shall have at least 1 off-street loading berth.

(Prior Code, Ch. 4, Art. IV, § 4-264) (Ord. 432-06, passed 6-19-2006)

§ 150.165 STANDARDS FOR OFF-STREET LOADING FACILITIES.

All off-street loading facilities shall conform to the following standards:

(A) *Dimensions.* Unless otherwise specified in these zoning regulations, berths required shall be at least 45 feet in length and all loading berths shall be at least 12 feet in width and 14 feet in height, exclusive of aisle and maneuvering space.

(B) *Locations.*

(1) The space may occupy all or any part of any required yard space, except front and side yards, and shall not be located closer than 50 feet to any lot in any residential zone unless separated from the zone by a screening wall with a height of eight feet, a 20-foot landscape buffer with at least 50% of the view obscured by evergreen plant material or a combination of the above as approved by the Planning Director or the Planning and Zoning Commission.

(2) 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. Driving over curbs or pavement rails is prohibited.

(3) Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley, without traversing a residential district.

(4) Off-street loading facilities for a single use shall not be considered as providing required off-street loading facilities for any other use.

(5) 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 Development Code for each use.

(6) 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.

(Prior Code, Ch. 4, Art. IV, § 4-265) (Ord. 432-06, passed 6-19-2006)

§ 150.166 IMPROVEMENT STANDARDS.

(A) The loading area, aisles and access drives shall be paved and maintained 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.

(B) Bumper rails shall be provided at locations where needed for safety or to protect property.

(C) The loading area is to be illuminated and lighting shall be deflected away from the abutting residential site so as not to cause glare.

(Prior Code, Ch. 4, Art. IV, § 4-266) (Ord. 432-06, passed 6-19-2006)

§ 150.167 COMPLIANCE.

(A) Off-street loading facilities shall be located on the same site with the use for which the berths are required.

(B) 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 by the owner, a report of 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.

(C) Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

(D) No regular repair work or servicing of vehicles shall be conducted in a loading area.

(Prior Code, Ch. 4, Art. IV, § 4-267) (Ord. 432-06, passed 6-19-2006)

PART 8. ADDITIONAL HEIGHT AND AREA REGULATIONS AND EXPECTATIONS

§ 150.168 HEIGHT.

Walls, fences and hedges shall not exceed a height of six feet within all required yards, setbacks and open space areas with the following exceptions:

(A) Walls, fences and hedges shall not exceed a height of three feet within the following areas:

(1) All required front yards, except that 40% of the required front yard for primary uses in the R1-18 zone may be completely enclosed by a wall, fence or hedge not exceeding seven feet in height, subject to § 150.169.

(2) All required frontage open space.

(B) In the R1-18 zone, the six feet adjacent to any street.

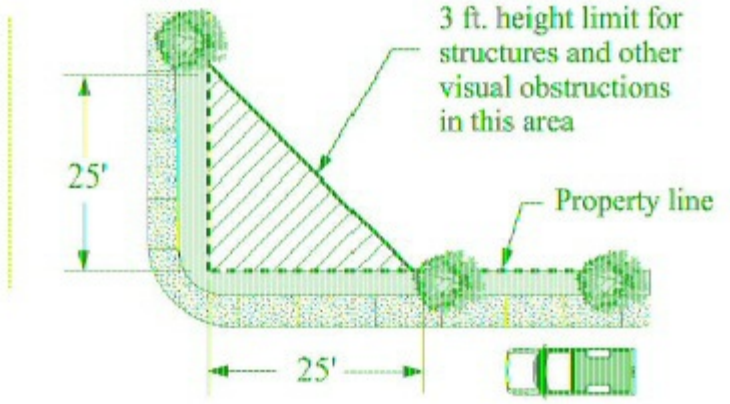
(C) In the MFR zone, the ten feet adjacent to any street.

(Prior Code, Ch. 4, Art. IV, § 4-281) (Ord. 432-06, passed 6-19-2006)

§ 150.169 SIGHT TRIANGLE.

(A) At street intersections in all zones and as an aid to permit safe movement of vehicles at or near street intersections, and in order to promote more adequate protection for the safety of children, pedestrians, operators of vehicles and for property, for proposed construction hereafter, there shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixture construction and planting as follows.

(B) The barriers to clear, unobstructed vision at corners of intersecting streets shall be limited to a height of not over two feet above the established elevation of the nearest street line, for a distance of 25 feet along both the front and side lot lines, measured from the point of intersection of the intersecting property lines.



(C) Within the isosceles triangle formed as required in § 150.168(A) by connecting the ends of the respective 25-foot distances, all the fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height not over three feet above the elevation of the street line level at the intersecting streets.

(D) Within the triangle, in cases where yards are terraced, the ground elevation of the front yards shall not exceed two feet above the established street line elevation at the intersecting streets.

(Prior Code, Ch. 4, Art. IV, § 4-282) (Ord. 432-06, passed 6-19-2006)

§ 150.170 EXCEPTION TO HEIGHT RESTRICTIONS.

Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires or grain elevators may be erected to a height not exceeding 100 feet in accordance with existing or hereafter adopted Codes of this municipality or this Development Code.

(Prior Code, Ch. 4, Art. IV, § 4-283) (Ord. 432-06, passed 6-19-2006)

§ 150.171 STRUCTURES NEAR AIRPLANE RUNWAY OR LANDING STRIP.

No building or structure or any portion thereof which exceeds a height of 20 feet shall be erected or structurally altered within 500 feet of the projected centerline of an existing or proposed runway or landing strip for a distance of 1,000 feet from the end of the existing or proposed runway or landing strip. No building or structure or any portion thereof shall be erected to exceed a height that would interfere with the takeoff or landing of a plane with a glide angle of one foot vertical for every 40 feet horizontal, the glide angle to be computed as beginning at a point on the extended centerline of the runway 200 feet beyond and at the same elevation as the end of the runway pavement or, if runway pavement is not provided, 100 feet beyond and at the same elevation as the end of the landing strip.

(Prior Code, Ch. 4, Art. IV, § 4-284) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

§ 150.172 EXCEPTION TO MINIMUM PROPERTY SIZE, LOT SIZE AND LOT WIDTH REQUIREMENTS.

If a parcel of land or a lot of record in separate ownership has less area or width than required for a particular zone in this Development Code, and that parcel or lot has been lawfully established, recorded and so zoned prior to July 19, 2006, the parcel or lot may be used for any purpose permitted in its zone, subject to all other requirements of this Development Code.

(Prior Code, Ch. 4, Art. IV, § 4-286) (Ord. 432-06, passed 6-19-2006)

§ 150.173 ADJUSTMENT OF FRONT YARD REQUIREMENTS IN ALL ZONING DISTRICTS.

The front yards established in this Development Code shall be adjusted in the following cases:

(A) Where 40% or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed a front yard that has a variation of no more than five feet, the minimum front yard for new buildings shall be the average front yard so established by the existing buildings.

(B) Where 40% or more of the frontage on one side of a street between two intersecting streets is developed with buildings whose front yards have a variation of more than five feet, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the 2 closest front corners of the adjacent buildings on the 2 sides; and

(2) Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, the building may be erected as close to the street as the existing adjacent building.

(Prior Code, Ch. 4, Art. IV, § 4-287) (Ord. 432-06, passed 6-19-2006)

§ 150.174 ACCESSORY BUILDINGS.

Accessory buildings shall be established according to the regulations for main buildings within a zone and in accordance with the following provisions and exceptions:

(A) No accessory building shall be constructed upon a lot unless the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises.

(B) Accessory buildings used as a garage or carport having access from an alley shall not be located closer than 15 feet to the centerline of the alley.

(C) A distance of at least ten feet shall be maintained between an accessory building and any other building with the following exceptions:

(1) A shade structure with two or more open sides, one of which is adjacent to another building, may be built to within six feet of that building.

(2) Accessory buildings may be constructed directly abutting a mobile home provided all setbacks from abutting properties are maintained as required in the zone regulations.

(3) Accessory buildings shall not be constructed closer than five feet to any property line.

(4) Accessory buildings shall not be constructed within any required setback adjacent to a street.

(5) Accessory buildings shall not exceed 15 feet in height when located within a required setback.

(6) The minimum distance between an accessory building and any other building can be reduced to five feet where all structures comply with all applicable building and fire codes.

(Prior Code, Ch. 4, Art. IV, § 4-288) (Ord. 432-06, passed 6-19-2006; Am. Ord. 570-12, passed 3-5-2012)

§ 150.175 PROJECTIONS INTO REQUIRED YARDS.

Yards shall be open and unobstructed from the ground to the sky except for the following:

(A) *Front yards.* Frontage open space or setbacks adjacent to streets.

(1) Sills, belt courses, cornices, eaves and ornamental features may project two feet into the required yard;

(2) Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above the adjacent natural ground level may project into the required yard provided these projections be distant at least two feet from the adjacent side lot line;

(3) Balconies, stairs, covered porches may project four feet into the required yard;

(4) Canopies and awnings projecting over windows may extend into the required yard three feet; however, a canopy extending from the main entrance to the sidewalk and not wider than the entrance may project to the front property line; and

(5) Chimneys may project two feet into the required yard.

(B) *Side yards.* Side yards or any setbacks other than those adjacent to streets, or rear yards in the R1-18 and NO and PO zones.

(1) Sills, belt courses, cornices, eaves and ornamental features may project two feet into the required yard.

(2) Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above the adjacent natural ground level may project into the required yard provided these projections be distant at least two feet from the adjacent side lot line.

(3) Balconies and stairs may project two feet into the required yard, but not nearer than two feet to the adjacent side property line.

(4) Canopies and awnings projecting over windows may extend into the required yard three feet.

(5) Chimneys may project two feet into the required yard.

(C) *Rear yards.*

(1) Sills, belt courses, cornices, eaves and ornamental features may project two feet into the required yard.

(2) Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above the adjacent natural ground level may project into the required yard provided these projections be distant at least two feet from the adjacent side lot line.

(3) Balconies and stairs may project four feet into the required yard.

(4) Covered porches may project into the required yard provided they are not nearer than ten feet to the rear property line.

(5) Canopies and awnings projecting over windows may extend into the required yard three feet.

(6) Chimneys may project two feet into the required yard.

(7) Mechanical equipment such as air conditioners may be constructed in the rear yard provided the blower system is not directed toward the adjacent property, and provided the mechanical equipment shall not be closer than 14 feet to any main living area on an adjacent lot.

(Prior Code, Ch. 4, Art. IV, § 4-289) (Ord. 432-06, passed 6-19-2006)

§ 150.176 ACCESS.

All individually owned or recorded parcels shall have access to a dedicated street, either directly or by means of a duly recorded access easement.

(Prior Code, Ch. 4, Art. IV, § 4-290) (Ord. 432-06, passed 6-19-2006)

§ 150.177 MAINTENANCE OF COMMON AREAS.

When a development is to be subdivided for sale to numerous individual owners and there are to be some areas commonly owned, maintenance of the areas shall be by a homeowners' association or some similar agreement. Proof of the agreement shall be provided the municipality prior to the issuance of a building permit.

(Prior Code, Ch. 4, Art. IV, § 4-291) (Ord. 432-06, passed 6-19-2006)

§ 150.178 REQUIRED SCREENING.

(A) All storage and commercial and industrial operations shall be conducted within a completely enclosed building or within an area

completely enclosed, except for access points, by a solid wall or fence at least six feet in height.

(B) No objects shall be stacked higher than the wall or fence so erected.

(Prior Code, Ch. 4, Art. IV, § 4-292) (Ord. 432-06, passed 6-19-2006)

§ 150.179 SPECIAL USES.

(A) The Council may grant permission for the following special uses to be conducted (in any zone unless specifically limited), provided they are satisfied that there will be no detrimental effect upon the subject property and/or surrounding properties and uses.

(B) The Council may impose restrictions or time limits that it feels are necessary in order to prevent the detrimental effects.

(1) *Permanent or temporary*. Outdoor sales display areas, only within zones that permit sales of the same merchandise indoors.

(2) *Temporary*.

(a) Circus, carnival or amusement enterprise;

(b) Extraction of earth products, clay, gravel, sand, stone and topsoil, provided the site is restored to its natural state; and

(c) Roadside stands, only within zones that permit the sale of the same merchandise indoors.

(Prior Code, Ch. 4, Art. IV, § 4-293) (Ord. 432-06, passed 6-19-2006)

PART 9. WIRELESS COMMUNICATIONS FACILITIES

§ 150.180 GENERAL APPLICABILITY.

WIRELESS COMMUNICATIONS FACILITIES, as herein defined, require specified, additional conditions and design criteria other than those used only for non-commercial, non-business fixed wireless communications, such as television and satellite reception antennae or amateur radio antennae which are exempt.

(Prior Code, Ch. 4, Art. IV, § 4-316) (Ord. 432-06, passed 6-19-2006)

§ 150.181 ADMINISTRATIVE REVIEW AND APPROVAL.

Wireless communications facilities comprised of panel antennae mounted on or against an existing structure, or antennae attached to a 69kV or higher power line tower or pole which does not raise the height of the tower or pole more than 15 feet above its original height, or new antennae attached to an existing, conforming wireless communications tower which does not raise the height of the tower more than 15 feet above its original height may be approved by the Planning Director after review and approval by the Site Plan Review Committee.

(Prior Code, Ch. 4, Art. IV, § 4-317) (Ord. 432-06, passed 6-19-2006)

§ 150.182 REQUIRED INFORMATION.

(A) Site plan approval is required.

(B) At the time of request the applicant shall also submit:

(1) A current map, or update to an existing map on file showing locations of applicant's antenna(e) and facilities and all other known existing and proposed wireless communications towers within a one mile radius of the proposed tower and the following accompanying information:

(a) Report from a structural Engineer registered in the state showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSUEIA/TIA 222 (latest revision) standards;

(b) Complete names and addresses of the owners of all antennae and equipment to be located at the site as of the date of application;

(c) Written authorization for the use from the site owner; and

(d) Provide the town with a plan for the total build-out in the town. This allows the town to coordinate tower locations with other applicants.

(2) Proof that:

(a) Reasonable measures have been taken to assure that the proposed structure will be placed in a location which will minimize the visual impact on the surrounding area;

(b) The proposed antenna and equipment could not be placed on a preexisting facility under control of the applicant and function under applicable regulatory and design requirements without unreasonable modification;

(c) If the application is for siting in a residential area, the area cannot be adequately served by a facility placed in a non-residential area; and

(d) A new tower is designed to accommodate the applicant's potential future needs, is of suitable construction and should be adapted to allow the co-location of additional antennae.

(3) A written agreement that:

(a) The tower and/or antenna shall be removed within 180 days of cessation of use, and to return the area to its condition prior to the construction of the tower;

(b) The applicant's service is subordinate to essential public communications services and agreement to suspend use of any site which may be in conflict with the services, regardless of the reason for the conflict, until the conflict is resolved; and

(c) All applicable health, nuisance, fire and safety codes are met. If upon inspection, the town determines that a wireless communications facility fails to comply with the agreements or applicable codes, the owner of the facility will have 30 days to bring the facility into compliance. Failure to bring the facility into compliance within 30 days will constitute grounds for the removal of the facility at the owner's expense.

(Prior Code, Ch. 4, Art. IV, § 4-318) (Ord. 432-06, passed 6-19-2006)

§ 150.183 DESIGN CRITERIA.

(A) *Physical appearance.* To the extent possible, materials, colors, textures and landscaping shall be designed to blend in with the surrounding setting. A tower shall be finished or painted so as to minimize visual obtrusiveness and shall not be illuminated unless otherwise required by state or federal regulations. Panel antennae and their associated cables and hardware mounted on or against an existing structure shall be painted to match the existing facade or be otherwise camouflaged to reduce their visual impact.

(B) *Signs and communications tower.* No signage shall be allowed on an antenna or communications tower.

(C) *Distance.* A tower must be set back from all nonresidential lot lines a minimum distance equal to the height of the tower and from all residential lot lines a minimum distance equal to the height of the tower plus 20%.

(D) *New communications towers.* No new communications tower shall be located within 1,320 feet of an exiting tower unless the existing tower does not meet the structural specifications or technical requirements necessary for additional antenna co-location, or unless a co-location agreement could not be obtained at commercial reasonable terms and conditions, including price. Communications towers used to support athletic field lighting or parking lot lighting, and communications towers which are camouflaged to disguise the presence of commercial antennas shall be exempt from this requirement.

(E) *Height.* In all districts, towers, antennae and all related facilities mounted on buildings, water tanks or other structures other than freestanding or guyed communications towers must not extend more than ten feet above the highest part of the structure.

(F) *Freestanding or guyed towers.* Freestanding or guyed towers may be placed in the following districts subject to the following height limitations, unless express waiver is provided by Town Council at the time of special permit approval.

(G) *All districts.* Freestanding or guyed towers height not exceeding ten feet above the maximum height permitted in the specified

district.

(Prior Code, Ch. 4, Art. IV, § 4-319) (Ord. 432-06, passed 6-19-2006)

§ 150.184 REPLACEMENT AND/OR REBUILDING OF WIRELESS COMMUNICATIONS TOWERS.

Pre-existing nonconforming wireless communications towers which have been destroyed or structurally damaged shall be replaced with towers meeting the requirements as provided in this Development Code, except that they may be rebuilt to their original height and in their original location, regardless of setback requirements.

(Prior Code, Ch. 4, Art. IV, § 4-320) (Ord. 432-06, passed 6-19-2006)

SUBDIVISIONS

PART 1. GENERAL PROVISIONS

§ 150.200 PURPOSE.

The purpose of this subchapter is to provide for the orderly growth and harmonious development of the municipality, to ensure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions and public facilities, to achieve individual property lots of reasonable utility and livability, to secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements, to ensure consideration for adequate sites for schools, recreation areas and other public facilities, to promote the conveyance of land by accurate legal description and to provide logical procedures for the achievement of this purpose.

(Prior Code, Ch. 4, Art. V, § 4-336) (Ord. 432-06, passed 6-19-2006)

§ 150.201 INTENT.

In its interpretation and application, the provisions of this subchapter are intended to provide a common ground of understanding and equitable working relationship between public and private interests to the end that both independent and mutual objectives can be achieved in the subdivision of land.

(Prior Code, Ch. 4, Art. V, § 4-337) (Ord. 432-06, passed 6-19-2006)

§ 150.202 COMPLIANCE.

No person shall sell or offer for sale any lot, piece or parcel of land which is within a subdivision without first having recorded a plat thereof in accordance with the provisions of this Development Code, or followed its other provisions.

(Prior Code, Ch. 4, Art. V, § 4-338) (Ord. 432-06, passed 6-19-2006) Penalty, see § 150.999

§ 150.203 MODIFICATIONS.

(A) Where, in the opinion of the Council, there exist extraordinary conditions of topography, land ownership or adjacent development, or other circumstances not provided for in this Development Code, the Council may, upon investigation and recommendation by the Planning Department, modify the regulations in this Development Code in such manner and to the extent as it may deem appropriate to the public interest.

(B) In the case of a plan and program for a complete community or a complete neighborhood, the Council may, upon recommendation by the Planning Department, modify these regulations in the manner as appears necessary and desirable to provide adequate space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, including dedications of property to the municipality for sites for schools, recreational facilities, public safety facilities and

other necessary public facilities, and which also provide the protective covenants, deed restrictions or other legal provisions as will assure conformity to and achievement of the plan.

(Prior Code, Ch. 4, Art. V, § 4-339) (Ord. 432-06, passed 6-19-2006)

PART 2. PLATTING PROCEDURES

§ 150.204 SUBDIVISION APPLICATION PROCEDURES.

(A) *In general.* Every land division shall conform to the goals and objectives of the general plan, Code, other ordinances adopted by the Town Council and laws of the state that specifically relate to subdivisions and the development of land.

(B) *Applications.* Applications may only be signed and submitted by property owners or their authorized representatives. The Planning Director may require proof of ownership and/or agency prior to accepting an application.

(C) *Zoning.* The subdivision shall be designed to meet the specific requirements for the zoning district within which it is located. However, in the event that an amendment of zoning is deemed necessary, the re-zoning shall be initiated by the property owner or authorized agent, heard and approved by the town.

(Prior Code, Ch. 4, Art. V, § 4-356) (Ord. 432-06, passed 6-19-2006)

§ 150.205 OUTLINE OF PROCEDURES.

The preparation, submittal, review and approval of all subdivision plats located inside the limits of the municipality shall proceed through the following progressive stages:

(A) *Stage I.* Pre-application conference;

(B) *Stage II.* Preliminary plat;

(C) *Stage III.* Technical review; and

(D) *Stage IV.* Final plat.

(Prior Code, Ch. 4, Art. V, § 4-357) (Ord. 432-06, passed 6-19-2006)

STAGE I. PRE-APPLICATION

§ 150.206 PRE-APPLICATION CONFERENCE.

The pre-application conference stage of the subdivision planning process is an exploratory period preceding actual preparation of plats and improvement plans by the developer. During this time, developers make their intentions known informally to the town, are advised of specific public objectives related to the subject tract and are given detailed information regarding platting procedures and requirements.

(Prior Code, Ch. 4, Art. V, § 4-366) (Ord. 432-06, passed 6-19-2006)

§ 150.207 ACTIONS BY DEVELOPER.

The developer shall meet informally with the Site Plan Review Committee to present a general outline of the proposal, including, but not limited to:

(A) Sketch plans and ideas regarding land use, street and lot arrangements, tentative lot sizes and zoning.

(B) Tentative proposals regarding water supply, sewage disposal, surface drainage and street improvements.

(Prior Code, Ch. 4, Art. V, § 4-367) (Ord. 432-06, passed 6-19-2006)

§ 150.208 ACTIONS BY THE SITE PLAN REVIEW COMMITTEE.

(A) The Site Plan Review Committee shall discuss the proposal with the developer and advise the developer of procedural steps, design and improvement standards and general plat requirements.

(B) Then, depending upon the scope of the proposed development, the Site Plan Review Committee shall proceed with the following investigations:

(1) Check existing zoning of the tract and make recommendations if a zoning change is necessary or desirable;

(2) Determine the adequacy of existing or proposed schools, parks and other public spaces; and

(3) Inspect the site or otherwise determine its relationship to major streets, utility systems and adjacent land uses and to determine any unusual problems such as topography, utilities, flooding and the like.

(Prior Code, Ch. 4, Art. V, § 4-368) (Ord. 432-06, passed 6-19-2006)

§ 150.209 NOTICE TO PROCEED.

Within five working days of the pre-application meeting and based on the recommendation of the Committee, the Planning Director may issue the appropriate notice to proceed according to one of the following procedures:

(A) *Subdivision.* If the sketch plat involves a subdivision only, the Planning Director will issue a written notice advising the developer to proceed with the preparation of a preliminary plat to be considered by the Planning Commission and the Town Council.

(B) *Planned unit development (PUD).* The Site Plan Review Committee may determine that a PUD is required if any of the following applies:

(1) The tract is sufficiently large to comprise an entire neighborhood;

(2) If the tract is to be developed in multiple phases; and

(3) The tract initially proposed for platting is only a portion of a larger land area, the development of which is complicated by unusual topographic, utility, land use, land ownership or other conditions.

(C) *PUD procedure.* The PUD process shall comply with § 150.069.

(Prior Code, Ch. 4, Art. V, § 4-369) (Ord. 432-06, passed 6-19-2006)

§ 150.210 RESERVATION OF CERTAIN AREAS.

(A) Where a tract to be subdivided contains all or any part of a park, school, flood control facility or other area shown on the general plan as a public area, or required by Town Council as a public area, the site shall be dedicated to the public or reserved for acquisition by the public within a specified time period. The developer and the appropriate public agency shall reach an agreement regarding the acquisition prior to consideration of final plat by Town Council.

(B) The town may reserve land within a proposed subdivision for public schools and parks, recreational facilities, public safety facilities, open space, water and wastewater facilities and public safety annexes, subject to the following conditions:

(1) The required reservations are in accordance with principles and standards adopted by Town Council, which standards include the policies for open space set forth in the general plan.

(2) The land reserved shall be of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.

(3) The public agency for whose benefit an area has been reserved shall have a period of one year after the recording of the final subdivision plat to enter into an agreement to acquire the reserved land area.

(4) If the public agency for whose benefit an area has been reserved does not exercise the reservation agreement set forth in this section within a one year period or the extension of time as may be mutually agreed upon by the public agency and the developer, the reservation of the area shall terminate.

(Prior Code, Ch. 4, Art. V, § 4-370) (Ord. 432-06, passed 6-19-2006)

STAGE II. PRELIMINARY PLAT

§ 150.211 APPLICATION.

No later than 120 days after the date of a notice to proceed, an applicant shall apply for a preliminary plat.

(Prior Code, Ch. 4, Art. V, § 4-386) (Ord. 432-06, passed 6-19-2006)

§ 150.212 PROCEDURES AND REQUIREMENTS.

The preliminary plat stage of land subdivision includes detailed subdivision planning, submittal, review and approval of the preliminary plat. To avoid delay in processing the application, the developer should carefully provide the Planning Department with all information essential to determine the character and general acceptability of the proposed development.

(Prior Code, Ch. 4, Art. V, § 4-387) (Ord. 432-06, passed 6-19-2006)

§ 150.213 INFORMATION REQUIRED.

(A) *Form of presentation.* The information hereinafter required as part of the preliminary plat submittal shall be shown graphically or by note on plans, or by letter and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same standard engineering scale, the scale having not more than 50 feet to an inch. Whenever practical, the scale shall be adjusted to produce an overall drawing measuring 24 inches by 36 inches.

(B) *Identification and descriptive data.*

(1) Proposed name of the subdivision and its location by section, township and range, a descriptive tie, including dimensions and bearing, to an acceptable government corner with full description of the corner, including accessories;

(2) Name, address and phone number of developer;

(3) Name, address and phone number of Engineer, surveyor, landscape architect or land planner preparing plat;

(4) Scale, north point and date of preparation including dates of any subsequent revisions; and

(5) A vicinity map which shall show the relationship of the proposed subdivision to main traffic arterials and any other facilities which might help to locate the subdivision. This map may be on the preliminary plat, but if this is not practical, then a separate map showing title, scale, north point and date shall be provided.

(C) *Existing conditions data.*

(1) Topography by contours or spot elevations related to USGS survey datum, or other datum approved by the Town Engineer shown on the same map as the proposed subdivision layout. Contour interval shall be such as to adequately reflect the character and drainage of the land.

(2) Location of all existing water wells, streams, canals, irrigation laterals, private ditches, washes, lakes or other water features, direction of flow, location and extent of areas subject to inundation, whether the inundation be frequent, periodic or occasional.

(3) Location, widths and names of all platted streets, utility right-of-way of public record, public areas, permanent structures to remain, including water wells and municipal corporation lines within or adjacent to the tract. Three copies of a preliminary title report showing the above shall be submitted.

(4) Name, book and page numbers of any recorded adjacent subdivisions having common boundary with the tract.

(5) By note, the existing zoning classification of the subject tract and adjacent tracts.

(6) By note, the acreage of the subject tract.

(7) Boundaries of the tract to be subdivided shall be fully dimensioned.

(D) *Proposed conditions data.*

(1) Street layout including location, width and proposed names of public streets, alleys and pedestrian ways, connections to adjoining platted tract.

(2) Typical lot dimensions (scaled), approximate dimensions of all corner lots and lots on curvilineat, sections of streets, each lot numbered individually, total number of lots.

(3) Designation of all land to be dedicated or reserved for public use with use indicated.

(4) If plat includes land for which multi-family, commercial or industrial use is proposed, the areas shall be clearly designated together with existing zoning classifications and status of zoning change, if any.

(5) Three copies of any proposed restrictive covenants (deed restrictions) within five days after the preliminary plat is filed.

(E) *Proposed utility methods.*

(1) *Sewage disposal.* It shall be the responsibility of the developer to furnish the municipality the evidence as the municipality may require to its satisfaction as to design and operation of sanitary sewage facilities proposed. A statement as to the type of facilities proposed shall appear on the preliminary plat.

(2) *Water supply.* Evidence of adequate volume and quality satisfactory to the Water Department and the Engineering Department and substantiated by letter from the Water Department and Engineering Department or from a private water company, if appropriate.

(3) *Stormwater drainage and disposal.* Preliminary drainage calculations and layout of proposed system and location of outlets, all subject to approval by the Town Engineer. Two copies of the drainage reports shall be submitted to the Town Engineer for review and approval.

(Prior Code, Ch. 4, Art. V, § 4-388) (Ord. 432-06, passed 6-19-2006)

§ 150.214 SUBMITTAL.

(A) Fifteen copies of the preliminary plat not exceeding two feet by three feet in size and required supporting data prepared in accordance with requirements set forth in § 150.015, shall be filed with the Planning Department at least 45 days prior to the Commission meeting at which the developer desires to be heard. Copies of the preliminary plat shall be reproduced in the format of blueline or blackline prints on a white background. One eight and one-half-inch by 11-inch transparent film positive reproduction and twenty eight and one-half-inch by 11-inch (copies) of the preliminary plat shall also be filed within five days of the date upon which the preliminary plat was filed. Scheduling of the case for the Commission hearing shall be dependent upon adequacy of data presented and completion of processing.

(B) The submittal shall be checked by the Planning Department for completeness and assigned a case number, if incomplete as to those requirements set forth in § 150.015, the submittal shall be rejected and the developer notified of the reasons for the rejection within five days of the date the preliminary plat was received.

(C) The preliminary plat must contain a compliance agreement whereby the developer agrees to comply with the Uniform Standard Specifications for Public Works Construction and Uniform Details for Public Works Construction, sponsored, amended and distributed by the Maricopa Association of Governments and approved by the Council as applicable to the subdivision. If the compliance agreement does not accompany the submittal, the preliminary plat submission will not be approved.

(D) A preliminary plat shows the approximate location of the street system, the approximate size and configuration of each lot and tract, and other information needed by the town to evaluate the proposed subdivision.

(E) At a minimum, the following information is required on all preliminary plat submittals:

(1) All maps need to conform to the land survey requirements shown in land survey minimum standards;

(2) Provide statements describing the existing zoning, gross subdivision area in acres, number of lots, minimum lot size and average lot size. A table is required on the plat showing all lot areas. Each tract, lot or public rights-of-way must have a note indicating its approximate area, the planned use and improvement, if any, and the agency responsible for maintaining the tract;

(3) Show the location and size of all existing easements, rights-of-way and manmade structures or facilities within the boundary

of the proposed subdivision;

(4) Show the topography of the area to be subdivided under pre-development conditions. The portrayal of the topography must extend at least 150 feet outside the boundaries of the proposed subdivision. Use contour lines with the contour intervals listed below:

(a) Contours to be in one-foot intervals; and

(b) Within hillside areas (average cross-slope exceeding 10%): five-foot intervals.

(5) Indicate by arrows the location, direction and amount of flow of all natural washes and existing or planned manmade drainage channels which flow through, adjacent to or begin with the proposed development; and

(6) Show all lots, tracts and street rights-of-way planned within the subdivision. Number all lots sequentially and identify all tracts by letter, provide dimensions to indicate the sizes of all lots and tracts. Show required setback lines and proposed building envelopes (if used).

(Prior Code, Ch. 4, Art. V, §§ 4-389 and 4-390) (Ord. 432-06, passed 6-19-2006)

§ 150.215 GUIDANCE FOR CORNER LOTS.

(A) A corner lot should not be so small or narrow as to prohibit building a house comparable to others within the subdivision.

(B) Corner lots will have an eight foot public utility easement adjacent to the property line in the front yard as well as the yard facing the side street. Fences and walls cannot be constructed within these elements. It is also recommended that mailboxes and other above ground utility structures be located outside these easements.

(C) Lots may need to be larger if they have drainage easements, are located on adverse terrain or where substantial cut or fill occurs, or along subdivision perimeters.

(D) Where a corner lot abuts a key lot, the height and location of walls and fences in the yard facing the side street must conform to the front yard requirements for walls and fences.

(Prior Code, Ch. 4, Art. V, § 4-391) (Ord. 432-06, passed 6-19-2006)

§ 150.216 EASEMENTS.

(A) *Utility easements.* Utility easements along side or rear lot lines must be entirely within a lot (i.e. not split with part on one lot and the remaining portion on an adjacent lot), and must be at least 12 feet wide. Utility easements along the front of lots and tracts must be at least eight feet wide.

(B) *Surface drainage easements.* Surface drainage easements may be split so that a portion lies on one lot and the remaining portion lies on the adjacent lot.

(C) *Information for development approval.* If development approval requires a wash be retained in its natural state, then submit supporting hydrologic and hydraulic calculations with the preliminary plat to demonstrate:

(1) The easement or tract set aside for drainage is of sufficient width to carry the peak 100 year flow without endangering life or property outside the easement or tract; and

(2) The easement or tract set aside will accommodate usual maintenance equipment.

(D) *Home owners association.* If a development will have a property owners association, then land set aside for surface drainage should be in tracts owned and maintained by the property owners association and not in an easement (where maintenance responsibility would be split among several property owners).

(E) *Identify areas to be used for storm drainage retention or detention.* These areas will be tracts owned and maintained by a property owners association. Sufficient dimensions and other information must be provided owners association. Dimensions and other information must be provided to describe the size of the area, the approximate depth and the slope of the sides.

(F) *Layout for water and sewer lines.* Show the proposed layout of water and sewer lines for the development. Indicate the size of the lines and direction of flow.

(G) *Street drainage pattern.* Show the street drainage pattern and direction by arrows and indicate those points where concentrated flow is added or removed from the street.

(H) *Bikeways and multi-use trails.* Show proposed locations of bikeways and multi-use trails within the plat boundaries and that must conform to the town's general plan.

(I) *Notification of property owner's association.* If the subdivision will have a property owner's association, indicate this on the plat with an appropriate statement as it relates to the duties and requirements as outlined in the CC&R's i.e. the ownership and maintenance of tracts.

(J) *Notification of private street.* If street will be private, indicate this with a note on the plat, and state that the property owner's association will maintain streets and any street lights located within the private rights-of-way.

(K) *Indicate any temporary cul-de-sacs, infrastructure lines, valves and the like.* If the developer intends to have one recorded plat for the entire subdivision, but plans to phase the improvements, the plat must have a statement indicating this and suitable markings showing the proposed phasing.

(L) *Submit master plan.* Submit a master plan for large parcel of land that will be subdivided with several recorded plats over a period of time.

(M) *Submit preliminary plat.* Submit a preliminary plat for only the first phase that the developer intends to secure a recorded plat. Submit subsequent preliminary plats that conform to the approved subdivision or PUD.

(Prior Code, Ch. 4, Art. V, § 4-392) (Ord. 432-06, passed 6-19-2006)

§ 150.217 BASIC DESIGN REQUIREMENTS.

(A) As a prerequisite of preliminary plat review by the Planning Department, the developer shall have informed all utilities which will be impacted or have an interest in the proposed subdivision of the tentative plans and learned the general requirements for sewage disposal, water supply, electric transmission, grading and drainage as applied to the project location.

(B) It shall be the responsibility of the developer to provide with preliminary plat submittal, letters of intent to serve by all utility companies serving the town and/or project area.

(C) In addition, approval of every preliminary and final plat by the Council is conditional upon compliance by the developer with:

(1) Rules as may be established by the State Department of Transportation relating to provisions for the safety of entrance upon and departure from abutting state primary highways;

(2) Rules as may be established by a county flood control district relating to the construction or prevention of construction of streets in land established as being subject to periodic inundation;

(3) Rules as may be established by the State Department of Environmental Quality and the State Department of water resources relating to the provision of domestic water supply and sanitary sewage disposal; and

(4) Obtaining a certificate of assured water supply from the Director of Water Resources unless the subdivision is located within an area designated as having an assured water supply by the Director of Water Resources pursuant to A.R.S. § 45-576(A), (B) and (E). It shall be noted on the face of the preliminary plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is within an area designated as having as assured water supply, pursuant to A.R.S. § 45-576(A), (B), (E) and (I).

(Prior Code, Ch. 4, Art. V, § 4-393) (Ord. 432-06, passed 6-19-2006)

§ 150.218 REVIEW.

(A) Upon receipt of the preliminary plat, the Planning Department shall perform its review of the proposed street systems, street plans and compliance with municipal street standards, tentative determination of street and drainage improvements and maintenance requirements and water and sewage disposal proposals.

(B) Upon preliminary review, the Planning Department shall make the determination as to distribution of the preliminary plat and

may include, but not be limited to the following departments and/or agencies:

(1) The Town Engineer for review of drainage and flood control measures and street improvements;

(2) The Planning Director for compliance with public objectives, giving special attention to design principles and standards as set forth in this Development Code, streets and thoroughfares as related to the streets and highway plans and to neighborhood circulation, utility methods and systems, existing and proposed zoning and land use of the tract and its environs and land required for schools, parks and other public facilities;

(3) The Parks and Recreation Department for recommendations regarding parks and recreation spaces;

(4) The Police Department and Fire Chief for review of features of proposed development relating to their respective areas of operation;

(5) The Manager for review of sewage disposal and water supply proposals;

(6) The Superintendent of the town school district for information;

(7) Where the land abuts a state highway, to the State Department of Transportation for recommendations regarding right-of-way and intersection design;

(8) The United States Postmaster in the municipality; and

(9) 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.

(C) The reviewing offices shall transmit their recommendations to the Planning Department in writing within 15 days of receipt of the preliminary plat. The Planning Department receives and summarizes the reviewing office recommendations, prepares a report and presents it to the Commission.

(Prior Code, Ch. 4, Art. V, § 4-394) (Ord. 432-06, passed 6-19-2006)

§ 150.219 APPROVAL.

(A) If the Planning Department report indicates that the requirements of this Development Code have been met, the Commission shall consider the preliminary plat at a regular meeting within 45 days of the date of filing the preliminary plat application.

(B) The Commission shall approve, disapprove or conditionally approve the preliminary plat. Upon the Commission's determination of the preliminary plat, it shall notify the subdivider and Town Council of its decision. If conditions are attached to its approval, the subdivider and Town Council shall be informed of the conditions. No preliminary plat may be continued (tabled) for more than two consecutive meetings.

(Prior Code, Ch. 4, Art. V, § 4-395) (Ord. 432-06, passed 6-19-2006)

§ 150.220 SIGNIFICANCE OF PRELIMINARY APPROVAL.

(A) Approval of the preliminary plat constitutes authorization for the developer to proceed with preparation of the final plat and the engineering plans and specifications for public improvements.

(B) Preliminary plat approval is based upon the following items:

(1) The basic conditions under which approval of the preliminary plat is granted will not be substantially changed prior to expiration date;

(2) Approval is valid for a period of 12 months from the date of Commission approval. A 6-month extension of the preliminary plat approval may be granted by the Commission upon receipt of a letter requesting the action from the developer prior to the expiration date; and

(3) Preliminary plat approval in itself does not assure final acceptance of streets for dedication nor continuation of existing zoning requirements for the tract or its environs, nor constitute authorization to record the plat.

(Prior Code, Ch. 4, Art. V, § 4-396) (Ord. 432-06, passed 6-19-2006)

STAGE III. TECHNICAL REVIEW

§ 150.222 SUBMITTAL.

The developer must provide the Planning Director with a complete set of engineering plans and specifications prepared by a Civil engineer who is currently registered in the state. The plans and specifications must be designed based upon the approved preliminary plat and may be prepared prior to or in conjunction with the final plat.

(Prior Code, Ch. 4, Art. V, § 4-411) (Ord. 432-06, passed 6-19-2006)

§ 150.223 APPROVAL.

The final plat will not be considered by the Town Council until all engineering plans for water, sanitary sewer, streets, grading and drainage and all other improvements have been approved by the Town Engineer, Public Works Director and other applicable review agencies. When applicable, for water and sewer mainline extensions, the developer must furnish State Department of Environmental Quality (ADEQ) and the Public Works Director the evidence as the ADEQ may require regarding the adequacy of the design and operation of the proposed potable water and sanitary sewerage facilities. Applications for plan review by ADEQ may only be made with written authorization of the Public Works Director.

(Prior Code, Ch. 4, Art. V, § 4-412) (Ord. 432-06, passed 6-19-2006)

§ 150.224 ENGINEERING PLAN AND SPECIFICATION SUBMISSION.

(A) *Utility improvement plan (UIP).* In conjunction with the other engineering plans prescribed in this Development Code, the developer must provide a UIP that illustrates the physical relationship of all proposed utility improvements for the proposed subdivision. The intent of this plan is to cumulatively index all proposed utility improvements for easy reference and to provide for a coordinated development effort.

(B) *UIP requirements.* At a minimum, the UIP should depict the proposed location and separation of all public improvements and how they relate to the lots or blocks of the subdivision. The UIP should provide approximate distances and measurements of all proposed rights-of-way, easements, 100-year floodplain limits for regulatory flows, utility placements, edge of pavement, curb, gutter and sidewalk (if required), drainage structures and the building footprint. The UIP should be overlaid on a topographic map with a contour interval of not less than five feet. The topographic mapping should extend 50 feet beyond the subdivision boundaries. Spot elevations for the proposed grading should be provided at various locations to assist in determining the suitability of topography to the proposed subdivision. Finally, if the project is to be phased, the phase lines must be shown on the UIP. The criteria and requirements for streets, drainage, water and sewer may be found in § 150.239.

(Prior Code, Ch. 4, Art. V, § 4-413) (Ord. 432-06, passed 6-19-2006)

STAGE IV. FINAL PLAT

§ 150.225 SCOPE.

The final plat stage includes the final design of the subdivision, engineering of public improvements and submittal of the plat and plans by the developer, for review and for action by the Council.

(Prior Code, Ch. 4, Art. V, § 4-426) (Ord. 432-06, passed 6-19-2006)

§ 150.226 PREPARATION.

The final plat shall be prepared in accordance with requirements set forth below, and shall be in substantial conformance with the approved preliminary plat and all appropriate town codes and ordinances. The applicant is responsible to fulfill any and all requirements

whether or not referenced or stated in this manual. Final plat must meet all requirements included on the final plans submittal requirements sheet of the preliminary plat stipulation package.

(Prior Code, Ch. 4, Art. V, § 4-427) (Ord. 432-06, passed 6-19-2006)

§ 150.227 INFORMATION REQUIRED.

(A) *Method and medium of presentation.* The recorded plat shall be drawn in India ink on linen or other durable material and on a sheet or sheets two feet by three feet in size, to a scale of one inch to 100 feet. In certain unusual instances, as where the area to be subdivided is of unusual size or shape, the Planning Department may permit a variation in the scale of the final plat. If more than two sheets are required for the drafting of the final plat, an index sheet of the same dimensions shall be filed, showing the entire subdivisions on one sheet and the portion thereof contained on each of the other sheets. Three copies of the recorded plat shall be reproduced in the form of blueline or blackline prints on a white background.

The final plat shall be drawn from an accurate survey.

(B) *Identification data required.*

(1) A title which includes the name of the subdivision and its location by number of section, township range and county;

(2) Name, address and registration number of seal of the registered civil engineer or registered land surveyor preparing the plat; and

(3) Scale, north arrow and date of plat preparation.

(C) *Survey data required.*

(1) Boundaries of the tract to be subdivided shall be fully balanced and closed, showing all bearings and distances, determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.

(2) Any excepted parcels within the plat boundaries shall show all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.

(3) Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced. Each of two corners of the subdivision traverse shall be tied by course and distance to separate survey monuments approved by the Town Engineer.

(4) Location of all physical encroachments upon the boundaries of the tract shall be shown.

(D) *Descriptive data required.*

(1) Name, right-of-way lines, center lines, courses, lengths and widths of all public streets, alleys, pedestrian ways and utility easements, radii, points of tangency and central angles of all curvilinear streets and alley, radii of all rounded street line intersections.

(2) Private streets require tracts separate from the lots with dimensions equal to the rights-of-way standard unless approved by the Town Council. Easements for private streets are unacceptable. Plats must have a note stating the following:

"Private streets are to be owned and maintained by the property owners association. Normally, after this plat is recorded, the town will not accept dedication of the streets to the public in order to relieve the property owners association of street maintenance responsibilities unless all street improvements and rights-of-way meet current applicable town standards".

(3) Private streets require controlled access to the public street system. These controlled access entrances to the subdivision private streets must provide adequate turnaround areas as prescribed by the Town Engineer.

(4) All drainage ways shall be shown on the plat. The right-of-way of all major drainage ways, as designated by the Municipal Engineer, shall be dedicated to the public.

(5) All easements for rights-of-way provided for public services or utilities and any limitations of the easements. Construction within the easements shall be limited to utilities and wood, wire or removable section-type fencing.

(6) Location and all dimensions of all residential lots:

(a) All residential lots shall be numbered by consecutive numbers throughout the plat. Exceptions, tracts and private parks shall

be so designated, lettered or named and clearly dimensioned. A table showing the square footage for all lots is required on the final plat;

(b) Locations, dimensions, bearings, radii, arcs and central angles of all sites to be dedicated or sold to the public with the use clearly indicated;

(c) Location of all adjoining subdivisions with date, book and page number of recordation noted or if unrecorded or undivided, so marked; and

(d) Any deed restrictions or restrictive covenants to be imposed upon the plat or any part thereof pertaining to the intended use of the land shall be submitted five days prior to final plat filing. Deed restrictions shall in no way be less restrictive than zoning regulations imposed by the town.

(E) *Dedication and acknowledgment.*

(1) *Dedication.* Statement of dedication of all streets, alleys, drainage ways, pedestrian ways and easements for public use signed by the person holding titles of record, by persons holding titles as vendees under land contract and by spouses of the parties. Dedication statements must describe the ownership, the formation of lots, streets, tracts and easements and include maintenance responsibilities and rights conveyed to the public or private rights conveyed to future or adjacent property owners. If lands dedicated are mortgaged, the mortgagee shall also sign the plat. Dedication shall include a written location by section, township and range of the tract. If the plat contains private streets, the public utilities shall be reserved the right to install and maintain utilities in the street rights-of-way, including refuse collection.

(2) *Acknowledgment of dedication.* Execution of dedication acknowledged and certified by a notary public, as set forth in the state statutes, must acknowledge the signature of the owner.

(3) *Ratification by lien holders.* If any property is encumbered by a deed of trust, a mortgage, and/or an agreement, the lender must ratify (confirm and/or consent to and approve) the plat. The ratification must reference the date the lien was recorded and the docket and page in which the instrument was recorded by the Pinal County Recorder's office. A notary public or other authorized officer, as set forth in the state statutes, must acknowledge the signature of the lien-holder.

(a) If the lender is a corporation, submit a certified copy of the resolution identifying the individual authorized to sign on behalf of the corporation with the plat to the town for recording.

(b) If a partnership and/or a joint venture is involved, submit a copy of the partnership or the joint venture agreement to the town for review. If either agreement does not designate an individual to sign on behalf thereof, include a resolution defining this responsibility. A notary public must acknowledge the lender's signature.

(Prior Code, Ch. 4, Art. V, § 4-428) (Ord. 432-06, passed 6-19-2006)

§ 150.228 CERTIFICATION.

The following certifications are required:

(A) Certifications by the registered civil engineer or registered land surveyor making the plat that the plat is correct and accurate and that the monuments described in it have either been set or located as described. All maps shall contain the seal of a registered civil engineer or land surveyor.

(B) Certification by the Municipal Engineer that the final plat substantially conforms to the preliminary plat approved by the Council, and that all engineering conditions and requirements of this Development Code have been complied with.

(C) Certification by the Town Clerk of the date the map was approved by the Council.

(D) Certificate of recordation by the Pinal County Recorder.

(E) A final plat, in recordable form, on disk in digital format compatible with the town computer database to facilitate the inclusion of the final plat into the town parcel database. Typically, the form of these files will be in DXF, DWG or other similar industry standards digital file developed in AutoCAD R13 or greater.

(Prior Code, Ch. 4, Art. V, § 4-430) (Ord. 432-06, passed 6-19-2006)

§ 150.229 ZONING.

Zoning of the tract upon which a subdivision is proposed shall permit the proposed use.

(Prior Code, Ch. 4, Art. V, § 4-431) (Ord. 432-06, passed 6-19-2006)

§ 150.230 EASEMENTS.

It shall be the responsibility of the developer to provide on the final plat, prior to plat recordation, the easements in the location and width as required for utility purposes. The following notation shall be placed upon all final plats:

"Construction within easements, except by public agencies and utility companies, shall be limited to utilities and wood, wire or removable section-type fencing".

(Prior Code, Ch. 4, Art. V, § 4-432) (Ord. 432-06, passed 6-19-2006)

§ 150.231 SUBMITTAL.

(A) The developer shall file with the Planning Department three 24 inches by 36 inches mylar transparencies and fifteen 24 inches by 36 inches true copies thereof, together with a letter of transmittal and recordation fee, at least 20 days prior to the Council meeting at which consideration is desired.

(B) The developer shall submit with the copies required in this Development Code a filing fee in the amount determined by the Council.

(C) The developer shall file a landscape plan with the final plat indicating the requirements of §§ 150.131 through 150.146 have been fulfilled.

(Prior Code, Ch. 4, Art. V, § 4-433) (Ord. 432-06, passed 6-19-2006)

§ 150.232 REVIEW.

(A) The Planning Department, upon receipt of the final plat submittal, shall immediately record receipt and date of filing and check it for completeness. If complete, the Planning Department shall review the plat for substantial conformity to the approved preliminary plat and refer copies of the submittal to the following reviewing offices who shall make known their recommendations in writing addressed to the Council:

(1) Planning Director, for approval of the final plat and landscaping if appropriate;

(2) Parks and Recreation Department, when applicable;

(3) Town Engineer for approval of street improvements, drainage and flood control measures;

(4) Town Manager for approval of sewage disposal, water supply and fire safety plans;

(5) State Department of Transportation, for approval when the plat abuts a state highway; and

(6) Interested utility companies, for utility easements.

(B) The departments shall assemble the recommendations of the various reviewing offices, prepare a concise summary of recommendations and submit the summary together with the reviewer's recommendations to the Council for consideration. In the event that the Planning Department finds that the final plat does not substantially conform to the preliminary plat, as approved by the Commission, then the final plat shall be resubmitted to the Commission for review and recommendations prior to submittal to the Council.

(Prior Code, Ch. 4, Art. V, § 4-434) (Ord. 432-06, passed 6-19-2006)

§ 150.233 APPROVAL.

(A) Upon receipt of a request for Council action from the Planning Department, the Town Clerk shall place the case on the agenda of the next regular Council meeting, whereupon the Council shall approve or deny the plat.

(B) If the Council rejected the plat for any reason whatsoever, the reasons therefore shall be recorded in the minutes.

(C) If the Council approves the plat, the Town Clerk shall transcribe a certificate of approval upon the plat, first making sure that the other required certifications have been duly signed, that required easements for utility purposes have been included on the plat, and that the Town Engineer has approved the engineering plans.

(D) When the certificate of approval by the Council has been transcribed on the plat, the Town Clerk shall record the approved final plat in the office of the County Recorder.

(Prior Code, Ch. 4, Art. V, § 4-435) (Ord. 432-06, passed 6-19-2006)

§ 150.234 PERFORMANCE CONTRACT.

(A) In order to ensure proper installation of subdivision improvements, the developer shall designate the type of assurance in a form and method acceptable to the Town Attorney and approved by Town Council in conjunction with review of the final plat.

(B) A final copy of the assurance shall be submitted to staff within 90 days of Council approval, and prior to the recordation of any final plat approved by the Town Council. The amount of the assurance shall be based on a cost estimate prepared by a registered civil engineer in an amount to cover 120% of the complete installation of the improvements. This assurance shall provide for its forfeiture to the town in the event the improvements are not accepted by the town by the declared completion date due to the default of the developer. Any portion of the forfeiture in excess of the expenses incurred by the town in connection with the installation of the improvements shall be returned to the developer. The owner must provide the town with one of the following types of financial assurances for the completion of the construction of the improvements required for the development of the subdivision:

(1) *Cash or surety bond.* The developer shall deposit with the Town Clerk cash or a surety bond. The surety bond shall be executed by the developer with a corporation duly licensed and authorized to transact surety business in the state, as surety. The bond shall be in favor of the town, shall be continuous in form and shall require that the total aggregate liability of the surety for all claims shall be limited to the face amount of the bond, regardless of the number of years the bond is in force and shall provide that:

(a) The bond or cash shall be released upon satisfactory performance of the work and its acceptance by the Town Council;

(b) Progress payments may be made to the developer upon request from any cash deposit made. The progress payments shall be made in accordance with standards established by the Town Engineer;

(c) The bond may be cancelled by the developer upon 30 days written notice to the town, provided that other security satisfactory to the town has been deposited which will cover the obligations of the developer which remain to be performed; and

(d) Any work abandoned or not completed by the developer may be completed by the town, which shall recover the construction costs from the developer or the bonding agent.

(2) *Assurance of construction through loan commitment.* In lieu of providing assurance of construction in the manner provided above, the developer may provide assurance of construction of all required utility and infrastructure improvements, by delivering to the town in a manner described above, an appropriate agreement acceptable to the Town Attorney between an approved lending institution and the developer which provides a statement that funds sufficient to cover the entire cost of installing the required improvements, including engineering and inspection costs and the cost of replacement or repairs of any existing streets or improvements demanded by the town in the course of development of the subdivision have been deposited with the approved lending institution by the developer. The agreement shall provide that the funds in the approved amount are specifically allocated and will be used by the developer, or on their behalf, only for the purpose of installing the subdivision improvements. The town shall be the beneficiary of the agreement or the developer's rights shall be assigned to the town, and the Town Engineer shall approve each disbursement of the funds. The agreement may also contain terms, conditions and provisions normally included by the lending institutions in loan commitments for construction funds, or as may be necessary to comply with statutes and regulations applicable to the lending institutions.

(3) *Alternative assurances.* In lieu of providing a surety bond or an agreement between the subdivision developer and an approved lending institution, the Town Attorney may approve and recommend to Town Council the alternative assurances that it deems sufficient to guarantee and assure construction of the required improvements, including a contractual agreement by an approved lender guaranteeing the performance of the subdivision developer, or a performance deed of trust, in first lien position, or the other

assurances as the Town Council shall deem sufficient and appropriate.

(4) *Assurance of warranty.* The developer shall warranty all work against defective workmanship or materials for a period of one year from the date of its final acceptance.

(Prior Code, Ch. 4, Art. V, § 4-436) (Ord. 432-06, passed 6-19-2006)

§ 150.235 LAND SURVEY MINIMUM STANDARDS.

(A) Compliance with the public land survey system established by the general land office and currently administered by the Bureau of Land Management, is required when performing any land boundary survey.

(B) Compliance with state statutes regarding land surveying and mapping, together with the state boundary survey minimum standards administered by the Board of Technical Registration, must be reflected on mapping products submitted by the land surveyor.

(C) The land surveyor must comply with the requirements of the Pinal County Recorder regarding recording standards prior to submittal of mapping products to the town.

(D) The town minimum standards for mapping and platting include the above minimum standards along with proper research, filed examination, measurements, analysis, calculations and presentation, and as follows. A land boundary survey of the subject property must be performed in accordance with "Minimum Standards of the Arizona Land Boundary Survey" (effective February 2002 by the State Board of Technical Registration), which includes but is not limited to the following:

(1) The map or plat must be presented on a format acceptable for recording with the office of Pinal County Recorder on a 24 inches by 36 inches sheet size;

(2) Submit survey field notes, raw data and coordinate files (electronically) from the actual field survey conducted by the surveyor submitting the plat or map;

(3) Submit the closure and area calculations for the parent parcel, and parcels resulting from a land division, a land assemblage or a property line adjustment and any easements being created or of record;

(4) Show and describe all monuments controlling the boundary of the subject property;

(5) Show all measured and recorded distances (bearings if necessary);

(6) Basis of bearing;

(7) Show property boundary line with heavy solid line. ***BOUNDARY*** is defined as contained in title report legal description. Include the easements for the gross property area;

(8) Show all previous property divisions with case and recording numbers;

(9) Show all easements that appear in title report, citing width, dimensions (bearings and distances) and recorded instrument number;

(10) Show easements that may appear in the patent deed in small tract act areas;

(11) Show all existing improvements that are affected by zoning district restrictions with distances from property line;

(12) Show zoning district building setback lines with dimensions;

(13) Show existing septic tank and disposal site and its post-approval disposition with distance from property line and structures;

(14) Show existing wells, if any;

(15) Show legal access to property;

(16) Show names of adjacent property owners or assessor parcel numbers;

(17) Show area, in square feet and dimensions of each new lot with lot number;

(18) Show a vicinity map;

(19) Show existing roadway names;

(20) Show north arrow and scale;

(21) Show pertinent references per State Board of Technical Registration minimum standards; and

(22) Show significant land features.

(Prior Code, Ch. 4, Art. V, § 4-437) (Ord. 432-06, passed 6-19-2006)

§ 150.236 MAP REQUIREMENTS.

(A) The survey map, prepared on a recordable format, will be the only document to be produced by the applicant's registered land surveyor.

(B) New lots, street dedications and easements required for various purposes will be shown on the plat. Special conditions of the request, a town representative will recommend specific elements necessary to show on the specific plat.

(1) Provide a name of survey map, such as "Land Survey Map for JOHNSON PROPERTIES" in the title caption on the cover sheet;

(2) Brief description in the title stating at a minimum the quarter section, section, township, range, meridian, county and state. The title may need more specific information depending on particulars of the parent description;

(3) Complete legal description as appears in subject current title report;

(4) Legal descriptions of new lots are not necessary as the lot and name of plat will be sufficient for conveyance;

(5) Dedication and/or declaration and/or agreement and acknowledgment;

(6) Ratification by beneficiaries, if applicable and acknowledgment;

(7) Land surveyors certification;

(8) Consultants name and address;

(9) Town approval by Planning and Development Department;

(10) Legend;

(11) North arrow and scale;

(12) List of pertinent references;

(13) Show existing easements, recording references, dimensions (bearings and distances) and purposes;

(14) Case number; and

(15) Stipulations as required on the staff approval.

(Prior Code, Ch. 4, Art. V, § 4-438) (Ord. 432-06, passed 6-19-2006)

PART 3. DESIGN STANDARDS

§ 150.237 GENERALLY.

(A) Every subdivision shall conform to the applicable objectives of any comprehensive general plan or neighborhood plan as adopted by the Commission and the Council. Every subdivision shall also conform to this Development Code, and to other ordinances and regulations of the town and to the state statutes.

(B) Where the tract to be subdivided contains all or any part of the site of a park, school, flood control facility or other public area as shown in the general plan or other adopted plan or as recommended by the Commission, the site shall be dedicated to the public or

reserved for acquisition by the public under the provisions of § 150.209.

(C) Land which is subject to periodic flooding, land which cannot be properly drained or other land which, in the opinion of the Commission, is unsuitable for subdivision use shall not be subdivided; except that the Commission may approve subdivision of the land upon receipt of evidence from the Town Engineer that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon the land shall be prohibited until the specified improvements have been planned and construction guaranteed.

(D) Where the tract to be subdivided is located in whole or in part in terrain having an average cross-slope exceeding 10%, design and development may, at the discretion of the Planning Department and Town Engineer, follow the standards and requirements of § 150.243.

(Prior Code, Ch. 4, Art. V, § 4-451) (Ord. 432-06, passed 6-19-2006)

§ 150.238 STREET LOCATION AND ARRANGEMENT.

(A) Whenever a tract to be subdivided embraces any part of a street designated in the municipality's adopted streets and highways master plan, the street shall be platted in conformance therewith.

(B) Street layout shall provide for the continuation of the streets as the Site Plan Review Committee may designate.

(C) Whenever a tract to be subdivided is located within an area for which a neighborhood plan has been approved by the Commission, the street arrangement shall conform substantially to the plan.

(D) Certain proposed streets, as designated by the Site Plan Review Committee, shall be extended to the tract boundary to provide future connection with adjoining unplatted lands.

(E) Local streets shall be so arranged as to discourage their use by through traffic.

(F) Where a proposed subdivision abuts or contains an existing or proposed arterial route, the Site Plan Review Committee may require access or frontage streets, or reverse frontage combined with a one-foot non-access easement abutting the arterial route, or the other treatment as may be justified for protection of residential properties from function of the arterial route.

(G) Where a subdivision abuts or contains the right-of-way of a limited access highway or an irrigation canal or abuts a commercial or industrial land use, the Site Plan Review Committee may recommend location of a street approximately parallel to and on each side of the right-of-way at a distance suitable for appropriate use of the intervening land. The distance shall be determined with due regard for approach grades, drainage, bridges or future grade separations.

(H) Streets shall be so arranged in relation to existing topography as to produce desirable lots of maximum utility and streets of reasonable gradient and to facilitate adequate drainage.

(I) Alleys may be required in all commercial and industrial subdivisions. The Site Plan Review Committee may recommend waiver of requirements in certain districts because of topography, open area provided or service access provided in some other manner acceptable to the Committee.

(J) Half streets shall be discouraged except where necessary to provide right-of-way by the streets and highways plan, to complete a street pattern already begun or to ensure reasonable development of a number of adjoining parcels. Where there exists a platted half street abutting the tract to be subdivided and the half street furnishes the sole access to residential lots, the remaining half shall be platted within the tract.

(K) If half streets are platted, they shall be four feet wider in right-of-way and pavement width for local streets for the first half street, or this 4 feet may be obtained from the adjoining property, if possible.

(Prior Code, Ch. 4, Art. V, § 4-452) (Ord. 432-06, passed 6-19-2006)

§ 150.239 ADOPTION OF PUBLIC WORKS STANDARDS, SPECIFICATIONS AND REGULATIONS.

(A) *Public work improvements.* The Public Works Director shall recommend for Council adoption, standards, specifications and regulations regarding public works improvements, which may be adopted by the Town Council for reference. Three copies of any documents adopted by Town Council by reference shall be kept on file by the Town Clerk for use and reference by members of the

public. In the event there is a conflict between or among any of the standards, specifications and regulations adopted herein by reference, a town standard, specification or regulation shall prevail over any standard, specification or regulation prepared by another entity. Irrespective of the designations contained in any standards, details or specifications adopted by reference, enforcement procedures and inspections provided for shall be the responsibility of the Public Works Director. The Public Works Director and/or designee may approve alternate materials or methods of construction provided he or she finds the proposed design is satisfactory and complies with the intent of the adopted standard, detail or specification and the proposed material is for the purpose intended, and at least the equivalent of that prescribed in the adopted standard, detail or specification, in quality, strength, effectiveness, durability and safety.

(B) *M.A.G.; Uniform Standard Specifications and Details; adopted with certain modifications.* Certain documents on file with the Town Clerk, marked, known and designated as "*1999 Uniform Standard Specifications and Details for Public Works Construction*" (M.A.G. standard specification and details) published by Maricopa Association of Governments, Arizona, is hereby adopted by reference and made a part hereof as though set forth at length herein but subject to the following modifications.

(1) In the event any standard specification or detail contained in the M.A.G. standard specifications and details conflicts with any standard specification, detail technical design manual or other manual or construction contract prepared and adopted by the town, then the conflicting M.A.G. standard is hereby amended to conform with town provisions.

(2) The M.A.G. specifications and details are modified as follows: the Town Engineer is authorized to increase standard street cross sections, both pavement and right-of-way widths, as necessary to maintain required traffic service levels when a traffic analysis indicates the need for additional lanes of traffic.

(C) *Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).* Certain document on file with the Town Clerk marked known and designated as *The Manual on Uniform Traffic Control Devices for Streets and Highway (MUTCD).* Millennium edition, approved by the Federal Highway Administration as the national standard is hereby adopted by reference and made a part of hereof as though set forth at length herein.

(D) *Policy of geometric design of highway and streets.* That certain document on file with Town Clerk marked, known and designated as "The Policy on Geometric Design of Highways and Streets" marked 2001 edition published by the American Association of State Highway and Transportation Officials is hereby adopted by reference and made a part of hereof as though set forth at length herein.

(E) *Manuals.* That certain documents to be known and recommended, and designated as *Town of Florence Standards and Design Manuals*, Numbers 1 through 8 entitled:

(1) *Town of Florence Standard Details and Specifications*;

(2) *Design Manual No. 1: Water System Design*;

(3) *Design Manual No. 2: Wastewater and Reclaimed Water System Design*;

(4) *Design Manual No. 4: Storm Drainage System Design*;

(5) *Design Manual No. 5: Street Design and Access Control*;

(6) *Design Manual No. 6: Streetlight Design*;

(7) *Design Manual No. 7: Traffic Barricade Design*; and

(8) *Design Manual No. 8: Landscape and Irrigation Design of Rights-of-Ways, Retention Basins and Parks*.

(Prior Code, Ch. 4, Art. V, § 4-453) (Ord. 432-06, passed 6-19-2006)

§ 150.240 BLOCK DESIGN.

(A) The maximum length of blocks, measured along the centerline of the street and between intersecting street center lines, shall be 1,500 feet, except that in a development with lot areas averaging one-half acre or more where conditions warrant, this maximum may be exceeded by 500 feet. Blocks shall be as long as reasonably possible under the circumstances within the above maximum in order to achieve depth and possible street economy and to reduce the expense and safety hazard arising from excessive street intersections.

(B) The minimum length of blocks, as measured above, shall be 600 feet.

(C) The maximum length of cul-de-sac streets shall be 400 feet, measured from the intersection of right-of-way lines to the extreme depth of the turning circle along the street centerline. Exceptions may be made where topography, adjacent platting or other unusual conditions justify such. No exception shall be made merely because the tract has restrictive boundary dimensions, wherein provisions should be made for extension of street pattern to the adjoining unplatted parcel and a temporary turnaround installed.

(D) Pedestrian ways with a right-of-way width of eight feet may be required where essential for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Pedestrian ways may be used for utility purposes, if utility easement is dedicated on the final plat.

(Prior Code, Ch. 4, Art. V, § 4-454) (Ord. 432-06, passed 6-19-2006)

§ 150.241 LOT PLANNING.

The general design standards for lot planning in any proposed subdivision shall be as follows:

(A) Lot width, depth and area shall comply with the minimum requirements of §§ 150.045*et seq*. and shall be appropriate for the location and character of development proposed, and for the type and extent of street and utility improvements being installed.

(B) Where steep topography, unusual soil conditions, drainage problems, abrupt changes in land use or heavy traffic on adjacent streets prevail, the Site Plan Review Committee may make special lot width, depth and area requirements which exceed the minimum requirements of the particular zoning district.

(C) Proposed streets shall be arranged in close relation to existing topography. Where steep topography prevails, as in the platting of hillside subdivisions, and where street grades must, of necessity reach or exceed the standard requirements, the requirements of § 150.242 may be followed.

(D) The depth-to-width ratio of the usable area of the lot shall not be greater than 3:1.

(E) Minimum front building lines shall conform to the minimum requirements of §§ 150.045*et seq*.

(F) Side lot lines shall be substantially at right angles or radial to street lines, except where other treatment may be justified in the opinion of the Site Plan Review Committee.

(G) Every lot shall abut upon an improved public street furnishing satisfactory access thereto, unless the subdivision has been approved for private streets.

(H) Single-family residential lots extending through the block and having frontage on two parallel streets shall not be encouraged in most cases; back of lots to arterial routes shall be encouraged except in cases where not justified in the opinion of the Site Plan Review Committee.

(Prior Code, Ch. 4, Art. V, § 4-455) (Ord. 432-06, passed 6-19-2006)

§ 150.242 EASEMENT PLANNING.

Easements for utilities in a proposed subdivision shall be provided as follows:

(A) Where alleys are provided, four feet for aerial overhead on each side of alley shall be provided by dedication.

(B) Along side lot lines, six feet on each side of the side lot lines for distribution facilities and one foot on each side of the side lot lines for street lighting, as may be designated, shall be provided.

(C) Guy and anchor easements, one foot wide on each side of the side lot lines, or two feet wide on one side of the side lot line and approximately 35 feet in length measured from the rear lot line, as designated, shall be provided.

(D) For local streets with 40 feet of right-of-way, a six-foot utility easement on each side of the right-of-way shall be provided.

(E) For lots facing on curvilinear streets, utility easements or alleys may consist of a series of straight lines with points of deflection not less than 120 feet apart. Points of deflection should always occur at the junction of side and rear lot lines on the side of the exterior angle. Curvilinear easements of alleys may be provided, providing that the minimum radius for the alley or easement shall be not less than 800 feet except that 450 feet radii curves may be allowed where there are adequate provisions for utilities.

(F) Where a stream or important surface drainage course abuts or crosses the tract, dedication of a public drainage easement of a width sufficient to permit widening, deepening, relocating or protecting the watercourse shall be required.

(G) Land within a public street or drainage easement or land within a utility easement for major power transmission (tower) line or pipelines shall not be considered a part of the minimum required lot area except where lots exceed one-half acre in area. This shall not be construed as applicable to land involved in utility easements for distribution or service purposes.

(H) Except where alleys are provided, lots shall have the rear eight feet recorded as a utility easement, if any utilities are to be located along the rear lot line, subject to approval of the Town Engineer.

(Prior Code, Ch. 4, Art. V, § 4-456) (Ord. 432-06, passed 6-19-2006)

§ 150.243 HILLSIDE SUBDIVISIONS.

(A) Planning, platting and development of hillside subdivisions involves special problems and requires special handling by the developer and project Engineer and by the Site Plan Review Committee, staff and reviewing officials. These problems are preservation of scenic beauty for the benefit of the general public, safe construction of public improvements commensurate with lower density and lesser public use and safe construction of private improvements related to sewage disposal, water supply, storm drainage and foundation bearing.

(B) Lot width and area shall be closely related to the terrain, drainage, percolation factors or construction of sanitary sewers, with emphasis placed on selection of homesites and the access to the homesites.

(C) Special design standards for hillside subdivisions.

(D) Street grades shall not exceed 15%.

(E) Street grades exceeding 10% shall have a maximum length of 600 feet.

(F) Minimum dedicated street right-of-way shall be 50 feet.

(G) T-or Y-type turning-and-backing cul-de-sac may be substituted for circular turnarounds.

(H) Panhandle, double frontage and other unorthodox lots shall be permitted so long as it can be adequately demonstrated that no lot will be adversely affected by any other lots so arranged.

(Prior Code, Ch. 4, Art. V, § 4-457) (Ord. 432-06, passed 6-19-2006)

§ 150.244 SPECIAL PRELIMINARY PLAT REQUIREMENTS.

(A) Topography by two foot contour interval showing location of major and minor washes.

(B) Road profiles, cross sections and proposed grading plans may be required at the discretion of the Town Engineer.

(C) Percolation test and test boring logs in accordance with the requirements of the County Health Department should be taken at the proposed subdivision prior to the submittal of the preliminary plat.

(Prior Code, Ch. 4, Art. V, § 4-458) (Ord. 432-06, passed 6-19-2006)

§ 150.245 PLAT PROCESSING TIME.

Due to special problems requiring special field and office review by the County Health Department, Engineer and staff, developers should expect processing time for hillside plats to exceed that otherwise required for normal plats.

(Prior Code, Ch. 4, Art. V, § 4-459) (Ord. 432-06, passed 6-19-2006)

§ 150.246 LANDSCAPING.

All common public areas shall be landscaped per §§ 150.131 through 150.146 at the developer's expense.

(Prior Code, Ch. 4, Art. V, § 4-460) (Ord. 432-06, passed 6-19-2006)

PART 4. REQUIRED IMPROVEMENTS

§ 150.248 PURPOSE.

It is the purpose of this division to establish, in outline form, minimum acceptable standards for improvement of streets and utilities, to define the responsibility of the developer in the planning, constructing and financing of public and private improvements and to establish procedures for review and approval of engineering plans.

(Prior Code, Ch. 4, Art. V, § 4-476) (Ord. 432-06, passed 6-19-2006)

§ 150.249 IMPROVEMENT DISTRICTS.

All improvements required in streets, alleys or easements which are required as a condition of plat approval shall be the responsibility of the developer; provided, however, that the developer may be allowed to meet the requirements by participation in an improvement district approved by the town.

(Prior Code, Ch. 4, Art. V, § 4-477) (Ord. 432-06, passed 6-19-2006)

§ 150.250 ENGINEERING PLANS.

(A) It shall be the responsibility of the developer to have prepared by a civil engineer, registered in the state, a complete set of engineering plans and specifications satisfactory to the Town Engineer for construction of required improvements. The plans and specifications shall be based on the approved preliminary plat and be prepared in conjunction with the final plat.

(B) Engineering plans shall be approved by the Town Engineer prior to recordation of the final plat.

(Prior Code, Ch. 4, Art. V, § 4-478) (Ord. 432-06, passed 6-19-2006)

§ 150.251 CONSTRUCTION AND INSPECTION.

(A) All relocation, filling and reconstruction of irrigation facilities shall be constructed to standards of the owning utility and the Town Engineer.

(B) All improvements in the public right-of-way shall be constructed under the inspection and approval of Town Engineer, Public Works Department and/or utility company having jurisdiction. Construction shall not be commenced until a permit has been issued for the construction by the Town Engineer, and if the town has placed a stop work order against the developer for any reason, the developer shall not resume work until after notifying the town of his or her intent and a the town has released the order to stop work.

(C) All underground utilities to be installed in streets shall be constructed prior to the surfacing of the street. Service stubs to platted lots within the subdivision for underground utilities shall be placed to the length as not to necessitate disturbance of street improvements when service connections are made.

(Prior Code, Ch. 4, Art. V, § 4-479) (Ord. 432-06, passed 6-19-2006)

§ 150.252 STORM DRAINAGE.

Proper and adequate provision shall be made for disposal of stormwater; this shall apply equally to grading of private properties and to public streets. Existing major watercourses shall be maintained and dedicated as drainage ways. The type, extent, location and capacity of drainage facilities shall be approved for the individual subdivision by the Town Engineer based on an approved drainage study and shall be constructed in accordance with approved municipal standards.

(Prior Code, Ch. 4, Art. V, § 4-480) (Ord. 432-06, passed 6-19-2006)

§ 150.253 SANITARY SEWAGE DISPOSAL.

Public sanitary sewers shall be installed in accordance with plans, profiles and specifications approved by the County and State Health Departments and the Town Engineer and a private water company, if applicable.

(Prior Code, Ch. 4, Art. V, § 4-481) (Ord. 432-06, passed 6-19-2006)

§ 150.254 WATER FACILITIES REQUIREMENTS.

(A) Each lot or building unit shall be supplied with potable water in sufficient volume and pressure for domestic use and fire protection purposes. Design and construction of any and all facilities relating to the supply, storage, transmission, treatment and distribution of potable water within or outside of any subdivision must meet the written approval of the Manager or a private water company. All design and construction must meet all applicable Town and State Department of Health Services, or private water company if applicable, specifications and requirements in force at the time of plan review and approval. If it is necessary for the municipality to apply specifications or requirements not in force at the time of plan review, but necessary to achieve the orderly and proper development of any portion of any water system, either public or private, the municipality reserves the right to enforce the specifications and requirements to ensure and protect the public welfare.

(B) The municipality assumes no liability for providing water to any proposed or actual subdivision requiring public water service until the time as all necessary facilities are built in accordance with the Water Department specifications and meet with the written approval of the Manager.

(C) The municipality reserves the right to participate in any or all phases of any development of any water facilities aforementioned in any subdivision requiring public water service. Conversely, the municipality reserves the right not to participate in any or all phases of the development of any water facilities aforementioned in these subdivisions.

(D) Ultimately, Water Department specifications and requirements relating to fire protection are established by the Fire Chief. All other specifications and requirements of the Water Department are established by the Town Manager. Any specifications or requirements for subdivisions requiring public water service may be subject to change based on the final design of the subdivision, and changes or revisions in the plat, or actual construction of facilities within the subdivision having requirements greater than those for which the water facilities were designed.

(E) Any specifications or requirements established by the Town Manager for subdivisions requiring public water service shall be considered null and void unless they are written in form and signed by the Town Manager. The specifications and requirements of the municipality regarding the public water systems are subject to change at any time and will be enforced from the date of change.

(Prior Code, Ch. 4, Art. V, § 4-482) (Ord. 432-06, passed 6-19-2006)

§ 150.255 GARBAGE DISPOSAL.

(A) The developer shall furnish sufficient automated containers which meet municipal standards to provide service to each increment of a subdivision as it is constructed.

(B) These containers will be provided at the developer's expense and shall become the property of the municipality.

(Prior Code, Ch. 4, Art. V, § 4-483) (Ord. 432-06, passed 6-19-2006)

§ 150.256 FIRE HYDRANTS.

Fire hydrants shall be installed at locations designated by the Site Plan Review Committee, upon advice by the Fire Chief and shall be installed in accordance with municipal standards and specifications.

(Prior Code, Ch. 4, Art. V, § 4-484) (Ord. 432-06, passed 6-19-2006)

§ 150.257 MONUMENTS.

Permanent monuments shall be installed in accordance with current municipal standards at all corners, angle points and points of curve and at all intersections. After all improvements have been installed, a registered land surveyor or civil engineer shall check the location of monuments and certify their accuracy.

(Prior Code, Ch. 4, Art. V, § 4-485) (Ord. 432-06, passed 6-19-2006)

§ 150.258 LOT CORNER.

Iron pipe or round reinforced steel bars not less than one-half inch in diameter shall be set at all corners, angle points and points of curve for each lot within the subdivision prior to the recording of the plat except that the Site Plan Review Committee may approve delay where topographic conditions make it necessary.

(Prior Code, Ch. 4, Art. V, § 4-486) (Ord. 432-06, passed 6-19-2006)

§ 150.259 STREET LIGHTS.

(A) Street lights shall be installed on all streets within the subdivision, or streets developed in conjunction with the subdivision, in accordance with municipal standards.

(B) All lights shall be installed on metal standards, fixtures and standards to be approved by the Planning Department and in a layout approved by the Town Engineer.

(C) Lighting for streets within the subdivision shall be at a level no less than 75% of the intensity recommended in current I.E.S. standards, and on perimeter streets, at a level no less than 50% of I.E.S. standards.

(D) All of the above improvements shall be installed at the expense of the developer.

(Prior Code, Ch. 4, Art. V, § 4-487) (Ord. 432-06, passed 6-19-2006)

§ 150.260 UTILITIES, ELECTRIC AND TELEPHONE.

All electric lines, except those of a greater than 69 KVA capacity, and all telephone lines shall be installed underground unless, upon recommendation of the Site Plan Review Committee, the Council finds that, due to subsurface soil conditions, it is impractical to do so. The developer shall be responsible for the requirements of this section and shall make the necessary arrangements with each of the public utility companies involved for the installation of under-ground facilities. Letters from each of the public utility companies indicating that the arrangements have been made shall be submitted to the Planning Department at the time the final subdivision plat is filed.

(Prior Code, Ch. 4, Art. V, § 4-488) (Ord. 432-06, passed 6-19-2006)

§ 150.261 TRAFFIC CONTROL SIGNS.

All traffic control signs shall be in accordance with the manual on foregoing, and all stop signs shall be installed at the locations recommended by the Town Engineer.

(Prior Code, Ch. 4, Art. V, § 4-489) (Ord. 432-06, passed 6-19-2006)

§ 150.262 STREET NAMING.

The developer shall propose the names of streets in a proposed subdivision subject to approval by the Site Plan Review Committee and the Police and Fire Departments at the preliminary plat stage.

(Prior Code, Ch. 4, Art. V, § 4-490) (Ord. 432-06, passed 6-19-2006)

§ 150.263 AS-BUILT DRAWINGS.

As-built plans shall be submitted by a registered civil engineer certifying that all work within the subdivision was constructed in accordance with the plans and specifications approved by the Council.

(Prior Code, Ch. 4, Art. V, § 4-491) (Ord. 432-06, passed 6-19-2006)

§ 150.264 PLANNED UNIT DEVELOPMENTS.

(A) *Local streets.* Local streets within a planned unit development (PUD) may be either public or private. If they are private, they shall be built to the following standards:

Minimum Width	***Paving Standards***
14 feet 1-way *	2 inch AC or double chip over 4 inches ABC or 6 inches DG
24 feet 2-way *	
* Distance measured from curb-face to curb-face.	

(1) *Curbs.* As approved by the Council, shall be either ribbon curb (M.A.G. specifications 220B), single curb (M.A.G. specifications 222 A or B) or roll-type (M.A.G. 220C) map or plat for record, sell any part of a subdivision or proceed with any improvement or other work on same.

(2) *Sidewalks.* As required and approved by the Council shall be built to M.A.G. standard detail 230 if required.

(3) *Right-of-way width.* Shall be negotiated between the Commission and the Council but in no case less than eight feet wider than the pavement width.

(B) *Public streets.* The following minimum specifications for public streets shall be applicable:

	Minimum Width	***Paving Standards***
Local streets	32 feet *	3 inches AC over 8 inches ABC
Collector and/or arterial	38 feet *	4 inches AC over 10 inches ABC
* Distance measured from curb-face to curb-face.		

(1) *Curbs.* Roll curb M.A.G. standard detail 220C.

(2) *Collector and arterial streets.* Vertical curb M.A.G. standard detail 220A.

(C) *Sidewalks.* Sidewalks shall be required on both sides of all public streets.

(1) *Local streets.* Four feet wide, built to M.A.G. standard detail 230, except the sidewalks may be waived for subdivisions with all lots of 14,000 square feet or more.

(2) *Collector and arterial streets.* Five feet wide, except that a four foot meandering sidewalk may be allowed as approved by the Site Plan Review Committee, the Commission and the Council.

(3) *Exception.* These provisions shall not apply in industrial zoned areas.

(4) *Improvements.* Where there are existing streets adjacent to the subdivision, subdivision streets shall be improved to the intercepting paving line of the existing streets. Temporary dead-end streets serving more than four lots shall be provided a graded and surfaced temporary turning circle.

(D) *Pedestrian ways.* Pedestrian ways shall be constructed with decomposed granite or similar surface and walk through blocks shall be constructed to a line and grade approved by the Town Engineer if required. These pedestrian ways shall be eight feet wide.

(E) *Street name signs.* Signs shall be placed at all street intersections and be in place by the time the street pavement is ready for use. Specifications for design, construction, location and installation shall be in accordance with the *Manual on Uniform Traffic Control Devices for Streets and Highways* as published by the United States Department of Transportation, Federal Highway Administration and all street name signs shall be approved by the Town Engineer.

(Prior Code, Ch. 4, Art. V, § 4-492) (Ord. 432-06, passed 6-19-2006)

§ 150.265 LOT SPLITS NOT REQUIRING A SUBDIVISION.

(A) Lot splits creating three parcels or less, do not require the submission and approval of preliminary and final plats under this chapter, provided that:

(1) The applicant has met with the Planning Director prior to submitting and application for a lot split to verify that the proposed lot split complies with all town regulations;

(2) All parcels meet the minimum parcel size of the current zoning;

(3) The proposed lot splits do not create or increase any new non-conforming structures related to building setbacks;

(4) A legal, 25-foot wide access easement, serving three or fewer parcels has been created, if necessary;

(5) The applicant provides all information required by the town, and has paid all required fees.

(B) The Planning Director shall make the determination as to administrative approval of the lot split application or refer the application to the planning and zoning commission for approval, approval with conditions, or denial.

(Prior Code, Ch. 4, Art. V, § 4-493) (Ord. 432-06, passed 6-19-2006)

§ 150.266 MINOR SUBDIVISION.

(A) *Approval of subdivision required.* Until a preliminary plat and final plat of a subdivision shall have been approved in accordance with this subchapter, no person proposing a subdivision within the town shall subdivide or file a record of survey, map or plat for record, or sell any part of a subdivision, or proceed with any improvement or other work on same.

(B) *Duties of subdivider.* While a subdivision is in the preliminary planning stage, the subdivider shall consult the Planning and Zoning Administrator to determine conformity to the general plan, the applicable specific plans, the zoning regulations and compliance with the provisions of these regulations and the requirements for the design and installation of public improvements as required by the town.

(C) *Preliminary plat and engineering drawings.* The subdivider shall cause to be prepared a preliminary plat of the proposed subdivision and other exhibits as specified herein. The Planning and Zoning Department shall review the preliminary plat and submit its recommendations to the Commission as specified herein. The Zoning Administrator, or his or her designee, may administratively approve the preliminary plat if they find that the minor subdivision meets all requirements of this chapter. If for any reason the Zoning Administrator, or his or her designee, decides not to administratively approve the minor subdivision, the approval of the minor subdivision will follow the same process as approval of a preliminary plat for a major subdivision.

(D) *Final plat approval and recording.* The subdivider shall cause to be prepared a final plat as specified in §§ 150.131 through 150.146 which shall conform substantially to the preliminary plat as approved. The Zoning Administrator, or his or her designee, may administratively recommend approval of the final plat, and forward the final plat on to Council for its consideration and approval. If for any reason the Zoning Administrator or his or her designee decides not to administratively recommend approval of the final plat, the approval of the final plat will follow the same process as approval of a final plat for a major subdivision. The approved and executed copy shall be recorded in the Pinal County Recorder's office after full compliance with these regulations, and one copy shall be filed with the Development Services Department and one with the Town Engineer.

(Prior Code, Ch. 4, Art. V, § 4-494) (Ord. 432-06, passed 6-19-2006)

§ 150.267 SPECIAL SUBMISSION CONDITIONS FOR MINOR SUBDIVISIONS.

The Zoning Administrator, or his or her designee, may waive certain submission requirements for minor subdivisions, when, in their judgement, the unique circumstances of the site do not require the submission of the data for the accurate review of the minor subdivision, provided; however, that the Zoning Administrator, or his or her designee, may reduce any requirements for physical improvements required by this chapter.

(Prior Code, Ch. 4, Art. V, § 4-495) (Ord. 432-06, passed 6-19-2006)

DEVELOPMENT IMPACT FEES

§ 150.280 DEVELOPMENT IMPACT FEES.

(A) *Title.* This section shall be known as the Development Impact Fee Ordinance of the Town of Florence and may be cited herein as "this section."

(B) *Intent and purpose.* This section is adopted for the purpose of promoting the health, safety and general welfare of the residents of the town by:

(1) Requiring new development to pay its proportionate share of the costs incurred by the town that are associated with providing necessary public services to new development.

(2) Setting forth standards and procedures for creating and assessing development impact fees consistent with the requirements of A.R.S. § 9-463.05.

(3) Setting forth procedures for administering the development impact fee program.

(C) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different means. Singular terms shall include their plural.

APPLICANT. A person who applies to the Town for a building permit.

APPURTENANCE. Any fixed machinery or equipment, structure or other fixture, including integrated hardware, software or other components, associated with a capital facility that are necessary or convenient to the operation, use, or maintenance of a capital facility, but excluding replacement of the same after initial installation.

AQUATIC CENTER. A facility primarily designed to host non-recreational competitive functions generally occurring within water, including, but not limited to, water polo games, swimming meets, and diving events. The facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities, including but not limited to, locker rooms, offices, snack bars, bleacher seating, and shade structures.

BUILDING PERMIT. Any permit issued by the town that authorizes vertical construction, increases square footage, authorizes changes to land use, or provides for the addition of a residential or non-residential point of demand to a water or wastewater system.

CAPITAL FACILITY. An asset having a useful life of three or more years that is a component of one or more categories of necessary public service provided by the town. A capital facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to or expansions of existing facilities, and associated financing and professional services. Wherever used herein, ***INFRASTRUCTURE*** shall have the same meaning as ***CAPITAL FACILITIES***.

CATEGORY OF NECESSARY PUBLIC SERVICE. Any one of the following types of capital facilities for which the town assesses development impact fees: road facilities, water facilities, wastewater facilities, park facilities, library facilities, fire facilities and police facilities.

CATEGORY OF DEVELOPMENT. A specific category of residential, commercial, or industrial land use against which a development impact fee is calculated and assessed. The town assesses development impact fees against the following categories of

development: single-family, multi-family. commercial, institutional and industrial.

COMMERCIAL LAND USE. A nonresidential use other than institutional or industrial as herein defined. Typical uses include shopping centers, office buildings, medical offices, banks, hotels, discount stores, supermarkets, home improvement stores, pharmacies, restaurants, bars, nightclubs, automobile sales and service, movie theaters, amusement arcades, bowling alleys, barber shops, laundromats, funeral homes, private vocational or technical schools, dance studios, health clubs, gasoline station stations, convenience stores, recording and broadcasting studios, veterinarian clinics and kennels, and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations.

CREDIT. A reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in an Infrastructure Improvements Plan.

DEVELOPER. An individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation, state agency, or other person or entity undertaking land development activity, and their respective successors and assigns.

DEVELOPMENT AGREEMENT. An agreement prepared in accordance with the requirements of A.R.S. § 9-500.05, and any applicable requirements of the Town Code.

DWELLING UNIT. A room or group of rooms in a residential building intended for occupancy as separate living quarters by a person or household, complete with cooking facilities.

EQUIPMENT. Machinery, tools, materials, and other supplies, not including vehicles, that are needed in conjunction with a capital facility to provide services, but excluding replacement of the same after initial development of the capital facility.

EXCLUDED LIBRARY FACILITY. Library facilities for which development impact fees may not be charged pursuant to A.R.S. § 9-463.05, including that portion of any library facility that exceeds 10,000 square feet, and equipment, vehicles or appurtenances associated with library operations.

EXCLUDED PARK FACILITY. Park and recreational facilities for which development impact fees may not be charged pursuant to A.R.S. § 9-463.05, including amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than 3,000 square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, or zoo facilities.

FEE REPORT. A written report developed pursuant to this section that identifies the methodology for calculating the amount of each development impact fee, explains the relationship between the development impact fee to be assessed and the net cost per service unit calculated in the Infrastructure Improvements Plan, and which meets other requirements set forth in A.R.S. § 9-463.05(E).

FINANCING OR DEBT. Any debt, bond, note, loan, interfund loan, fund transfer, or other debt service obligation used to finance the development or expansion of a capital facility.

FIRE FACILITIES. A category of necessary public services that includes fire stations, fire equipment, fire vehicles and all appurtenances for fire stations, as well as fire department administrative facilities. ***FIRE FACILITIES*** does not include vehicles or equipment used to provide administrative services, or helicopters or airplanes. ***FIRE FACILITIES*** does not include any facility that is used for training firefighters from more than one station or substation.

GENERAL PLAN. Refers to the overall land use plan for the town establishing areas of the town for different purposes, zones and activities.

GROSS FLOOR AREA. The total area of all floors of a structure measured from the outside surface of exterior walls, including for example halls, stairways, and elevator shafts, but excluding enclosed vehicle parking areas.

GROSS IMPACT FEE. The total development impact fee to be assessed against a subject development on a per unit basis, prior to subtraction of any credits.

INDUSTRIAL LAND USE. An establishment primarily engaged in the fabrication, assembly or processing of goods, or in the display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Typical uses include manufacturing plants, welding shops, wholesale bakeries, dry cleaning plants, bottling works, wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations and major mail processing centers.

INFRASTRUCTURE IMPROVEMENTS PLAN. A document or series of documents that meet the requirements set forth in A.R.S. § 9-463.05 to cover any category or combination of categories of necessary public services.

INSTITUTIONAL LAND USE. A governmental, quasi-public or institutional use, or a non-profit recreational use, not located in a shopping center. Typical uses include elementary, secondary or higher educational establishments, day care centers, hospitals, mental institutions, nursing homes, assisted living facilities, fire stations, city halls, courthouses, civic or convention centers, post offices, jails, libraries, museums, places of religious worship, military bases, airports and bus stations.

LAND USE ASSUMPTIONS. Projections of changes in land uses, densities, intensities and population for a service area over a period of at least ten years.

LEVEL OF SERVICE. A quantitative and/or qualitative measure of a category of necessary public service that is to be provided by the town to development in a particular service area, defined in terms of the relationship between the capacity or cost of capital facilities and the demand for those capital facilities.

LIBRARY FACILITIES. A category of necessary public services in which literary, musical, artistic, or reference materials are kept (materials may be kept in any form of media such as electronic, magnetic, or paper) for non-commercial use by the public in a facility. Libraries do not include excluded library facilities, although a library may contain, provide access to, or otherwise support an excluded library facility.

MULTI-FAMILY. A residential building containing two or more other dwelling units.

NECESSARY PUBLIC SERVICES. Shall have the meaning prescribed in A.R.S. § 9-463.05(T)(5).

NET COST PER SERVICE UNIT. The maximum amount that may be charged per service unit in a service area for a category of necessary public services, based on the existing or planned level of service less offsets, as determined in the Infrastructure Improvements Plan.

NONRESIDENTIAL LAND USE. A commercial, institutional or industrial land use, as herein defined.

OFFSET. An amount that is subtracted from the cost per service unit of providing necessary public services to account for those capital components of infrastructure, associated debt or existing deficiencies that will be paid for by a development through taxes, fees (except for development impact fees) and other revenue sources.

PARK FACILITIES. A category of necessary public services including but not limited to parks, swimming pools and related facilities and equipment located on real property not larger than 30 acres in area, as well as up to 30 acres of larger park facilities. ***PARK FACILITIES*** do not include excluded park facilities, although park facilities may contain, provide access to, or otherwise support an excluded park facility.

POLICE FACILITIES. A category of necessary public services, including vehicles and equipment, that are used by law enforcement agencies to preserve the public peace, prevent crime, detect and arrest criminal offenders, protect the rights of persons and property, regulate and control motorized and pedestrian traffic, train sworn personnel, and/or provide and maintain police records, vehicles, equipment, and communications systems. ***POLICE FACILITIES*** do not include vehicles and equipment used to provide administrative services, or helicopters or airplanes. ***POLICE FACILITIES*** do not include any facility that is used for training officers from more than one station or substation.

QUALIFIED PROFESSIONAL. Any one of the following:

(a) A professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to town planning, zoning, or impact development fees and holding a license issued by an agency or political subdivision of the state;

(b) A financial analyst, planner, or other non-licensed professional that is providing services within the scope of the person's education or experience related to town planning, zoning, or impact development fees; or

(c) Any other person operating under the supervision of one or more of the above.

RESIDENTIAL LAND USE. A single-family or multi-family use, as herein defined.

ROAD FACILITIES. A category of necessary public services consisting of town-owned arterial and major collector streets, including associated traffic signals, rights-of-way, bridges, culverts, storm drains and other necessary appurtenances.

SERVICE AREA. A specified area within the boundaries of the town or the area served by the town's water or wastewater

system within which the town will provide a category of necessary public services to development at a planned level of service. Some or all of the capital facilities providing service to a service area may be physically located outside of that service area.

SERVICE UNIT. A standardized measure of the demand generated for a category of necessary public service.

SINGLE-FAMILY. A dwelling unit that is not attached to any other dwelling unit.

SUBJECT DEVELOPMENT. A contiguous land area linked by a unified plan of development.

SWIMMING POOL. A public facility primarily designed and/or utilized for recreational non-competitive functions generally occurring within water, including, but not limited to, swimming classes, open public swimming sessions, and recreational league swimming/diving events. The facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities.

TOWN. The Town of Florence, Arizona.

USEFUL LIFE. The period of time in which an asset can reasonably be expected to be used under normal conditions, whether or not the asset will continue to be owned and operated by the town over the entirety of such period.

VEHICLE. Any device, structure, or conveyance utilized for transportation in the course of providing a particular category of necessary public services at a specified level of service, excluding helicopters and other aircraft.

WASTEWATER FACILITIES. A category of necessary public services consisting of those facilities necessary to provide wastewater service, including but not limited to sewers, lift stations, reclamation plants, wastewater treatment plants, and all other facilities for the collection, interception, transportation, treatment and disposal of wastewater, and any appurtenances for those facilities, but excluding lines less than ten inches in diameter.

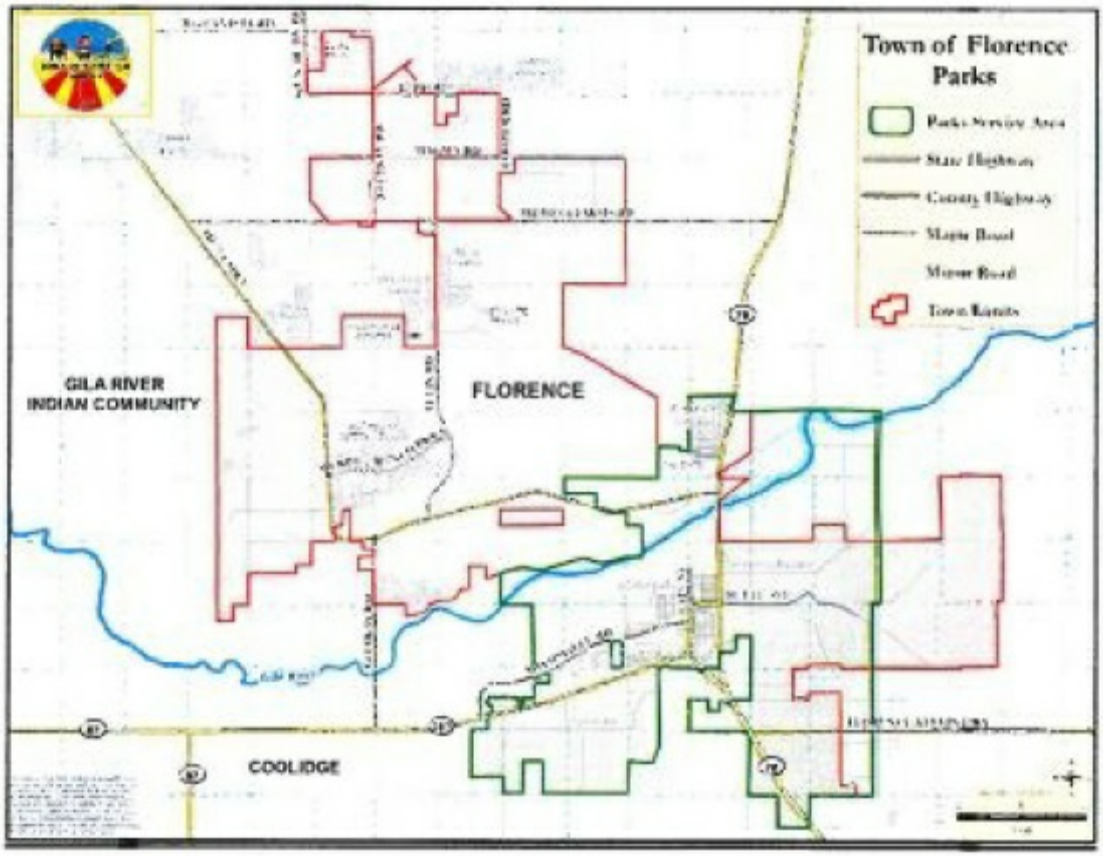
WATER FACILITIES. A category of necessary public services consisting of those facilities necessary to provide for potable water service, including the acquisition, supply, transportation, treatment, purification and distribution of water, and any appurtenances for those facilities, but excluding water meters and lines of 12 inches in diameter or less.

(D) *Applicability.*

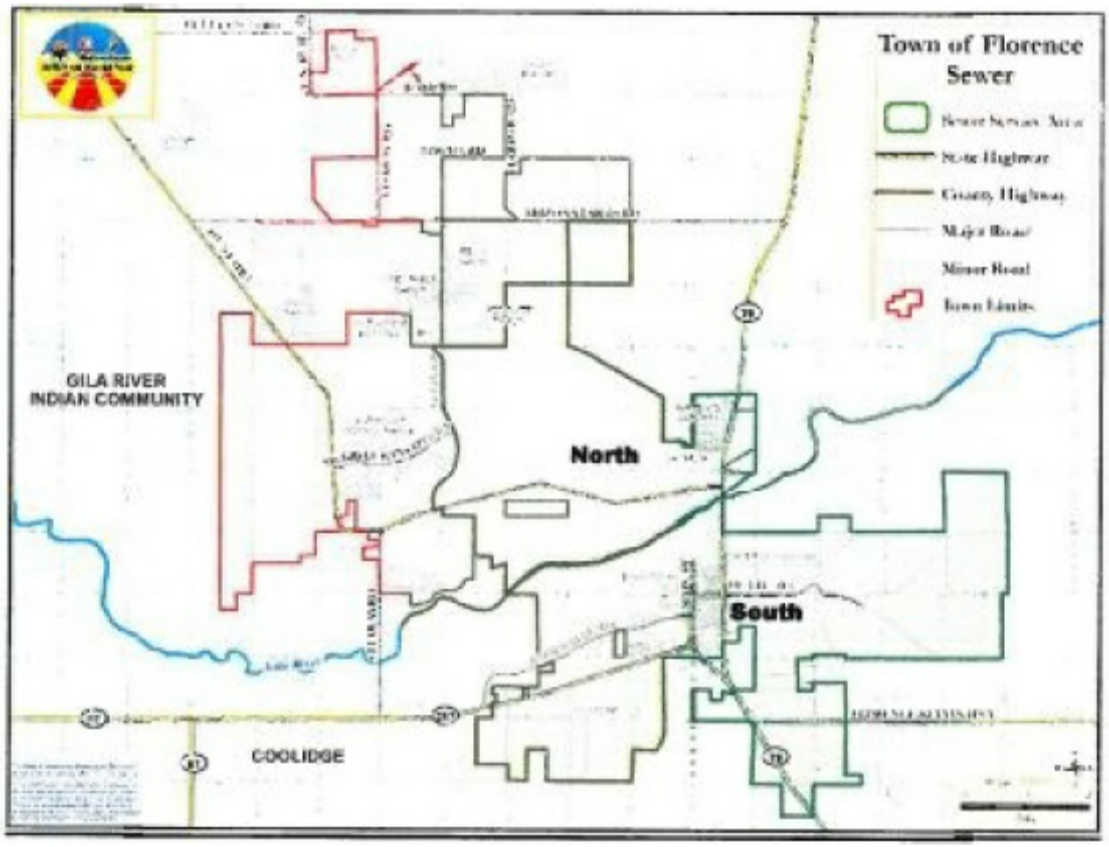
(1) *Service areas.* Except as otherwise provided herein, this section shall apply to all new development within any service area. The following service areas are hereby established.

(a) The service areas for road, fire, police and library development impact fees shall each encompass all of the territory within the corporate limits of the town, as those boundaries may be amended in the future through annexation.

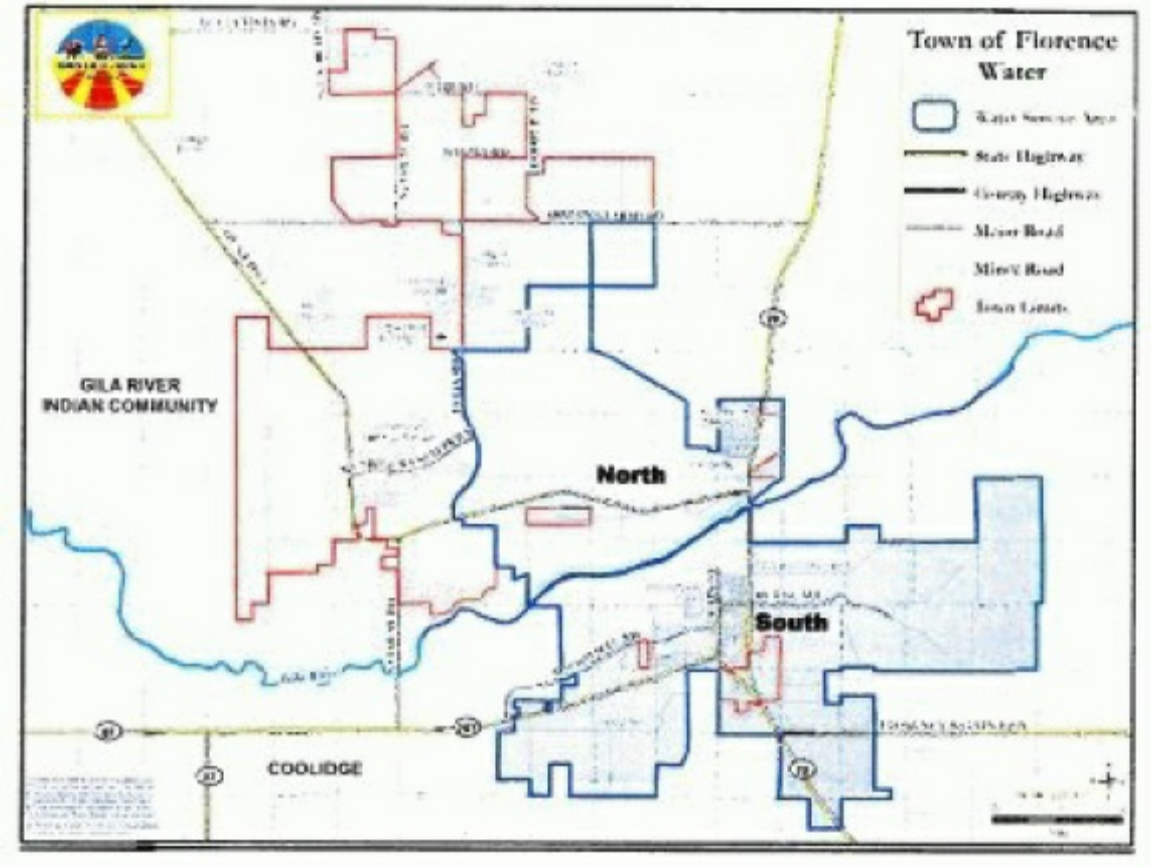
(b) The service area for park development impact fees shall be the area shown in the figure below.



(c) The two service areas for the water development impact fees shall be the areas north and south of the Gila River, shown in the figure below, as those areas may be expanded in the future through the extension of town water service.



(d) The two service areas for the wastewate r developm ent impact fees shall be the areas north and south of the Gila River, shown in the figure below, as those areas may be expanded in the future through the extension of town wastewater service.



(2) *Administration*. The Town Manager or his or her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this section.

(E) *Authority*.

(1) *Fee report and implementation*. The town may assess and collect a development impact fee for costs of necessary public services, including all professional services required for the preparation or revision of land use assumptions, Infrastructure Improvements Plan, fee report, development impact fee, and required reports or audits conducted pursuant to this section. Development impact fees shall be subject to the following requirements:

(a) The town shall develop and adopt a fee report that analyzes and defines the development impact fees to be charged in each service area for each capital facility category, based on the Infrastructure Improvements Plan and the net cost per service unit.

(b) No development impact fee shall exceed the net cost per service unit for any category of necessary public services for any category of development.

(c) No development impact fees shall be charged, or credits issued, for any capital facility that does not fall within one of the categories of necessary public services for which development impact fees are assessed by the town.

(d) Costs for necessary public services made necessary by new development shall be based on the same level of service provided to existing development in the same service area. Development impact fees may not be used to provide a higher level of service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing capital facilities that are serving existing development.

(e) Development impact fees may not be used to pay the town's administrative, maintenance, or other operating costs.

(f) Projected interest charges and financing costs can only be included in development impact fees to the extent they represent principal and/or interest on the portion of any financing or debt used to finance the construction or expansion of a capital facility identified in the Infrastructure Improvements Plan.

(g) All development impact fees charged by the town must be included in a fee schedule prepared pursuant to this section.

(h) All development impact fees shall meet the requirements of A.R.S. § 9-463.05.

(2) *Net cost per service unit.* The fee report shall summarize the costs of capital facilities necessary to serve new development

on a per service unit basis as defined and calculated in the Infrastructure Improvements Plan, less any required offsets, and shall recommend a development impact fee structure for adoption by the town. The actual impact fees to be assessed shall be adopted in the form of impact fee schedules.

(F) *Administration.*

(1) *Separate accounts.* Development impact fees collected pursuant to this section shall be placed in separate, interest-bearing accounts for each capital facility category within each service area.

(2) *Limitations on use of fees.* Development impact fees and any interest thereon collected pursuant to this section shall be spent to provide capital facilities associated with the same category of necessary public services in the same service area for which they were collected, including costs of financing or debt used by the town to finance such capital facilities and other costs authorized by this section that are included in the Infrastructure Improvements Plan.

(3) *Time limit.* Development impact fees collected after July 31, 2014 shall be used within ten years of the date upon which they were collected for all categories of necessary public services except for water and wastewater facilities. For water facilities or wastewater facilities collected after July 31, 2014, development impact fees shall be used within 15 years of the date upon which they were collected. Any funds not so used shall be subject to refund pursuant to § 150.280(O). Whether fees paid by a particular development have been spent shall be determined on a first-in, first-out basis.

(G) *Land use assumptions.* The Infrastructure Improvements Plan shall be consistent with the town's current land use assumptions for each service area and each category of necessary public services as adopted by the town pursuant to A.R.S. § 9-463.05. Prior to the adoption or amendment of an Infrastructure Improvements Plan, the town shall review and evaluate the land use assumptions on which the Infrastructure Improvements Plan is to be based to ensure that the land use assumptions within each service area conform to the general plan.

(H) *Infrastructure Improvements Plan.* The Infrastructure Improvements Plan shall be developed by qualified professionals and may be based upon or incorporated within the town's Capital Improvements Plan. The Infrastructure Improvements Plan shall:

(1) Specify the categories of necessary public services for which the town will impose a development impact fee.

(2) Define and provide a map of one or more service areas within which the town will provide each category of necessary public services for which development impact fees will be charged.

(3) Identify and describe the land use assumptions upon which the Infrastructure Improvements Plan is based in each service area.

(4) Analyze and identify the existing level of service provided by the town to existing development for each category of necessary public services in each service area.

(5) Identify the level of service to be provided by the town for each category of necessary public services in each service area.

(6) Estimate the total number of existing and future service units within each service area based on the town's land use assumptions and projected new service units in each service area.

(7) Analyze and identify the projected utilization of any available excess capacity in existing capital facilities, and the new or expanded capital facilities that will be required to provide and maintain the planned level of service in each service area for each category of necessary public services, resulting from projected new service units for a period not to exceed ten years. Nothing in this division shall prohibit the town from additionally including in its Infrastructure Improvements Plan projected utilization of, or needs for capital facilities for a period longer than ten years, provided that the costs of such capital facilities are excluded from the calculation of the net cost per service unit.

(8) Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded capital facilities identified in the Infrastructure Improvements Plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions.

(I) *Adoption and modification procedures.*

(1) *Adopting or amending the infrastructure improvements plan.* The Infrastructure Improvements Plan shall be adopted or amended subject to the following procedures:

(a) *Major amendments.* Except as provided in division (b) below, the adoption or amendment of an Infrastructure

Improvements Plan and underlying land use assumptions shall occur according to the following schedule:

1. At least 60 days before the public hearing regarding a new or updated Infrastructure Improvements Plan, the town shall provide public notice of the hearing and post the Infrastructure Improvements Plan and the underlying land use assumptions on its website: the town shall additionally make available to the public the documents used to prepare the Infrastructure Improvements Plan and underlying land use assumptions and the amount of any proposed changes to the net cost per service unit.

2. The town shall conduct a public hearing on the Infrastructure Improvements Plan and underlying land use assumptions.

3. Following the public hearing, the town may amend the Infrastructure Improvements Plan and underlying land use assumptions, provided that town shall post the amended

Infrastructure Improvements Plan and underlying land use assumptions on its website and make them available to the public at least 14 days prior to approval or disapproval.

4. The town shall approve or disapprove the Infrastructure Improvements Plan and underlying land use assumptions at least 30 days, but no more than 60 days, following the public hearing.

(b) *Minor amendments.* The town may update the infrastructure improvements plan and/or its underlying land use assumptions without a public hearing if all of the following apply:

1. The changes in the Infrastructure Improvements Plan and/or the underlying land use assumptions will not add any new category of necessary public services to any service area.

2. The changes in the Infrastructure Improvements Plan and/or the underlying land use assumptions will not increase the level of service to be provided in any service area.

3. Based on an analysis of the fee report and the town's adopted development impact fee schedules, the changes in the Infrastructure Improvements Plan and/or the underlying land use assumptions would not, individually or cumulatively with other amendments undertaken pursuant to this section, cause a development impact fee in any service area to be increased by more than 5% above the development impact fee that is provided in the current development impact fee schedule.

4. At least 30 days prior to the date that the any amendment pursuant to this section is adopted, the town shall post the proposed amendments on the town website.

(2) *Amendments to the fees.* Any adoption or amendment of a fee report and fee schedule shall occur according to the following schedule:

(a) The public hearing on the fees must be held at least 30 days after the approval of the Infrastructure Improvements Plan as provided in division (1) above. The town must give at least 30 days notice prior to the hearing, provided that this notice may be given on the same day as the approval of the Infrastructure Improvements Plan.

(b) The town shall make the proposed fees available to the public on the town's website 30 days prior to the public hearing described in division (2)(a) above.

(c) The amended fees may be adopted by the town no sooner than 30 days, and no later than 60 days, after the hearing described in division (2)(a) above.

(d) The development fee schedules adopted pursuant to this section shall become effective 75 days after adoption by the town.

(J) *Required updates.*

(1) *Revising the Infrastructure Improvements Plan.* Except as provided in division (2) below, not later than every five years the town shall update the applicable land use assumptions. Infrastructure Improvements Plan and fee report related to each category of necessary public services pursuant to the procedures outlined in division (I). Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan.

(2) *Determination of no changes.* Notwithstanding division (1) above, if the town determines that no changes to an Infrastructure Improvements Plan, underlying land use assumptions, or fee report are needed, the town may elect to continue the existing Infrastructure Improvements Plan and fee report without amendment by providing notice as follows:

(a) Notice of the determination shall be published at least 180 days prior to the end of the five-year period described in division (J)(1) of this section.

(b) The notice shall identify the Infrastructure Improvements Plan and fee report that shall continue in force without amendment.

(c) The notice shall provide a map and description of the service area(s) covered by the Infrastructure Improvements Plan and fee report.

(d) The notice shall identify an address to which any resident of the town may submit, within 60 days, a written request that the town update the Infrastructure Improvements Plan, underlying land use assumptions, and/or fee report and the reasons and basis for the request. The town shall consider and respond within 30 days to any timely requests submitted.

(K) *Assessment and collection.*

(1) *Assessment.* Development impact fees shall be assessed on new development according to the provisions of this section and the following fee schedules.

(a) *Non-utility fee schedule.* Road, park, fire, police and library development impact fees shall be assessed according to the following fee schedule. Road and fire fees in columns labeled "CFD" apply to development located within the Merrill Ranch Community Facilities Districts No. 1 and No. 2. Road and fire fees in columns labeled "non-CFD" apply to development located within the town limits but outside the Merrill Ranch Community Facilities Districts No. 1 and No. 2. Park fees apply only to development located within the park service area. Police and library fees apply town-wide. Residential land uses shall be assessed per dwelling unit. Nonresidential land uses shall be assessed per 1,000 square feet of gross floor area.

	Road			***Fire***			
Land Use	***non-CFD***	***in CFD***	***Park****	***non-CFD***	***in CFD***	***Police***	***Library***
Single-Family (unit)	$2,086	$614	$1,417	$917	$607	$607	$203
Multi-Family (unit)	$1,313	$403	$1,148	$743	$492	$492	$164
Commercial (1,000 sf)	$3,141	$964	$170	$660	$437	$437	$24
Institutional (1,000 sf)	$1,733	$532	$198	$605	$401	$401	$28
Industrial (1,000 sf)	$1,015	$312	$128	$202	$134	$134	$18
*applicable to new development in park service area only							

(b) *Utility fee schedule.* Water and wastewater development impact fees shall be assessed according to the following fee schedule. Water and wastewater fees apply only to customers of the town's water and wastewater systems located in the water and wastewater service areas. Water and wastewater fees shall not be assessed on property located within the North Florence Improvement District. Water and wastewater fees are based on the size and type of the water meter. For wastewater customers that are not also water customers, the wastewater fee shall be based on the water meter size and type that is appropriate for the customer, as determined by the Town Engineer.

Meter Size	***Type***	***Water***	***Wastewater***
5/8" x 3/4"	Disc-Resid.*	$1,980	$2,140
5/8" x 3/4"	Disc-Other	$1,980	$2,782

1"	Disc	$4,950	$7,062
1 1/2"	Disc	$9,900	$14,338
2"	Disc	$15,840	$22,898
3"	Compound	$31,680	$45,582
3"	Turbine	$34,650	$49,862
4"	Compound	$49,500	$71,262
4"	Turbine	$59,400	$85,600
6"	Compound	$99,000	$142,738
6"	Turbine	$123,750	$178,262
8"	Turbine	$178,200	$256,800
10"	Turbine	$287,100	$413,662
12"	Turbine	$425,700	$613,538
*applicable rate for single-family customers			

(2) *Collection*. Development impact fees, together with administrative charges assessed pursuant to division (K)(2)(e) below, shall be calculated and collected prior to issuance of permission to commence development; specifically:

(a) Unless otherwise specified pursuant to a development agreement adopted pursuant to this section, development impact fees shall be paid prior to issuance of a building permit according to the current development impact fee schedule for the applicable service area(s) as adopted pursuant to this section, or according to any other development impact fee schedule as authorized in division (K)(4).

(b) If a building permit is not required for the development, but water or wastewater connections are required, any and all development impact fees due shall be paid at the time the water service connection is purchased. If only a wastewater connection is required, the development impact fees shall be paid prior to approval of a connection to the sewer system.

(c) No building permit, water or sewer connection, or certificate of occupancy shall be issued if a development impact fee is not paid as directed in the previous paragraphs.

(d) If the building permit is for a change in the type of building use, an increase in square footage, a change to land use, or an addition to a residential or nonresidential point of demand to the water or wastewater system, the development impact fee shall be assessed on the additional service units resulting from the expansion or change, and following the development impact fee schedule applicable to any new use type.

(e) For issued permits that expire or are voided, development impact fees and administrative charges shall be as follows:

1. If the original permittee is seeking to renew an expired or voided permit, and the development impact fees paid for the development have not been refunded, then the permittee shall pay the difference between any development impact fees paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.

2. If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit applicant shall pay the full development impact fees specified in the fee schedule in effect at the time that the permits are reissued or renewed. If the original permittee has assigned its rights under the permits to the new permit applicant, the new permit applicant shall pay development impact fees as if it were the original permittee.

(3) *Exemptions*. Development impact fees shall not be owed under either of the following conditions:

(a) Development impact fees have been paid for the development and the permit(s) which triggered the collection of the development impact fees have not expired or been voided.

(b) The approvals that trigger the collection of development impact fees involve modifications to existing development that do not result in an increase in the number of service units.

(4) *Temporary exemption from fee increases*. New developments in the town shall be temporarily exempt from increases in

development impact fees that result from the adoption of new or modified development impact fee schedules, as follows.

(a) *Single-family uses.* On or after the day that the first building permit is issued for a single-family residential development, the town shall, at the permittee's request, provide the permittee with an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that the first building permit is issued, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same single-family residential development shall not be subject to any new or modified development impact fee schedule.

(b) *Nonresidential and multi-family uses.* On or after the day of approval of a site plan, or if no site plan is required for the development the approval of the final subdivision plat, for a nonresidential or multi-family development, the town shall, at the permitee's request. provide the permittee with an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that final development approval of a site plan or final subdivision plat is given, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same development shall not be subject to any new or modified development impact fee schedule.

(c) *Changes to site plans and subdivision plats.* Notwithstanding the other requirements of this section, if changes are made to a development's final site plan or subdivision plat that will increase the number of service units after the issuance of a grandfathered development impact fee schedule, the town may assess any new or modified development impact fees against the additional service units.

(d) *Fee reductions provided.* If the town reduces the amount of an applicable development impact fee during the period that a grandfathered development impact fee schedule is in force, the town shall assess the lower development impact fee.

(L) *Credits and credit agreements.*

(1) *Eligibility of capital facility.* All development impact fee credits must meet the following requirements.

(a) One of the following is true:

1. The capital facility, or the financial contribution toward the capital facility, that will be provided by the developer and for which a credit will be issued must be identified in an adopted Infrastructure Improvements Plan and fee report as a capital facility for which a development impact fee was assessed: or

2. The applicant must demonstrate to the satisfaction of the town that, given the class and type of improvement, the subject capital facility should have been included in the Infrastructure Improvements Plan in lieu of a different capital facility that was included in the Infrastructure Improvements Plan and for which a development impact fee was assessed. If the subject capital facility is determined to be eligible for a credit in this manner, the town shall amend the Infrastructure Improvements Plan to (i) include the subject replacement facility and (ii) delete the capital facility that will be replaced.

(b) The subject development is located within the service area of the eligible capital facility.

(c) Credits shall not be available for any infrastructure provided by a developer if the cost of the infrastructure will be repaid to the developer by the town through another agreement or mechanism. To the extent that the developer will be paid or reimbursed by the town or an improvement district for any contribution, payment, construction, or dedication from any town funding source, any credits claimed by the developer shall be reduced by any amounts to be paid or reimbursed by the town or improvement district.

(2) *Calculation of credits.* Credit amounts will be based on that portion of the costs for an eligible capital facility identified in the adopted Infrastructure Improvements Plan for which a development fee was assessed pursuant to the fee report. If the gross impact fee for a particular category of necessary public service is adopted at an amount lower than the net cost per service unit, the amount of any credit shall be reduced in proportion to the difference between the net cost per service unit and the gross impact fee adopted. A credit shall not exceed the actual costs the applicant incurred in providing the eligible capital facility. The amount of the credit shall be determined by the Town Engineer.

(3) *Application of credits.* Unless otherwise provided in a development agreement, credits shall be applied to reduce the amount of the development impact fees otherwise due for the subject development. Credits shall be applied on a first-come, first-served basis until the amount of the credit has been exhausted or the subject development has been completed. Credits shall not be transferable to another development.

(4) *Effective date of credits.* Unless otherwise provided in a development agreement, credits shall become effective when the amount of the credit has been determined by the Town Engineer and the improvement, dedication or financial contribution has been accepted by the town. Prior to credits becoming effective, development impact fees for the subject development shall be due and

payable in full, but shall be refunded to the fee paver in whole or part, as applicable, after the credits become effective.

(5) *Issuance of credits.* Credits may be issued and applied toward the gross impact fees due from a development, subject to the following conditions.

(a) Credits issued for an eligible capital facility may only be applied to the development impact fee due for the applicable category of necessary public services, and may not be applied to any fee due for another category of necessary public services.

(b) Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that credits may be released for reuse on the same subject development if a building permit for which the credits were issued has expired or been voided and is otherwise eligible for a refund under this section.

(6) *Life of credits.* Unless otherwise provided in a development agreement, credits must be used within ten years from their effective date.

(M) *Development agreements.* Development agreements containing provisions regarding development impact fees, development impact fee credits, and/or disbursement of revenues from development impact fee accounts shall comply with the following provisions.

(1) *Development agreement required.* A development agreement is required to authorize any of the following:

(a) To issue credits prior to the town's acceptance of an eligible capital facility, provided that the development agreement specifically states the form and value of the security (i.e. bond, letter of credit, and the like) to be provided to the town prior to issuance of any credits. The town shall determine the acceptable form and value of the security to be provided.

(b) To transfer credits to a parcel that is within the same service area but outside the subject development.

(c) To reimburse the developer of an eligible capital facility using funds from development impact fee accounts. Funds reimbursed to developers from impact fee accounts for construction of an eligible capital facility must be utilized in accordance with applicable law for the use of town funds in construction or acquisition of capital facilities, including A.R.S. §§ 34-201 *et seq*.

(d) To allocate different credit amounts within a subject development in a manner other than first-come, first-served.

(e) To allow development impact fees for a single-family residential development to be paid at a later time than the issuance of a building permit, provided that a development impact fee may not be paid later than the 15 days after the issuance of the certificate of occupancy for that dwelling unit. The development agreement shall provide for the value of any deferred development impact fees to be supported by appropriate security, including a surety bond, letter of credit, or cash bond.

(f) *To waive development impact fees.* If the town agrees to waive any development impact fees assessed on development in a development agreement, the town shall reimburse the appropriate development impact fee account for the amount that was waived.

(g) To allow the use of credits to extend beyond ten years of their effective date.

(2) *General requirements.* All development agreements shall be prepared and executed in accordance with A.R.S. § 9-500.05 and any applicable requirements of the Town Code.

(3) *No obligation.* Nothing in this section obligates the town to enter into any development agreement or to authorize any type of credit arrangement permitted by this section.

(N) *Appeals.* A development impact fee determination by town staff may be appealed in accordance with the following procedures:

(1) *Limited scope.* An appeal shall be limited to disputes regarding the appropriate land use category or other matters relating to the determination of the number of new service units for a specific development, or the amount of a credit.

(2) *Form of appeal.* An appeal shall be initiated on such written form as the town may prescribe, setting forth, with particularity, the basis of the protest, the development impact fees involved and the relief requested. The appeal shall be filed within 30 days after the determination was made, in writing and prior to paving the development impact fees.

(3) *Decision.* The Town Manager shall approve or deny the protest, in whole or in part, within 60 days after its submittal to the town. The Town Manager's determination shall be provided in writing to the property owner and the Town Council and shall be final unless, within 30 days after the Town Manager's determination, a majority of the Town Council votes to hold a public hearing on the appeal. In such case, the Town Council shall hold a public hearing and shall make a determination within 30 days after the public hearing. The decision of the Town Council shall be based on the applicable provisions of this section, and shall be final.

(4) *Fees during pendency.* Building permits may be issued during the pendency of an appeal if the applicant (a) pays the full impact fee calculated by the town at the time the appeal is filed or (b) provides the town with financial assurances in the form acceptable to the Town Manager or authorized designee equal to the full amount of the impact fee. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered, and a refund paid if warranted. If the appeal is denied by the Town Council, and the applicant has provided the town with financial assurances, the applicant shall deliver the full amount of the impact fee to the town within ten days of the final decision on the appeal. If the applicant fails to deliver the full amount of the impact fees when required by this section, the town may draw upon such financial assurance instrument(s) as necessary to recover the full amount of the impact fees due from the applicant.

(O) *Refunds.*

(1) *Generally.* A refund (or partial refund) will be paid to any current owner of property within the town who submits a written request to the town and demonstrates that one of the following applies.

(a) The permit(s) that triggered the collection of the development impact fee have expired or been voided prior to the commencement of the development for which the permits were issued and the development impact fees collected have not been expended, encumbered, or pledged for the repayment of financing or debt; or

(b) The owner of the subject real property or its predecessor in interest paid a development impact fee for the applicable capital facility on or after August 1, 2014, and one of the following conditions exists:

1. The capital facility designed to serve the subject real property has been constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity, and the service which was to be provided by that capital facility has not been provided to the subject real property from that capital facility or from any other infrastructure.

2. After collecting the fee to construct a capital facility the town fails to complete construction of the capital facility within the time period identified in the infrastructure improvements plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that capital facility or any other infrastructure.

3. For a category of necessary public services other than water or wastewater facilities, any part of a development impact fee is not spent within ten years of the town's receipt of the development impact fee.

4. Any part of a development impact fee for water or wastewater facilities is not spent within 15 years of the town's receipt of the development impact fee.

5. The development impact fee was calculated and collected for the construction cost to provide all or a portion of a specific capital facility serving the subject real property and the actual construction costs for the capital facility are less than the construction costs projected in the infrastructure improvements plan by a factor of 10% or more. In this event, the current owner of the subject real property shall, upon request, be entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to the construction cost and the amount the development impact fee would have been calculated to be if the actual construction cost had been included in the fee report. The refund contemplated by this section shall relate only to the costs specific to the construction of the applicable capital facility and shall not include any related design, administrative, or other costs not directly incurred for construction of the capital facility that are included in the development impact fee as permitted by A.R.S. § 9-463.05.

(2) *Earned interest.* A refund of a development impact fee shall include any interest actually earned on the refunded portion of the development impact fee by the town from the date of collection to the date of refund. All refunds shall be made to the record owner of the property at the time the refund is paid.

(3) *Refund to government.* If a development impact fee was paid by a governmental entity, any refund shall be paid to that governmental entity.

(P) *Oversight.*

(1) *Annual report.* Within 90 days of the end of each fiscal year, the town shall file with the Town Clerk an unaudited annual report accounting for the collection and use of the fees for each service area and shall post the report on its website in accordance with A.R.S. § 9-463.05(N) and (O), as amended.

(2) *Biennial audit.* In addition to the annual report described in division (1) above, the town shall provide for a biennial, certified audit of the town's land use assumptions, Infrastructure Improvements Plan and development impact fees.

(a) An audit pursuant to this section shall be conducted by one or more qualified professionals who are not employees or officials of the town and who did not prepare the Infrastructure Improvements Plan.

(b) The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.

(c) The audit shall describe the level of service in each service area, and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development impact fee.

(d) The town shall post the findings of the audit on the town's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.

(e) For purposes of this section a certified audit shall mean any audit authenticated by one or more of the qualified professionals conducting the audit.

(Ord. 598-13, passed 9-16-2013)

TECHNICAL CODES

§ 150.300 CODES ADOPTED.

(A) The following publications are adopted by reference.

(1) *International Building Code, 2006 Edition;*

(2) *International Residential Code, 2006 Edition;*

(3) *International Mechanical Code, 2006 Edition;*

(4) *International Plumbing Code, 2006 Edition;*

(5) *International Property Maintenance Code, 2006 Edition;*

(6) *International Fuel Gas Code, 2006 Edition;*

(7) *International Energy Conservation Code, 2006 Edition;*

(8) *National Electrical Code, 2005 Edition;*

(9) *International Accessible and Usable Buildings and Facilities Code, 2003 Edition;* and

(10) *International Fire Code, 2006 Edition, including all Appendices.*

(B) *Addendums and alternatives to International Residential Code, 2006 Edition.*

(1) Under the authority of IRC Section 104.11, Alternative Methods, the town will approve a written request to allow the use of the provisions of the 2000 or 2003 IRC Section 401.3 for drainage designs.

(2) Under IRC Section N1103.2.1, the following table shall be incorporated to allow for trade-off options:

Trade-off Options for R-8 Duct Insulation
AC, Insulation and Fenestration Requirements by Component (a)
(CMOD 060366)

Climate Zone 2	***SEER Rating***	***Duct Insulation (R-Value)***		***Fenestration (c)***		***Insulation R-Value***	
		Uncond Space	***Floor Trusses (d)***	***U Factor***	***SHGC***	***Wall Cavity***	***Ceiling***

IECC (b) Requirement	13	8	6	.75	.40	13	30
Option A	14	6	6	.75	.40	13	30
Option B	13	6	6	.64	.35	13	30
Option C	13	6	6	.75	.40	19	30
Option D	National energy efficiency programs such as Energy Star, Energy Star Plus, Engineered for Life, and Environments for Living shall be deemed as meeting the requirements for energy compliance. Other methods shall be approved by the Town Building Official through modification, as stated in Section 404.4 of the 2004 IECC.						
Option E	13	6	6	Any other combination of fenestration and insulation R-Values where the annual energy cost is less than or equal to the annual energy cost of the IECC Requirement. (See IECC Section 404)			
(a) R-values are minimums. U-factors and SHGC are maximums. R-19 shall be permitted to be compressed into a 2x6 cavity.							
(b) From Table 402.1 in the 2004 IECC Supplement and Table 402.1.1 in the 2006 IECC.							
(c) The fenestration U-factor column includes skylights. The SHGC column applies to all glazed fenestration.							
(d) Per the exception to 403.2.1, uninsulated ducts are permitted when they are located completely inside the building envelope.							
Application to existing approved standard plans:							
. Plot plan applications must include which option will be utilized. Town will note option on permit to be posted on site.							
. Options D and E require energy calculations attached to town approved field set of plans.							

(C) *Addendums and alternatives to International Fire Code, 2006 Edition.*

(1) Under IFC Section 903.2.7 Group R: An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area, except this provision shall not be mandatory for one and two family dwellings.

(2) Under IFC Section 903.2.7.1 Group R, Division 4: All Group R Division 4 occupancies licensed by the Department of Health

Services for more than five residents or day care shall be required to install a residential fire sprinkler system for the livable area of the building. If any portion of the patio has livable space directly above the patio, the patio space shall have fire sprinkler protection below the livable space.

(Prior Code, Ch. 4, Art. VII, § 4-556) (Ord. 432-06, passed 6-19-2006; Ord. 475-07, passed 10-15-2007; Ord. 503-09, passed 3-16-2009; Am. Ord. 569-12, passed 1-17-2012)

§ 150.301 BOARD OF APPEALS.

(A) *Creation, membership, purpose, filing deadline.*

(1) In order to hear and decide appeals of orders, decisions or determinations made by the Building Official, or Fire Code Official, relative to the application and interpretation of the town's adopted technical codes, there shall be and is hereby created a Board of Appeals (the "Board"). The Board shall consist of five voting members, who are qualified by experience and training to pass upon matters pertaining to building construction, who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protections systems and the town's adopted technical codes. Members shall not be employees of the town. Members may include persons who reside outside the boundaries of the town. The Building Official and Fire Code Official shall be ex officio members of the Board and shall act as secretary to the Board, but they shall have no vote upon any matter before the Board.

(2) The Board is appointed by the Town Council and shall hold office at the pleasure of the Town Council. The Board shall adopt rules of procedure for conducting its business.

(3) An application for appeal by an aggrieved person shall be based on a claim that the true intent of the relevant technical code or the rules legally adopted by the town have been incorrectly interpreted, the provisions of the code do not fully apply, an equally good or better form of construction is proposed, or an equivalent method of protection or safety is proposed. The Board shall provide a means by which aggrieved persons, after having proceeded through the administrative appeal process, may have a method by which to appeal said decision or regulations.

(4) The administrative appeal is the start of the appeal process to the town's adopted technical codes. It is a weekly, no fee, informal procedure in which the applicant and Building Official and/or Fire Code Official meet to resolve the item under consideration.

(5) Appeals to the administrative appeal process or Board of Appeals are to be made within 20 calendar days from receiving such notice of a final decision by the Building Official or Fire Code Official, on the form provided by the Building Official.

(B) *Powers.*

(1) The Board may approve the use of alternate materials or methods of construction; provided the alternate is for the purpose intended and the equivalent of that prescribed in the town's adopted technical codes in suitability, strength, effectiveness, fire-resistance, durability, safety, and sanitation.

(2) The Board on request or on its own motion, may provide reasonable interpretation of the technical provisions of the adopted technical codes in special cases when it appears that the provisions of the code are inadequate and do not cover the point in question. ***TECHNICAL PROVISIONS*** shall mean all provisions except the administrative provisions.

(3) Any person directly affected by a decision of the Building Official or Fire Code Official applying to the technical provisions of the adopted technical codes or to an alternate material or method of construction may request to appear before the Board.

(4) The Board shall have no authority to waive requirements of the technical codes.

(5) Any person directly affected by a decision of the Building Official or Fire Code Official or a notice or order issued under the technical codes shall have the right to appeal to the Board of Appeals, provided that a written application to appeal is filed in the office of the Town Clerk within 20 days after the decision, notice, or order was served. Application for appeal shall be based on a claim that: the true intent of the relevant technical code or the rules legally adopted by the town have been incorrectly interpreted, the provisions of the code do not fully apply, an equally good or better form of construction is proposed, or an equivalent method of protection or safety is proposed. The Board shall have no authority to waive the requirements of the technical codes.

(6) The Board may recommend new legislation to the Town Council, provided such is consistent therewith.

(C) *Meetings.*

(1) *General.* Upon receipt, in proper form, of the notice of appeal, the Board shall proceed to hold a public hearing upon the appeal at which all persons whose property is directly affected and the general public shall be given an opportunity to be heard.

(2) The Town Council will receive and file all minutes of the Board in a public meeting. The Board's minutes will include all Board proceedings, showing the vote of each member and all actions taken shall be kept. Records of its examination, minutes, and other official actions shall be filed in the office of the Town Clerk and shall be open to public inspection except as otherwise specifically provided by law.

(3) The Board shall hold one regular meeting a month unless otherwise directed by the Chairman. Special Board meetings may be called by the Building Official, Fire Code Official, Chairman, or two members of the Board.

(4) *Quorum.* Three members of the Board shall constitute a quorum. The affirmative vote of the majority of members present shall be required for the passage of any matter before the Board.

(5) *Staying of proceedings.* An appeal stays all proceedings in the matter appealed from, unless the Building Official or Fire Code Official certifies to the Board that, in his/her opinion by the facts stated in the certificate, there is reasonable cause that a stay could cause a hazard or is otherwise dangerous to human life or the public welfare. Upon such certification, proceedings shall not be stayed, except by a restraining order granted by a Court of Record on application and notice to the Building Official and Fire Code Official.

(D) *Appointment.*

(1) *General.* The Board shall consist of five members appointed by the Town Council. Members may be made up of qualified persons serving on town boards or commissions or that may be otherwise qualified through their profession. Members may include persons who reside outside the boundaries of the town. Those persons who are currently Board members shall continue to hold their positions pursuant to the terms and conditions of this chapter.

(2) *Officers.* The Board shall elect a Chairman and Vice-Chairman from among its members, neither of whom shall be an ex officio member. The Chairman (or the acting Chairman in the Chairman's absence or disqualification) shall have the power to administer oaths and take evidence.

(3) *Membership of Board.* The Board of Appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to building construction and property maintenance and who are not employees of the town. The Building Official and Fire Code Official shall be ex-officio members but shall not vote on any matters before the Board.

(4) *Term.* The term of office of a member shall be staggered and overlapping four years. The Chairman and Vice-Chairman shall serve for a one-year period or until their successors are elected.

(E) *Administrative appeal.* Whenever an applicant wishes to appeal the decision of the Building Official or Fire Code Official because of code interpretation, unreasonable hardship, special circumstances/conditions that are not self-imposed, or other acceptable reasons prior to the issuance of a final Certificate of Occupancy, such no fee appeal may be made to be heard by the Building Official or Fire Code Official as follows:

(1) The applicant shall file a written appeal fully describing the situation, on or before 12:00 p.m. Friday of each week. The application shall bear the name, address, and signature of the applicant, along with a description of the matter in sufficient detail to provide reasonable notice to the Building Official or Fire Code Official of the issues to be presented.

(2) The appeal will be heard at a regular time to be specified by the Building Official.

(3) The Building Official or Fire Code Official may use a nonvoting hearing committee consisting of such staff or other technical persons as she/he deems appropriate.

(4) If an appeal is disapproved, the applicant shall comply with the final decision of the Building Official or Fire Code Official or make application and pay the applicable fee to appear before the Board of Appeals. Such application shall be made within 20 days after the Building Official's, or Fire Code Official's final decision.

(F) *Board calendar.* The Board shall decide on any matter within 20 calendar days after the date of the hearing thereon and such decisions shall be final.

(G) *Court review.* Any person aggrieved by a decision of the Board may at any time within 30 days after the Board's decision file an appeal with the Pinal County Superior Court by the various methods of procedure as set forth by the applicable state statutes.

(H) *Reapplication.* In the event that an appeal is denied or technically denied by the Board, the Board shall reserve the right to

refuse to consider another appeal on the same subject matter under like circumstances within one year from the date of hearing of the previous appeal.

(I) *Executive sessions.* Executive sessions of the Board of Appeals may be held for only those reasons and pursuant to those conditions authorized by state law, including the town's adopted technical codes. No executive sessions may be held for the purpose of taking any final action or making any final decision.

(J) *Financial.* The Board of Appeals shall not incur debts nor make any purchases or enter into any contracts binding the town.

(K) *Conflict of interest.* Any member of this Board of Appeals who has a conflict of interest in any matter brought before this Board of Appeals, shall make known such interest in the minutes of the Board of Appeals and shall refrain from voting upon or otherwise participating in any manner in such matter. The existence of conflict of interest shall be determined by reference to the state law and town codes.

(L) *Fees.* An application to appear before the Board shall be accompanied by the necessary documents along with the prescribed non-refundable application fee.

(Ord. 656-17, passed 3-27-2017)

§ 150.999 PENALTY.

Any person convicted of violating any section of this Development Code shall be punished by imposition of a fine not to exceed $500, or up to 30 days in jail, or both, unless another penalty is specified. Each day the violation continues shall constitute a separate offence.

(Prior Code, Ch. 4, Art. I, § 4-5(a)) (Ord. 432-06, passed 6-19-2006)

CHAPTER 151: FLOODPLAIN REGULATIONS

Section

§ 151.01 NATIONAL FLOOD INSURANCE PROGRAM.

(A) The Town Manager, or designee, is appointed as the Floodplain Administrator for the town and will serve as the community point of contact on National Flood Insurance Program issues.

(B) The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (F1S) for Pinal County, Arizona and Incorporated Areas, dated December 4, 2007," with accompanying Flood Insurance Rate Maps (FIRMs) dated December 4, 2007, and all subsequent amendments and/or revisions, are

declared to be the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

(C) The certain document, which is adopted by reference, entitled "Floodplain Management Regulations for the Town of Florence, Arizona," dated March 2016, and all subsequent amendments and/or revisions, shall be used to manage and regulate the floodplains within the town.

(Ord. 463-07, passed 8-6-2007; Ord. 491-08, passed 11-17-2008; Ord. 645-16, passed 3-7-2016) Penalty, see § 151.99

§ 151.99 PENALTY.

Violations of § 151.01 shall be punishable by a fine in the amount of $2,500 plus assessments required by state law and up to six months in jail, or both.

(Ord. 463-07, passed 8-6-2007; Ord. 491-08, passed 11-17-2008)

CHAPTER 152: MEDICAL MARIJUANA

Section

§ 152.01 LEGISLATIVE FINDINGS AND PURPOSE.

(A) The provisions of this chapter are intended to acknowledge and protect the rights of qualifying patients and their designated caregivers under the provisions of A.R.S §§ 36-2801 *et seq.*, while also protecting the health, safety, and welfare of the public; through implementation of local codes and regulations; and curtailing to the extent reasonably possible, the possession, use, distribution, or cultivation of marijuana for unlawful purposes by:

(1) Requiring that medical marijuana businesses, operations and facilities be operated in a manner that minimizes potential health and safety risks and mitigates the negative impacts that a medical marijuana dispensary or cultivation operation might have on surrounding properties and persons;

(2) Regulating the conduct of persons owning, operating and using medical marijuana dispensaries and cultivation facilities in order to protect the public health, safety and welfare; and

(3) Regulating the location and operation of medical marijuana dispensaries, cultivation facilities and medical marijuana operations.

(B) By adoption of this chapter, the Town Council does not intend to authorize or make legal any act that is not permitted under federal or state law.

(Ord. 554-11, passed 3-21-2011)

§ 152.02 DEFINITIONS.

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

CULTIVATION. The process by which a person grows a marijuana plant(s) as allowed by A.R.S. §§ 36-2801 *et seq.*, and the Department rules and regulations.

DEPARTMENT. The Arizona Department of Health Services or its successor agency.

DEPARTMENT RULES AND REPUTATIONS. The adopted regulations of the Department relating to the provisions of Arizona Revised Statutes, A.R.S. §§ 36-2801 *et seq*., currently in existence and as adopted in the future.

DESIGNATED CAREGIVER. A person, other than qualifying patient and the patient's physician, who, pursuant to A.R.S. §§ 36-2801 *et seq*. and the Department rules and regulations, assists no more than five registered qualifying patients with the medical use of marijuana.

MASSAGE ESTABLISHMENT. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders.

MEDICAL MARIJUANA. Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant, approved under state law for treatment of persons suffering from debilitating medical conditions as designated in A.R.S. §§ 36-2801 *et seq.*, the Department rules and regulations, and other laws and regulations of the State of Arizona.

MEDICAL MARIJUANA DESIGNATED CAREGIVER CULTIVATION LOCATION. An enclosed, locked facility such as a closet, room, greenhouse or other building that does not exceed 250 square feet of cultivation space where a designated caregiver, as designated by A.R.S. §§ 36-2801 et *seq*.. Department rules and regulations, cultivates medical marijuana. A designated caregiver cultivation location within a residential zoning district must be an accessory use to the qualifying caregiver's primary residence. Medical marijuana cultivation as an accessory use to the qualifying caregiver's primary residence must not be detectable from the exterior of the building in which the cultivation takes place. Medical marijuana cultivation as an accessory use to the qualifying caregiver's primary residence shall only be permitted if the residence is located at least 25 miles from a medical marijuana dispensary.

MEDICAL MARIJUANA DISPENSARY. A building, dwelling, structure or premises used to acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, distribute, transmit, give, dispense or otherwise provide medical marijuana in any manner to patients or designated caregivers pursuant to the authority contained in A.R.S. §§ 36-2801 *et seq.*, Department rules and regulations, or other implementing state statutes and administrative regulations. May be known also as dispensary within this chapter.

MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION. A building, dwelling, structure, or premises used for the cultivation or storage of medical marijuana that is the additional location where marijuana is cultivated by a medical marijuana dispensary as designated in A.R.S. §§ 36-2801 *et seq*. or Department rules and regulations.

MEDICAL MARIJUANA INFUSION FACILITY. A facility that incorporates medical marijuana (cannabis) by the means of cooking, blending, or incorporation into consumable/edible goods.

MEDICAL MARIJUANA OPERATION. Any person acting alone or in concert with another person, whether for barter, reimbursement, profit or not for profit, who cultivates, grows, harvests, processes, packages, transports, displays, sells, dispenses or otherwise distributes the stalks, stems, roots, seeds, leaves, buds or flowers of any plant of the genus cannabis, or any mixture or preparation thereof, and medical marijuana for medical use as authorized by A.R.S. §§ 36-2801 *et seq*. This definition shall be construed to include, but is not limited to, the following: a) medical marijuana dispensaries; b) medical marijuana offsite cultivation locations; c) medical marijuana infusion facilities; and d) any other operation involving medical marijuana registered with the Department: all as designated in A.R.S. §§ 36-2801 *et seq.*, the Department rules and regulations, or other implementing state statutes and administrative regulations. This definition does not include medical marijuana operations that may be exempt from local zoning regulations per the Arizona Medical Marijuana Act.

MEDICAL MARIJUANA PARAPHERNALIA. All equipment, products and materials of any kind, which is used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, including medical marijuana. May be known also as paraphernalia within this chapter.

MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION LOCATION. An enclosed, locked facility such as a closet, room, greenhouse or other building that does not exceed 50 square feet of cultivation space where a qualifying patient, as defined in A.R.S. §§ 36-2801 *et seq.*, or Department rules and regulations, cultivates medical marijuana. The qualifying patient cultivation location must be an accessory use to the qualifying patient's primary residence. Medical marijuana cultivation as an accessory use to the qualifying patient's primary residence must not be detectable from the exterior of the building in which the cultivation takes place. Medical marijuana cultivation as an accessory use to the qualifying patient's primary residence shall only be permitted if the residence is located at least 25 miles from a medical marijuana dispensary.

PARK. Any public or private land available for recreational, educational, cultural, or aesthetic use.

PATIENT. A person who has a debilitating medical condition as defined in A.R.S. §§ 36-2801 *et seq*. and is a registered qualifying patient as defined by state law and the Department rules and regulations.

PERSON. A natural person or business entity such as. without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

PLACE OF WORSHIP OR RELIGIOUS ASSEMBLY. Buildings or facilities used for the purpose of conducting religious services, worship and related educational, cultural, and social activities.

PREMISES. The entire parcel of property upon which a medical marijuana dispensary, medical marijuana cultivation facility or any other medical marijuana operation is located.

SCHOOL. Any building, portion of building, or group of buildings which is designed, constructed, or used for education or instruction in any branch of knowledge, including tutoring centers, day care centers, and the following types of schools:

(1) ***CHARTER SCHOOL.*** A school operating under sponsorship of a public school district governing board, the State Board of Education or the State Board for Charter Schools and has been created pursuant to A.R.S. § 15-181.

(2) ***INSTRUCTIONAL SCHOOL.*** A public or private school providing domestic, recreational, and other types of instruction such as dance, gymnastics, cooking, music, martial arts (without fitness center equipment), and fine arts.

(3) ***PRIVATE SCHOOL.*** Any building, portion of building, or group of buildings used for elementary, secondary or higher education that does not secure the major part of its funding from a governmental agency.

(4) ***PUBLIC SCHOOL.*** Any building, portion of building, or group of buildings used for elementary, secondary or higher education that secures the major part of its funding from a governmental agency.

(5) ***VOCATIONAL SCHOOL.*** An institution which teaches trades, business courses, hairdressing and similar skills on a post-secondary level.

SENSITIVE USES. Includes the following uses: school; public or private recreation center; park; public library; place of worship; massage establishment; sexually oriented business; or teen club.

SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT. Includes the following Town Zoning Districts: R1-6, R-2, MHS, RV Overlay or any of the aforementioned districts within the parameters of a PUD.

TEEN CLUB. An enclosed or unenclosed structure which is open to persons from 15 through 20 years of age unaccompanied by adults at which music is furnished for the purpose of social dancing, and at which a person 15 through 20 years of age pays an admission, membership dues, or a minimum fee or cover charge, whether or not admission is limited to members only. This definition shall be construed to include the enclosed or unenclosed structure and the surrounding premises used for parking and any activity related to the dancing operation.

ZONING CLEARANCE. The issuance of a permit, certificate or authorization by the Zoning Administrator, or designee, indicating that a proposed building, structure, or use of land for a medical marijuana operation meets all of the standards, criteria, procedures, and requirements contained in this chapter.

(Ord. 554-11, passed 3-21-2011)

§ 152.03 CONDITIONAL USE PERMIT AND ZONING CLEARANCE.

(A) Conditional use permit. All medical marijuana operations, including medical marijuana designated caregiver cultivation locations, medical marijuana dispensary offsite cultivation locations, medical marijuana dispensaries and medical marijuana infusion facilities shall require the approval of a conditional use permit as set forth in this chapter; applicable Development Code sections § 150.047 District Use Regulations Tables, § 150.061 Highway Business Commercial (B-2) and § 150.065 Light Industrial (Ll); and pursuant to additional criteria outlined in the Development Code, including § 150.015 Conditional Use Permits.

(B) *Zoning clearance.* All medical marijuana operations, including medical marijuana dispensary offsite cultivation locations, medical marijuana dispensaries and medical marijuana infusion facilities shall require a zoning clearance. Compliance with all applicable Town Code requirements. including but not limited to: fees, timelines, submittal requirements, security plans and site plans shall be considered in the zoning clearance process. An annual zoning compliance certification signed by the owner of the premises and responsible person for medical marijuana operations shall be required and must be renewed prior to the anniversary date of the issuance of the original conditional use permit. It shall be the owner/operator's responsibility to remain in compliance with all applicable requirements, including clearance renewal requirements.

(C) *Compliance with state law and department rules and regulations.* Failure to comply with A.R.S. §§ 36-2801 *et seq.*, or department rules and regulations or other implementing state statutes and administrative regulations, shall be grounds for revocation of a conditional use permit and zoning clearance.

(Ord. 554-11, passed 3-21-2011)

§ 152.04 DISTANCE SEPARATION REQUIREMENTS.

(A) All medical marijuana dispensaries, medical marijuana dispensary offsite cultivation locations and medical marijuana infusion facilities shall meet the following minimum location requirements:

(1) No medical marijuana dispensary, medical marijuana dispensary offsite cultivation location or medical marijuana infusion facility shall be operated or maintained within 2,640 feet of another medical marijuana dispensary, medical marijuana dispensary offsite cultivation location or medical marijuana infusion facility.

(2) No medical marijuana dispensary, medical marijuana dispensary offsite cultivation location or medical marijuana infusion facility shall be operated or maintained within 660 feet of any sensitive uses within the corporate limits of Florence. This distance separation provision is not applicable for cases where the aforementioned uses are separated by a state highway, except as governed by the "Arizona Medical Marijuana Act" and applicable state statutes.

(3) No medical marijuana dispensary, medical marijuana dispensary offsite cultivation location or medical marijuana infusion facility shall be operated or maintained within 660 feet of a boundary of a single-family residential zoning district within the corporate limits of Florence. This distance separation provision is not applicable for cases where the aforementioned uses are separated by a state highway, except as governed by the "Arizona Medical Marijuana Act" and applicable state statutes.

(B) For purposes of this section, the distance limitations shall be measured as the shortest horizontal line between the property lines of the relevant properties involved. This measurement shall include any public right-of-way that is adjacent and connected to the recorded lot lines of the relevant properties involved in the measurement.

(Ord. 554-11, passed 3-21-2011)

§ 152.05 SECURITY PLAN.

A security plan for all medical marijuana operations shall be submitted to town incorporating and detailing the following elements.

(A) Exterior lighting.

(B) Security alarm system.

(C) Building security measures.

(D) Interior floor plan.

(E) Exterior site and parking plan.

(F) A secure storage area.

(Ord. 554-11, passed 3-21-2011)

§ 152.06 DISPENSARY HOURS OF OPERATION.

Medical marijuana dispensary hours of operation shall be no earlier than 8:00 a.m. and no later than 8:00 p.m.

(Ord. 554-11, passed 3-21-2011)

§ 152.07 ADDITIONAL CONDITIONS AND STANDARDS.

The following provisions shall govern the issuance of conditional use permits and zoning clearances for medical marijuana operations, including medical marijuana designated caregiver cultivation locations, medical marijuana dispensary offsite cultivation locations, medical marijuana dispensaries, and medical marijuana infusion facilities by the Zoning Administrator and Town Council.

(A) All activity related to medical marijuana operations shall be conducted in compliance with 36 A.R.S. §§ 36-2801 *et seq.*, Department rules and regulations, and other implementing state statutes and administrative regulations.

(B) All activity related to medical marijuana operations including but not limited to cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors and in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

(C) Medical marijuana operations shall not be allowed as home occupations.

(D) Medical marijuana operations shall not have drive-through service.

(E) Sufficient measures and means of preventing smoke, odors, debris, dust fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substance exit a dispensary or cultivation facility, the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition.

(F) Offsite delivery of medical marijuana is prohibited.

(G) Consumption of marijuana on the premises is prohibited.

(H) Medical marijuana operations shall obtain and display current applicable business licenses, certificates and registrations.

(I) Facilities shall not be larger than 2,500 square feet for a dispensary and 3,000 square feet for a cultivation location.

(J) No retail sales of paraphernalia are permitted at a dispensary, except as permitted by law to patients or registered designated caregivers.

(K) Retail sales of medical marijuana are prohibited.

(Ord. 554-11, passed 3-21-2011)

§ 152.08 SUPPLEMENTAL MATERIALS.

(A) The minimum requirements of this subpart requiring supplemental materials shall apply to all medical marijuana dispensary and medical marijuana dispensary offsite cultivation uses located in any zoning district.

(B) In addition to the other application reguirements. an applicant for any medical marijuana dispensary or medical marijuana dispensary offsite cultivation location conditional use permit shall provide the following:

(1) A notarized authorization executed by the property owner, acknowledging and consenting to the proposed use of the property

as a medical marijuana dispensary or medical marijuana dispensary offsite cultivation location, as applicable;

(2) The legal name of the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location;

(3) If the application is for a medical marijuana dispensary offsite cultivation location, the name and location of the medical marijuana dispensary with which it is associated;

(4) The name, address, and birth dates of each officer and board member of the nonprofit medical marijuana dispensary;

(5) The name, address, birth date, and valid registry identification card for each nonprofit medical marijuana dispensary agent;

(6) A copy of the operating procedures adopted in compliance with A.R.S. §§ 36-2801 *et seq.*, and department rules and regulations;

(7) A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has been convicted of any of the following offenses:

(a) A violent crime as defined in A.R.S. § 13-901.03(B) that were classified as a felony in the jurisdiction where the person was convicted;

(b) A violation of state of federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence, including any term of probation, incarceration of supervised release, was completed ten or more years or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. § 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona; and

(8) A notarized certification that none of the non-profit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked.

(Ord. 554-11, passed 3-21-2011)

§ 152.09 PROHIBITED ACTIVITIES; NO NON-CONFORMING USES.

(A) Any medical marijuana dispensary offsite cultivation location not associated with a medical marijuana dispensary is prohibited, and only one medical marijuana dispensary offsite cultivation location shall be permitted for the single medical marijuana dispensary with which it is associated.

(B) No medical marijuana operation or use which purports to have cultivated or dispensed medical marijuana prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of this chapter and such medical marijuana operation and use shall not be entitled to claim legal non-conforming status.

(C) Medical marijuana dispensaries and cultivation operations may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or non-medical purposes.

(D) No medical marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises.

(E) If the state prohibits medical marijuana dispensaries or cultivation, any conditional use permit and zoning clearance shall be deemed immediately revoked by operation of law.

(Ord. 554-11, passed 3-21-2011)

§ 152.10 NO TOWN LIABILITY: INDEMNIFICATION.

(A) By accepting a conditional use permit pursuant to this code, the applicant waives and releases the town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary or cultivation owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(B) By accepting a conditional use permit pursuant to this code, all permit holders, jointly and severally if more than one, agree to indemnify, defend and hold harmless the town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance

pool against all liability, claims and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or are in any manner connected with the operation of the medical marijuana operation that is the subject of the conditional use permit.

(Ord. 554-11, passed 3-21-2011)

§ 152.11 OTHER LAWS REMAIN APPLICABLE.

(A) The issuance of any conditional use permit pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(B) To the extent the state or department has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana, the additional stricter regulation shall control the establishment or operation of any medical marijuana operation in the town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any conditional use permit or zoning clearance under this code, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any conditional use permit or zoning clearance issued hereunder.

(Ord. 554-11, passed 3-21-2011)

PARALLEL REFERENCES

References to Arizona Revised Statutes

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377-05	4-18-2005	70.03
381-05	5-16-2005	30.06, 30.23, 30.27, 31.001, 31.022, 31.047, 31.066, 31.070 - 31.074, 32.001 - 32.012, 32.032, 32.033, 32.050 - 32.052, 32.070, 32.085 - 32.088, 32.105, 32.106
385-04	6-20-2005	50.124
385-05	6-20-2005	50.123, 50.133 - 50.136, 50.142, 50.145, 51.095, 52.100
395-05	7-19-2005	30.07
410-05	11-7-2005	96.40 - 96.43
418-06	3-6-2006	133.01 - 133.04, 133.99
432-06	6-19-2006	150.001 - 150.019, 150.030, 150.031, 150.045 - 150.050, 150.052 - 150.069, 150.080 - 150.184, 150.200 - 150.267, 150.300, 150.999
439-06	8-21-2006	31.001
440-06	8-21-2006	132.02, 132.99
445-06	9-18-2006	150.068
452-06	1-2-2007	31.001
454-07	1-2-2007	35.01
453-07	1-16-2007	50.123 - 50.125, 51.095, 52.100
458-07	2-20-2007	31.071
463-07	8-6-2007	150.999, 151.99
456-07	9-4-2007	92.20 - 92.35
475-07	10-15-2007	150.300
483-08	6-2-2008	134.01 - 134.09, 134.99
484-08	6-2-2008	70.05
487-08	7-21-2008	73.12
488-08	10-20-2008	90.02, 90.05, 90.99
490-08	11-17-2008	73.05
491-08	11-17-2008	151.01, 151.99
496-08	12-1-2008	30.21
502-09	3-16-2009	74.10
506-09	5-18-2009	31.001

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511-09	8-3-2009	35.01
539-10	7-6-2010	90.01
543-10	9-20-2010	91.15
546-10	11-1-2010	95.05
549-10	1-3-2011	112.01, 112.02, 112.15 - 112.26, 112.40 - 112.44, 112.55 - 112.58
554-11	3-21-2011	152.01 - 152.11
555-11	3-21-2011	150.047, 150.061, 150.065
556-11	3-21-2011	119.01 - 119.12
559-11	6-6-2011	50.120, 50.123, 50.124, 50.125, 50.142, 50.143, 51.095, 52.100, 52.103
560-11	6-6-2011	30.07
561-11	6-6-2011	73.99
565-11	10-17-2011	93.01
567-11	12-15-2011	50.143, 52.103
569-12	1-17-2012	150.300
570-12	3-5-2012	150.056, 150.174
572-12	3-5-2012	30.07
573-12	3-19-2012	150.095, 150.096, 150.119, 150.123, 150.125
577-12	5-21-2012	132.06
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582-12	8-20-2012	31.071
584-12	10-1-2012	150.045, 150.069, 150.070
585-12	9-17-2012	30.25
590-13	1-22-2013	150.047, 150.059
591-13	2-4-2013	72.04
593-13	4-1-2013	150.031, 150.047 - 150.049, 150.064, 150.065
595-13	5-20-2013	50.123, 51.095
598-13	9-16-2013	150.280
601-13	9-16-2013	150.031, 150.047, 150.056, 150.069
604-13	12-2-2013	52.001 - 52.007, 52.020 - 52.029, 52.045 - 52.047, 52.065 - 52.069, 52.085, 52.086, 52.100 - 52.103, 52.999
605-13	2-3-2014	150.013
606-13	5-19-2014	150.047, 150.051 - 150.069

621-14	9-2-2014	32.120, 32.121
622-14	9-2-2014	90.01 - 90.11, 90.99
626-15	4-6-2015	30.23, 30.25
627-15	3-16-2015	30.73
628-15	4-6-2015	32.001, 32.002, 32.007, 32.051, 32.088
639-15	9-21-2015	30.45-30.53
641-15	12-7-2015	32.012
642-15	12-7-2015	73.11
643-15	12-7-2015	74.10
644-15	12-7-2015	95.07, 97.039
645-15	12-7-2015	112.16, 112.18
645-16	3-7-2016	151.01
653-17	4-3-2017	30.01-30.08
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654-17	4-17-2017	30.21
656-17	3-27-2017	150.301